

THE FEDERAL BUREAUCRACY: EXECUTING THE LAWS

I. INTRO

- a. In order to respond quicker to disasters, Carter in 1979 established the Federal Emergency Management Agency (FEMA), and it was overhauled in the 1990s
- b. Did poorly with Katrina but improved greatly afterwards
- c. Katrina shows how federal bureaucracies fail, but many times they are essential and successful

II. UNDERSTANDING THE FEDERAL BUREAUCRACY

a. THE UNDEFINED BRANCH

- i. Federal administration is charged with the duty of faithfully executing all laws
- ii. Hamilton in Federalist #70 explained that the federal government would need a skillful and motivated bureaucracy to faithfully execute the laws

b. CONSTITUTIONAL CONTROLS

- i. Founders believed that federal departments would be fairly small and left details to future presidents; made three key decisions:
 - 1. No member of House or Senate could hold executive branch positions
 - a. Eliminate corruption as compared to England
 - 2. Gave president sole authority to nominate the senior officers of government
 - a. Gave Senate the ability to advise and consent

3. President is responsible for requiring the opinions of the principal officer of each executive department
 - a. In charge of what presidential appointees do
 - ii. Congress has the power and responsibility to create the departments and agencies of the government, not the president; check and balance
- c. DEFINING BUREAUCRACY
 - i. Federal bureaucracy is composed of 15 departments, 50 agencies, the U.S. Postal Service, and the armed services
 - ii. 2.7MM people work in the direct federal bureaucracy; all tolled, 15MM
 - iii. BUREAUCRACY meant fast, effective and rational administration
 1. Faithful performance by well-trained, highly motivated BUREAUCRATS
 2. According to Max Weber, German sociologist, bureaucracies derive their strength from six characteristics:
 - a. SPECIALIZATION – break jobs into smaller parts
 - b. CENTRALIZATION – concentrate authority at the top
 - c. FORMAL RULES- implement policies and well understood
 - d. STANDARDIZATION – all decisions are the same
 - e. EXPERTISE- all employees have training and experience
 - f. ACCOUNTABILITY – follow orders or are fired
 - iv. Over time, bureaucracy has taken on a negative connotation; 4 weaknesses

1. Too complex that they cannot be divided
2. Too many leaders at the top of the organization; top-heavy
3. Rules are almost impossible to enforce
4. Duplication and overlap of responsibilities creates confusion

d. THE FOUR TYPES OF FEDERAL ORGANIZATIONS

i. DEPARTMENTS - largest federal organizations with broadest missions

1. Employ more than 70% of federal civil servants and spend 93% of federal dollars
2. 14 have secretaries and 15th is attorney general
3. Defense department is the largest
4. Defense, Justice, State and Treasury are in president's inner circle
5. Measured by budget, HHS is the largest
6. Review figure 13-2 on page 362

ii. INDEPENDENT REGULATORY AGENCIES

1. Operate independent of the president or Congress
2. Less responsive to political pressure; hard to remove from office
3. Most important: Consumer Product Safety Commission, FTC, FCC, SEC, FEC, EEOC, Nuclear Regulatory Commission, FDIC, Commodities Futures Trading Corporation, and the FED
4. Bernanke probably most influential person
5. Appointed by the president and confirmed by the Senate
6. Much less visible than departments

iii. INDEPENDENT AGENCIES

1. Report to the president

2. Smaller than departments and work on specific problems; example – the VA
3. Headed by an administrator; second in power to secretaries of departments
4. Agencies vary from large to small;
5. Many agencies exist inside departments; example – Forest service is inside Agricultural Department
6. Most important: ATF, CIA, Centers for Medicare and Medicaid services, Director of National Intelligence, DEA, EPA, FAA, FBI, FEMA, FDA, IRS, NASA, National Oceanic and Atmospheric Administration, National Park Service, SBA, Social Security Administration, U.S. Forest Service

iv. GOVERNMENT CORPORATIONS

1. Act more like private businesses than governmental agencies
2. Greater freedoms and more leeway in hiring and firing
3. CPB, U.S. Postal Service, AMTRAK, Americorps

III. LEADING THE FEDERAL BUREAUCRACY

a. INTRO

- i. 3000 presidential appointees head the federal departments and agencies
 1. 600 administrative officers subject to Senate confirmation
 2. 2400 serve at pleasure of the president

b. PRESIDENTIAL APPOINTEES

- i. Very tough jobs with lots of hours and pressure
- ii. Hired many times based on political connections
- iii. Senior presidential appointees are hired through a 4 step process

1. Selected by the White House Presidential Personnel Office
2. Survive the White House clearance process-ensure legality and no embarrassment
3. President submits name of nominee on parchment paper to the clerk of the Senate
4. Senate sends it to committee, and with recommendation , sends it to the floor for approval vote – Senate can use this time to voice concerns even with a positive vote

c. SENIOR EXECUTIVE SERVICE

- i. Presidential appointees work closely with 7000 members of the SENIOR EXECUTIVE SERVICE

1. 6400 career executives appointed through rigorous review process

- a. Continue in posts regardless of who is in power

2. 600 political executives appointed by president with no Senate review

3. Together total of 10,000 (presidential appointees plus senior executives)

4. Grown significantly over the decades

- ii. THEORY OF PUBLIC BUREAUCRACY-
bureaucratic organizations constantly seek to enhance their power by creating new titles, adding more staff or increasing their own budgets

IV. THE CIVIL SERVICE

a. INTRO

- i. Founders believed that these people who chose CIVIL SERVICE would outlast each administration, providing steadiness for government

- ii. 1st hundred years chosen by SPOILS SYSTEM-
allegiance to the political party in power;
enhanced by Jackson in 1829
 - 1. Presidents would patronize their loyalists by
giving them government positions
 - iii. Began to unravel in 1883; under Grant and due to
his assassination, the Pendleton Act of 1883
created an independent Civil Service Commission
to ensure that most federal jobs were awarded by
a MERIT SYSTEM, an individual's ability to do
work, rather than political loyalty; 90% now are
hired on merit system
 - iv. The OFFICE OF PERSONNEL
MANAGEMENT (OPM) administers civil
service laws, rules and regulations while the
MERIT SYSTEMS PROTECTION BOARD
ensures the integrity of the federal merit system
- b. CIVIL SERVICE REALITIES
- i. Only about 15% work in the Washington DC area
 - ii. More than 25% of civilian employees work for
army, navy, air force or some other defense
agency. 30% work for U.S. Postal Service
 - iii. Fewer than 10% work for Social Security
Administration or Medicare even though over ½
the Federal budget is absorbed by them
 - iv. Almost ½ the employees work for the dept of
defense, Homeland Security, Justice, State that are
all engaged in the war on terror
 - v. Similar to the public in general
 - vi. Most are white-collar workers
- c. THE HIRING PROCESS
- i. Most employees are recruited through the civil
service
 - ii. Under the OPM, federal organizations have
flexible hiring systems

- iii. Keep careful records to justify hiring if challenged
- iv. Takes six months due to conflicting goals

d. REGULATING THE CIVIL SERVICE

- i. HATCH ACT OF 1939 made it illegal to connect civil service to any political affiliations
- ii. 1993 in the Clinton administration, Hatch Act was overhauled and allowed many forms of participation in partisan politics
- iii. However it does impose restrictions
 - 1. Cannot raise campaign funds in their agency
 - 2. In sensitive agencies, such as CIA, FBI, etc. no partisan politics are allowed
 - 3. Cannot be a candidate in an election

e. THE ROLE OF GOVERNMENT EMPLOYEE UNIONS

- i. Since 1962, can join unions; 1/3 do
- ii. American Federation of Government Employees, National Treasury Employees Union, the National Association of Government Employees, and the National Federation of Federal Employees
- iii. Cannot strike and cannot bargain over pay and benefits
- iv. Can negotiate better personnel policies and practices
- v. Can represent employees in grievances and can lobby Congress

V. THE JOB OF THE FEDERAL BUREAUCRACY

a. INTRO

- i. Faithfully execute or implement the laws
- ii. IMPLEMENT is the practice of putting the laws into practice by bureaucratic rules or spending or both
- iii. Congress and the president give federal departments ADMINISTRATIVE DISCRETION

to implement the laws in the most efficient and effective manner possible

1. Freedom varies from agency to agency
2. Administer either through regulations or spending

b. MAKING REGULATIONS

- i. RULES are designed to make laws into action
- ii. Rules are drafted and reviewed under the Administrative Procedure Act of 1946. Requires all rules be published in the FEDERAL REGISTER and available to the public for review in the “notice and comment” period. Then finalized but still can be under judicial review

c. SPENDING MONEY

- i. Federal spending has increased greatly recently
- ii. Most of government spending is UNCONTROLLABLE or required by previous laws.
 1. The bulk of the mandatory spending goes to ENTITLEMENT PROGRAMS such as Social Security and Medicare since the recipients are ENTITLED to the benefits due to age or some other requirement. Spending is pegged to inflation so it automatically increases
 2. Much smaller share goes to welfare

VI. CONTROLLING THE FEDERAL BUREAUCRACY

a. PRESIDENTIAL CONTROLS

- i. Most presidents contend that they are in charge of the federal bureaucracy since they are responsive to the broadest constituency
 1. Conservative presidents will attempt to reduce spending on federal bureaucracy

2. Under system of checks and balances, and due to the size of the bureaucracy, president actually has little control; comes into ongoing system

3. President has some control due to powers of appointment, reorganization, and budgeting

b. CONGRESSIONAL CONTROLS

- i. Establishing agencies, formulating budgets, appropriating funds, confirming personnel, authorizing new programs, new shifts in direction, conducting investigations and hearings or even terminating agencies
- ii. Congress actually gives more talk to changing the red tape than doing anything about it
- iii. Individual members, rather than the whole of Congress, oversee these agencies; sit on committees that review the effectiveness of the agencies

c. SHARED CONTROLS

- i. Both Congress and the President share OVERSIGHT or ongoing review, of the agencies
- ii. Presidents use the OMB for most routine oversight
- iii. Under the CENTRAL CLEARANCE SYSTEM of the OMB, the agencies can report on legislative issues
- iv. Congress can use oversight by individual members or the GAO
 1. Committee or subcommittee hearings on effectiveness of agencies
- v. Congress and President do oversight two ways
 1. POLICE PATROL – routine pattern
 2. FIRE ALARM- wait for citizens, interest groups, or the media to find a major problem

- vi. Sometimes federal employees are **WHISTLEBLOWERS** and release information about the agencies that cause concern
- d. **CAN THE BUREAUCRACY REGULATE ITSELF?**
 - i. Career executives try to be objective, but are inevitably political
 - ii. Special-interest groups cultivate bureau chiefs that are sympathetic to their cause and become subjective
 - iii. It is in the interest of the individual agency to create more bureaucracy to better insulate itself

VII. A HISTORY OF GREAT ENDEAVORS

- a. U.S. citizens are reluctant to cut back on government
- b. Federal bureaucracy continues to make progress in solving most difficult problems
- c. Citizen watchdogs are crucial to the success of the departments and agencies