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Report 2017—51

*PRESIDENTIAL LEADERSHIP AND INITIATIVE  
IN APPOINTMENTS POLITICS*

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# *PRESIDENTIAL LEADERSHIP AND INITIATIVE IN APPOINTMENTS POLITICS\**

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## EXECUTIVE SUMMARY

This paper reports on research documenting the forces affecting the last forty years of presidential appointments politics. It focuses on the forces that affect each of the separate stages in the appointments process in the Executive Branch and in the Senate. The results on Senate deliberations replicate some parts of previous models — primarily the role of partisan polarization in lengthening deliberations — while failing to replicate others — results having to do with the role of party imbalances.

The primary analysis reported here puts politics back into appointments politics:

- While polarization plays a role in Senate deliberations, the theoretical justification linking increasing polarization to increasing delay (or partisan “obstructionism”) masks a more complicated story involving opportunism.
- Opportunity or its lack outweighs the simple desire to obstruct. The determinants suppressing such opportunism derive from leaders’ activities, including the president, as they take the initiative, coordinate with others, and focus on their most critical governing duties. Each of these forces and in combination strengthen the role of leaders, including presidents, in appointments politics.
- In particular, the empirical evidence supports the notion that:
  - Early transition planning — especially identifying and preparing for key appointments — speeds deliberations on those appointments in all stages.
  - Aggressive presidential initiative in the early days of the administration — both the first 100 days and the first year — speeds deliberations on its appointments in all stages.
  - Wherever possible, coordination between institutional leaders speeds deliberations on appointments in all stages.
  - Concentration on critical positions in the government speeds deliberations on appointments in the early stages of the appointments process.

These findings suggest a number of “internal” changes that would speed appointments while promoting bipartisanship in appointments politics.

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*Abstract: Contemporary research on presidential appointments focuses on the Senate's political climate as a primary determinant of its "broken politics." That analysis rests on a model that emphasizes fixed factions and super-majoritarian pivots, relegating the president and leadership in general to a reactive role. An alternative approach also using standard bargaining models suggests significant roles for an active president, leadership in general, and organizational capacity. Specifically, the research reported here underscores the significance of presidential initiative and transition planning, the Senate's policy workload, and the degree of leadership coordination between the president and the Senate, all of which substantially affect the balance between a determined opposition and a potentially aggressive leadership that together define opportunities for obstruction. These new factors present significant effects that, if altered, would improve the overall appointments process regardless of the degree of polarization.*

Presidential appointees carry out the primary policies of a new national administration. Because those policies often have defined the preceding general election, the president's appointments link a single individual's election to the operation of the whole national establishment. Or as Alexander Hamilton described it, appointments represent "the intimate connection between...the executive magistrate in office and the stability of the system of administration" (*Federalist* #72). Hence, even though it puts in motion the new administration's partisan ambitions, filling appointments also "stands up" a national government that carries out critical, yet non-partisan functions, e. g., infrastructure, trade, and security.

Because appointments affect both policy and duty in this way, clashes over appointments have always animated and troubled the transfer of power during American presidential transitions, even from the Republic's early days. No surprise, then, that the landmark Supreme Court decision *Marbury v. Madison* evolved from a controversy over filling an appointment. Today, still, presidential appointments frequently define political controversies in national affairs, whether Republican Party efforts to reshape court rulings by denying President Obama's nominations or President Trump's removal of the national security leadership. The increasingly dysfunctional appointments process not only troubles the Congress, the executive, and the public at large, but it also transfers that dysfunction to the management of genuinely non-partisan government functionalities. So, examining the appointments process illuminates how the institutional climate affects the health of our democracy.

Contemporary research on presidential appointments typically analyzes the process as a bargaining game between the Senate and the President and focuses on the Senate's political climate as the primary determinant, affording a special explanatory role to partisan polarization, the 'independent

*variable of choice*’ for explaining political dysfunction of almost any variety. This explanation connects the growing disassociation of partisans from each other (producing *polarization*) with an obstruction empowered by the Senate’s super-majoritarian rules. The greater this polarization, the general argument goes, the more determined becomes the obstruction, and using the Senate’s rules, the longer the deliberations on nominees. That explanation also relegates presidents and congressional leaders to a diminished role “in which [they]...anticipate and adapt to the wishes of the Senate.” It also diminishes the role of political tradecraft such as leadership coordination and accommodation. As a consequence, this explanation and its predicate model implies very dim prospects for appointment politics in today’s hyper-polarized Senate — neither policy reform nor a change in leaders can repair the damage.

While acknowledging the importance of the existing theoretical framework, in this paper, we suggest that this standard explanation misstates the power of presidents to attain Senate confirmation of their preferred candidate and glosses over logistical characteristics and details of the appointments process that, none-the-less, affect its efficiency. In contrast, we highlight the capacity of leaders to suppress opportunism. We also underscore the logistical difficulties of leaders trying simultaneously to manage a policy process and appointments politics. That focus highlights the opposition’s tendency to defer to presidential prerogative over federal appointments, especially during an administration’s early days. We note, for example, that nominations submitted to the Senate during the first 100 days, spend 42 days on average in Senate deliberations, while nominations submitted after the first 100 days spend 92 days awaiting confirmation. Nominations submitted to the Senate in the busiest top quartile of months spend 3 days longer in committee than nominations submitted in least-busy quartile of months. We propose that in empirical terms, and for good theoretical reasons, the president retains a significant amount of influence over appointments and then we demonstrate that robust presidential transition planning and initiative can shorten executive identification and vetting, Senate committee deliberations, and the final disposal stage. In doing so, our paper identifies factors that, unlike polarization and fixed Senate positions, suggest potential reforms to improve the appointments process without having to challenge directly polarized parties.

## CONFIRMATION AND THE PACE OF DELIBERATIONS

While the president fills approximately 9,000 national positions, only 1,200 carry such responsibilities as to require both a presidential nomination and a Senate confirmation,<sup>1</sup> bearing the designation “PAS” (presidential appointed, Senate confirmed). These positions pose a mix of partisan policy and administrative responsibilities. To fill them, the typical administration finds each year around 350 individuals to nominate and, of those, the typical Senate confirms nearly every one. Indeed, even the common notion of a “failed” nomination overestimates the numbers of genuinely “unsuccessful” nominations. The vast majority of what gets counted as failed involves nominations the Senate “returns” to the administration. These returned nominations typically occur under the Senate’s Rule 30(§5; §6), which requires the return of any nomination not dealt with before any recess that might extend longer than 30 days. Since most presidents *re*-nominate those returned in this way, the only time these nominations actually fail occurs at the congressional session’s end. And, even after that “failure,” presidents often will re-submit even those returned nominees. Previous analyses, therefore, have come to ignore the Senate’s final decisions (Bond *et al* 2009; Hammond and Hill 1993; Harris 1953; Lewis 2008), and instead, have concentrated almost exclusively on the pace of Senate

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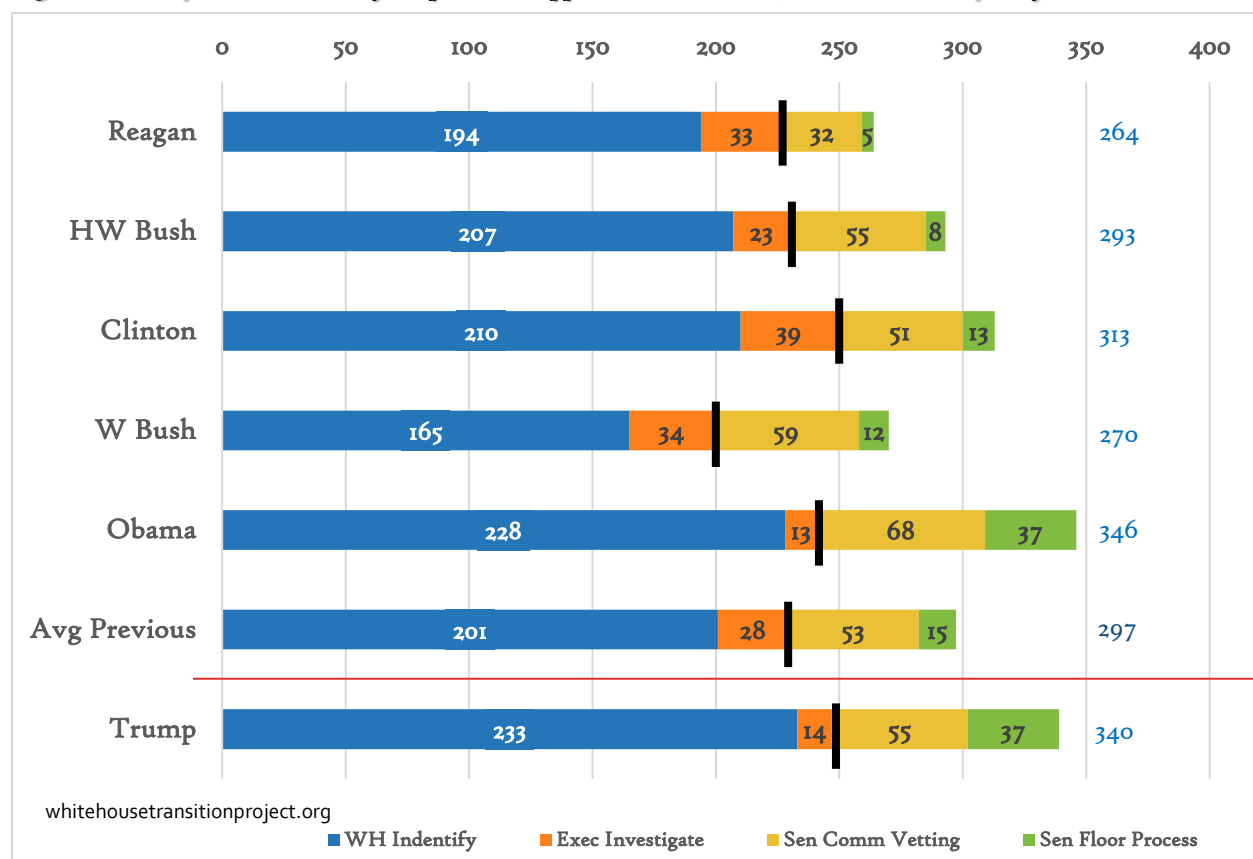
<sup>1</sup> By protocol, these numbers exclude the thousands of PAS positions in the US military and the public health and foreign services. Some scholars also exclude federal judges while others focus exclusively on judicial appointments.



deliberations, thereby reducing appointment politics from the study of who wins to a uncomplicated waiting game.<sup>2</sup>

Senate deliberations do provide a great deal of variation, much of it illuminating. Figure 1, for example, illustrates the pace of deliberations, not just across the Senate but also across all involved stages (the black vertical line dividing executive from Senate stages) and for each of the presidencies in the modern appointments process (that initiated by the 1978 ethics reforms).<sup>3</sup> The figure suggests three trends. First, generally speaking, administrations have experienced longer periods in filling positions (the right-hand column). Except for the oddity generated by the George W. Bush election controversy combined with the campaign's detailed transition plans, the average pace of deliberations have proceeded monotonically at a rate of three additional days each year since 1981. By the end of the Trump administration's first year, the average number of days to fill one position overall had increased by 28 percent over President Reagan's while the pace of Senate deliberations had more than doubled.

**Figure 1. Pace of Deliberations by Steps in the Appointments Process, administration's first year**



Second, as often noted by those involved (e.g., Johnson III 2008), the slowest deliberations occur in the executive identification and vetting stages rather than in the Senate's stages. For example, during the Reagan administration, the executive branch deliberations constituted 86 percent of the total time necessary to fill a position. The executive stages in next four administrations averaged 75 percent. The

<sup>2</sup> Anne Joseph O'Connell's research represents an exception. See her "Vacant Offices: Delays in Staffing Top Agency Positions," *Southern California Law Review*, 82(2009):913-1000.

<sup>3</sup> Public Law 95-521; 5 U.S.C., Title 5-Appendix-Ethics.

Trump administration has mirrored that experience with 73 percent.<sup>4</sup> Executive deliberations, therefore, typically take three times as long as Senate deliberations.

Third, the pace of executive deliberations, in turn, seems to highlight the George W. Bush transition, which did not follow the trend of the previous administrations. Considered along with Reagan's, the Bush campaign invested considerable time on transition planning, particularly planning on appointments, and they experienced noticeably shorter executive deliberations. By contrast, the Clinton campaign spent almost no time on planning and experienced a much longer time identifying and vetting nominees. The Trump decisions to first commission a transition plan and then to dump those plans four days after the election precedes his executive vetting process and the subsequently delayed deliberations in a Republican Senate (Ba *et al* 2018). These two graphics suggest that transition planning improves appointments politics.

## BARGAINING, LOGISTICS, AND DUTY IN APPOINTMENTS

To explain appointments politics, political science has concentrated on the circumstances of the Senate's deliberations. We suggest circumstances only set part of the stage for appointments politics and that leaders also play a significant role.

Orthodox explanations of appointment politics identify as critical the workings of Senate voting blocks and especially those Senators occupying fixed fulcrum points, typically called "pivots." A few Senators, then, become a shorthand summary of the whole political process, replacing its potential dynamism with a few, static positions. Nolan McCarty and Rose Razaghian (1999) and, then recently, Gary Hollibaugh and Lawrence Rothenberg (2018) have presented the best version of this explanatory tact.<sup>5</sup> McCarty and Razaghian explain the lengthening Senate deliberations as resulting from "the super-majoritarianism of the Senate ...[which] gives partisan and ideological minorities a strategic opportunity to have an impact on public policy by delaying nominations that would pass on a simple majority vote...." (1999:1125). This explanation also informs Ostrander's (2015) recent analysis of contemporary appointments and Hollibaugh and Rothenberg's (2017) model of appointments.

McCarty and Razaghian suggest that the ideological disparity between Senate parties mimics or models the opposition's determination to obstruct the president's nominees. Given their opposition, the Senate's rules for its deliberations provide the general mechanism that enables these determined Senators to successfully obstruct (delay) appointments. Even when the Senate abandons some of these super-majoritarian decision rules, like the two-thirds cloture rule as applied to nominations,<sup>6</sup> the potential for obstruction remains because the Senate relies on other procedures using similar super-majoritarian rules (Smith 2014), which in these analyses always empower specifically placed Senators. When the potential policy views of an administration's nominees approximate these critical Senator's positions, then those nominees find an easy confirmation. When they do not, deliberations become obstructed.

In addition to this primary effect, McCarty and Razaghian suggest that a secondary effect comes into play when the Senate majority opposes the president and the distance between parties grows. Under the special circumstances of divided government, they suggest, the president faces a larger

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<sup>4</sup> Though a standard measure of appointments pace, these numbers ignore the total number of nominees confirmed (the "stand up rate"). So, while the Trump administration's pace of deliberations mirrors its predecessors, the Trump stand-up rate falls far behind.

<sup>5</sup> Although, as Ostrander 2015 notes, they test their theory on a narrow range of appointments relevant only to domestic politics.

<sup>6</sup> A 2013 Senate reform removed the use of super-majoritarian cloture procedure during consideration of nominations except for those to the US Supreme Court. And in 2017, the Republican majority removed that proviso as well.

number of determined opponents. Hence, the Senate's disparate partisan structure would magnify the normal tendencies to obstruct.

While McCarty and Razaghan, Hollibaugh and Rothenberg, and others embrace the importance of pivots and static ideological distances (e.g., Ostrander 2015 and Asmussen 2011), they also suggest a number of variations. These suggest the additional importance of presidential popularity, the jurisdictions of agencies, the degree of decision-making independence nominees will have in their appointed position, the president's party, and the nominee's gender. To concentrate on the effect of polarization, we have reserved a discussion of their additional hypotheses to our online supplemental information where we attempt to replicate previous results using our data.

***Bargaining in Appointment Politics.*** While identifying polarization as an important element, the orthodox explanation glosses over several dynamic features of appointment politics, some of which are modelled in other non-appointment-related bargaining theories of the legislative functioning. For example, Baron and Ferejohn's (1989)<sup>7</sup> original legislative bargaining model of policy agenda formation underscores a "first mover's advantage" in explaining which policies complete the committee process and are put to a vote. In the case of appointments, the president exercises this significant advantage, deciding which type of nominee will actually receive Senate vetting and approval. The impact of the president's first-mover advantage in appoints is evidenced by the fact that the Senate universally confirms the president's nominees.<sup>8</sup>

Other bargaining models generalize the president's first mover advantage as a form of initiative and leadership coordination. These bargaining models (e. g., Sullivan and De Marchi 2011) demonstrate a presidential advantage even when assuming *incomplete* information with its potential for strategic (or insincere) behavior. In those situations, presidents set the tone of bargaining because of a persistent uncertainty among Senators about the president's ability to use the presidency's controls over future coalition formation. In such theoretical settings, these strong effects, especially in the early stages of the president's term afford the president a significant influence over outcomes as well as the strategic behavior of others including individual Senators and factions. For example, when discussing the first hundred days, former White House Chief of Staff James A. Baker III noted that this early period emphasizes "...what the new administration has in mind. And you don't have people on the other side attacking you. You're pretty free to name your people, make your choices, set your priorities and your objectives" (Kumar, *et al* 2001). This public honeymoon of course follows disarray in the opposition leadership, itself often having just suffered a significant public rebuke often resulting in a serious internal struggle over that leadership.

The nature of that influence, however, has a significant time component (an "horizon effect") to it. As the president nears the term limits of the 22<sup>nd</sup> amendment, the president's supporters *and* opponents can expect the president has few, future opportunities to disrupt their strategies including potential obstruction. We suggest this horizon effect not only undermines the president's effectiveness on all appointments but in particular affects the outcomes on presidential nominees for the Supreme Court "late" in a president's final term. Modern examples of this horizon effect would include the president's difficulties with the nominations of Homer Thornberry (and Abe Fortas), Robert Bork, and Merrick Garland.

In both these bargaining models, and with respect to these various advantages, the basic theoretical mechanism for presidential influence derives from the potency of presidential signals to Senators, reinforcing the resolve of co-partisans and undermining the calculations of obstructionists.

<sup>7</sup> Along with others using this approach (cf. see McKelvey and Riezman 1992; Baron 1996; McCarty 1997; Banks and Duggan 2000; McCarty 2000a, 2000b; Snyder, *et al* 2005; Banks and Duggan 2006)

<sup>8</sup> In Hollibaugh and Rothenberger's (2017) data using Bonica's (2014) data estimating political ideology scores of all persons who have reported making or receiving campaign contributions, nominees differ from the Senate average ideology score by up to 2.86. Nominees can differ from the Senate minority's average ideology score by up to 4.1. Presidents, however, never differ from the Senate average by more than 1.55. This suggests Presidents have considerable leeway in who they appoint.

In particular, by demonstrating their resolve, their diligence, and particularly their competency, presidents forewarn potential obstructionist to consider their stakes carefully (Sullivan 1990). We suggest that the demonstration of presidential influence reduces the likelihood of obstructionism — the more competent the president, the less likely obstruction and the quicker deliberations at all stages come to an end. This increasing reputation for competency in the early administration builds on Senators across the appointments process, playing an increasingly important and reinforcing role in each stage.

One particularly useful early indicator of presidential competency, we suggest, originates with transition planning for appointments, which can build a reputation as well as actually prepare the administration to employ that competency early in appointment politics. Early planning increases the likelihood of selecting nominees with a good fit for positions. Additionally, transition planning signals to Congress that the president intends to play an aggressive role in the approval process, and thus will likely punish obstruction. The most successful transitions (as noted earlier, those of Presidents Reagan and George W. Bush) began their planning as early as nine months ahead of the election and focused on appointments.

Hence, reflecting on the nature of presidential leadership highlighted in bargaining models, we propose two empirical effects. First, the earlier a presidential candidate begins planning, the faster deliberations in all stages of the process. Second, the earlier a president nominates a candidate for a position, the shorter the Senate deliberations, in both stages.

***Leadership in Appointment Politics.*** In orthodox theory, the ideological distance between the two parties stands in for the effect of polarization. But polarization is only one circumstance that sets the stage for obstruction in the appointments process. The relative size of the two parties (“partisan imbalance”) describes the potential collaboration among party members, with smaller numbers increasing the ease of coordination. While McCarty and Razaghian champion the primary role of polarization, they also describe this effect. They propose that a smaller majority can more easily coordinate to deter obstruction by minority party members: “it is less difficult,” they write, “for a small majority to act as a cohesive unit which in turn increases their ability to curb minority activity.”

We agree that coordination resulting from leaders’ initiative, especially the president’s, can impact the efficiency of the appointments process. However, we suggest this effect is better, and more simply measured with in indicator of whether a single party has unified control of both the Senate and executive. Any senator assessing whether to pursue obstruction of the confirmation process must also assess the likely reaction and possible retribution they would suffer for that obstruction. The greater the coordination between those who control the Senate’s levers and the president, who exercises significant control over the budget and appropriated funds, the larger the possibility of retribution against minority obstruction. The standard variable for unified control thus represents the most important indicator of the potential for coordination. We expect that unified control will hasten deliberations in all stages.

***The Pace of Policy in Appointment Politics.*** Consistent with asserting that Senators calculate the cost-benefit of obstruction, we suggest this calculation reflects the probability that leaders will detect obstruction early enough to counter it. We presume that Presidents and Senators are less likely to detect obstruction, particularly at the committee stage, as they engage in policy-making, e.g., as the budget process heats up or as legislation swings to the fore. In effect, the Senate’s pace of policy — its referred bills, co-sponsorships, hearings, budgets, appropriations, markups, compromises, clotures, amendments, procedures, votes, reports — becomes synonymous with an increasing tolerance for opportunism.

As noted earlier, the typical analysis and the orthodox theoretical framework focuses on the Senate’s final deliberations suggesting that this end to the process dictates backwards to all the other, earlier processes. This presumption lumps together two Senate processes typically considered as distinct — committee vetting and final disposition. And it suggests the sort of backwards induction or perfect anticipation to the executive process common in bargaining models assuming complete

information. Our own analysis, summarized in Figure 1, suggests that each stage in the process plays an important and independent role.

We rectify this shortcoming simply by considering whether the effects we highlight here would differ in each stage of the appointments process. For example, we suggest that presidential initiative will have a stronger effect in moving forward deliberations in the executive process and in the committee process and a declining effect over the three stages. In addition, presidents who plan ahead and take the initiative early shorten their appointments process in all stages. This initiative carries through the first hundred days of the administration, before the policy-making process begins and brings distractions and opportunities for ambitious Senators to use appointments as political bargaining chip. This general effect we also suggest has a diminished role over the three stages.

***Duty in Appointment Politics.*** Much of the transition process rests on the common recognition that regardless of partisan agendas, the current new administration will carry out many responsibilities that have little in the way of a partisan character. These positions assure critical public responsibilities and make up the core of the Executive's duties. We suggest that such critical positions present potential opportunists with little in the way of advantage through obstruction. And that in our estimation would likely produce the highest likelihood of detection and retribution. Hence, we expect these kinds of positions will experience shortened deliberations.

To summarize, then, our version of appointments politics evokes six expectations:<sup>9</sup>

- H2a. *Initiative — Transition Planning Shortens Executive Stage Deliberations.* The earlier the president-elect begins planning the transition, the shorter the duration of executive vetting.
- H2b. *Initiative — The Effect of Transition Planning Improves Over the Stages in the Process.* The size of the marginal effect of transition planning grows over each stage in the process, as the process becomes more public and transparent.
- H2c. *Initiative — Executive Action in the First Hundred Days Shortens Deliberations Across All Stages.* The earlier an administration begins the appointments process for a nominee the shorter the deliberations on that nominee in both the Executive and Senate. Also, the shorter the duration of the previous stage, the shorter the duration of Congressional committee approval and the final floor vote.
- H2d. *Leadership Capacity and Coordination — Unified Leadership Shortens Deliberations.* In addition to the orthodox effect that growing party distance increases obstruction and lengthening deliberations, unified partisan leadership shortens deliberations.
- H2e. *Pace of Policy — An Increasing Senate Workload Emboldens Obstructionists.* As the Senate begins to address its primary responsibilities for policy, delays increase over each Senate stage in the process.
- H2f. *Duty — Nominations Considered as Critical "Stand up" Positions Shorten Deliberations.* The more important the position in terms of its responsibilities, the shorter the deliberations in all stages.

## MODELING APPOINTMENT POLITICS

Our analysis surveys 3,982 nominations made during the first two years of six presidencies, including the Trump administration.<sup>10</sup> We concentrate on nominations made during an administration's first two years because we focus on understanding how an administration stands-up the national government.<sup>11</sup> Most presidents come close to filling the vacant PAS positions by the end of the second year. However, the president typically sends over 60 percent of the appointments to the

<sup>9</sup> Hypotheses 1x derive from the orthodox literature and appear in the supplemental, online material.

<sup>10</sup> The data for the intent to nominate come from the National Archives, *Public Papers of the President* series and, in some instances, reports in *The New York Times* or *The Washington Post*. The other dates derive from Senate records maintained by the Library of Congress.

<sup>11</sup> The political dynamics of replacing PAS positions when vacancies occur throughout an administration's later stages may share some commonalities with the appointments process during the initial stand-up of the national government.

Senate in the first year. These data track nominations through all the stages in the process: leading to submitting a nomination to the Senate, to when the committee of jurisdiction reports the nomination, to the Senate's final disposition (whether by vote or by returning the nomination). For nominations returned to the President for an early recess, we consider any nomination not resubmitted as a failure and any nomination resubmitted as the same nomination continued. Those nominations returned at the end of the second congressional session, the data report the date returned as disposition, and the analysis treats these observations as censored by the duration of the Congress.<sup>12</sup> The data cover a wide-range of PAS positions, but exclude US marshals, most US attorneys, low-level ambassadors, and all judicial appointments except to the Supreme Court. Because our timeframe differs substantially from that of McCarty and Razaghian and overlaps to a degree with the others, we provide a replication of their models using our data in the online supplement.

**Dependent Variables.** For the analysis reported here, we employ three main dependent variables measuring the duration of executive vetting, of time spent in committee, and time leading to the final Senate disposition. The duration of executive vetting equals the date the President submits a nomination to the Senate minus the relevant election date. The duration of committee vetting equals the date the committee reports the nominations minus the date the administration submitted the nomination. The duration of final Senate disposition equals the date of disposition (or the date the Senate returns the nomination) minus the date the committee of jurisdiction reported the nomination.

**Independent Variables.** Table 1 summarizes the independent variables employed.<sup>13</sup> These include some variables as operationalized in previous studies (especially McCarty and Razaghian and Ostrander 2015) and a series of common controls. These controls include the appointee's gender, the President's approval, and whether the appointment belongs to an independent regulatory commission, and whether the nomination occurs in the administration's first year. One difference here, we employ a measure of party structure that corrects McCarty and Razaghian's measures of party imbalance to point to the president's support. Our measure compares the proportion of the Senate held by the President's party minus the proportion held by the opposition party. Lastly, we identify whether the president and Senate leadership have a common partisan affiliation leading to the potential for coordination. The online appendices provide a more detailed summary of hypotheses related to some of these variables more common to the orthodox explanation and a replication of their analysis using our data. The appendix also includes robustness models using variables from Hollibaugh and Rothenberg (2018) that range from policy realms with the greatest amount of non-partisan services (primarily constitutional duties) to areas most often associated with partisan disputes.

Three variables operationalize our interest in initiative. The first introduces a measure of transition planning, the length of transition planning undertaken by the campaign. Secondly, the model employs the standard measure of the administration's "first 100 days."<sup>14</sup> Lastly, we include the duration of the previous stage to capture the carry-through effect of submitting nominations early in the process. Nominations submitted earlier in the process, with shorter executive vetting times, may proceed through the rest of the process more hastily as well. Alternatively, nominations vetted more slowly and carefully by the executive may proceed through the committee faster because of a better fit between the nominee and the position, while nominations that get held up in the Senate committee might also experience some obstruction at the disposition stage. We propose the former logic prevails because presidents take the initiative and prepare in the transition.

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<sup>12</sup> Where the Senate returns a nomination (say at its August recess) only to have the president re-nominate that individual, the data ignores the return and continues scoring the original nomination.

<sup>13</sup> Note, some variables required scaling adjustments to accommodate comparable measurements. For example, the measure for polarization (D-Nominate) and party imbalance range from 0.0 to 1.0. Rescaling these variables permits more reasonable comparisons with other variables by generating a change closer to one standard-deviation in the independent variable.

<sup>14</sup> Note, McCarty and Ragazhian use 90 days as a measure of initiative.

**Table 1. Independent Variables in the Empirical Models**

Type of Effect	Measure	Definition and Sources
Polarization	Distance between Parties (in 10 <sup>th</sup> s)	The difference in the two parties' mean DWNominate scores, first dimension (Source: McCarty, Poole, and Rosenthal 1997).
Institutional Structure	Party Imbalance	The difference between the proportions of the Senate held by the majority and by the minority parties with the President's party as the positive value.
	Unified Coordination?	Whether the President's party has the Senate majority.
Presidential Initiative	Duration of Transition Planning (in 10s)	The inauguration date minus the date the campaign began planning for its transition. (Source: White House Transition Project interviews.)
	During First 100 Days?	Does the intent to nominate (or nomination itself or committee report or final vote) come in the first hundred days?
Pace of Policy (Institutional Workload)	Senate Roll Call Votes	Numbers of votes taken as recorded in the <i>Senate Journal</i> .
Executive Duty	Critical ( <i>Stand-up</i> ) Positions	Personnel positions as described in <i>Plum Book</i> and reflecting importance as described as critical to government functions. Higher values indicate more importance (Source: National Commission on Reforming the Federal Appointments Process, 2012)
Other Controls	Independent Regulatory Appointment?	Dummy variable indicating PAS nominations to an independent regulatory commission.
	Republican President?	A Republican administration or not.
	Presidential Approval	Monthly Gallup public approval
	Midterm Election year?	Dummy variable indicating whether the appointment occurs in the administration's second year.
	Female Nominee?	The nominee's gender.

We follow McCarty and Razaghian by using the number of Senate roll-call votes in a month to reflect the pace of the Senate's legislative workload. In the committee stage model, we measure these variables based on the date the Senate received a nomination, while in the final disposition we base the scores on the date the committee reports the nomination.

The independent variable for Executive responsibility derives from the National Commission on Reform of the Federal Appointments Process. Its recommendations encouraged administrations and the Senate to recognize that many appointments perform critical Executive responsibilities and that these should get special attention, especially in the early stages of the new administration. We employ their identification of these positions. The larger the value (from 1 to 6) the more important the position in this emphasis on critical positions.

**Estimation.** The basic testing relies on a survival-time model. Since obstruction invariably succumbs, the probability that the Senate disposes of a nomination increases with time, until the Senate adjourns at the end of the Congress, thereby censoring the data. Hence, the hazard rate should increase or the expected time until confirmation should decrease every day during deliberations. These facts suggest an accelerated failure time Weibull model, with monotone hazard rates that either increase or decrease exponentially with time.

While the most recent appointments study, Hollinbaugh and Rothenberg (2018), employs a split-population model, we do not track whether the nominations in our sample fail during the administration. The data here only track whether or not the Senate confirms the nomination during the first Congress. Thus, using a censored Weibull model constitutes an appropriate choice. Unlike previous studies, the analysis here utilizes a *shared frailty* accelerated failure time model, which helps to address potential non-independence among observations within each administration/Congress by estimating a different intercept for each.<sup>15</sup>

### ***Empirical Analysis***

Table 2 reports the results of our model on the pace of deliberations across all three stages while focusing on initiative, control, and logistics. Figure 2 graphs the marginal effects of our main independent variables in the Senate committee stage. These empirical results generally highlight the importance of the executive leadership in all stages of the appointments process. When considering the effects of transition planning, the first hundred days, and the carry-through effect of prior stages we can observe considerable evidence that presidential initiative may substantially mitigate the negative consequences of political polarization.

**The Impact of Initiative.** In all three stages, the collective effect of the presidential initiative variables suggests that initiative plays a significant role [H2a]. This initiative has a significant effect in each stage and that the effect grows, building on itself, in each stage [H2b]. The effect of good transition planning accelerates executive identification and vetting. Increasing the length of transition planning from Trump's 70 days to GW Bush's 540 days, decreases the duration of executive vetting by nearly 40 days (which typically lasts 360 days), the duration of Senate committee vetting by 25 days (which lasts, on average, 61 days), and the duration of the final disposition by 21 days (which typically lasts 24 days). Additionally, when nominations are submitted during the first one hundred days of an administration as a result of proper transition planning, those nominations are likely to get an additional boost [H2c], proceeding 23 days more quickly through committee vetting, and three days faster through the final disposition. Finally, interpreting the coefficient on the variables measuring the length of previous stage, suggest that for every 33 days the president spends vetting a nomination, the Senate committee takes an additional day to vet it, and every 25 days the Senate committee takes to vet a nomination, Senate leadership requires an additional day to conduct the final vote of approval.

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<sup>15</sup> Shared frailty models include a random intercept for panels or clusters of observations. A shared frailty model differs from the traditional, mixed or hierarchical models with a random intercept in that the shared frailty model assumes a Gaussian distribution, while the hierarchical model assumes a normal distribution.



Table 2. A Weibull Model of Deliberations by Stages, 1981-2018

Type of Effect	Types of Deliberations>> Measure	Executive Search and Vetting		Senate Committee Vetting		Full Senate Disposition	
		Coeff.	s.e.	Coeff.	s.e.	Coeff.	s.e.
	Constant	6.603*	0.052	1.377*	0.267	-4.231*	0.443
	Previous Stage	—	—	0.000*	0.000	0.004*	0.001
Polarization	Difference in Party Means (in 10ths)	-0.021*	0.004	0.336*	0.016	0.762*	0.043
Institutional Structure	Senate Proportion Held by Majority (in 10ths)	0.069*	0.006	0.140*	0.030	0.559*	0.059
	Unified Party Coordination	-0.194*	0.023	-0.422*	0.091	-0.502*	0.160
Presidential Initiative	Transition Planning (by 10s)	-0.002*	0.000	-0.009*	0.001	-0.033*	0.003
	During the First 100 Days	-0.700*	0.010	-0.410*	0.053	-0.304*	0.090
Pace of Policy	Senate Roll Calls per month (in 10s)	0.010*	0.000	0.040*	0.010	0.040*	0.010
Executive Duty	Critical (Stand-up) Positions	-0.023*	0.002	-0.095*	0.011	-0.028	0.018
Controls	Republican President?	0.025	0.013	0.647*	0.066	1.567*	0.156
	First Year?	0.673*	0.008	-0.009	0.069	0.411*	0.061
	Presidential Approval Rating	-0.002*	0.001	-0.004*	0.002	0.014*	0.004
	Female Nominee?	0.010	0.007	-0.015	0.034	-0.027	0.055
	Independent Regulatory Appointment?	0.025*	0.008	0.029	0.039	0.043	0.064
Summary Statistics:		n=3,954 $\rho=5.350(0.136)$		n=3,656 $\rho=1.174(0.015)$		n=3,478 $\rho=0.726(0.009)$	

Source: Computed by the authors from the first two years of each administration.

**Leadership Structure.** Interestingly, the relative size of the Senate's parties does not shorten deliberations as the orthodox model would suggest, but unified control [H2d] behaves as predicted. The potential for coordination between the Senate majority leadership and the president leads to faster deliberations in all stages, shortening the executive stage by a whopping 70 days, committee vetting by 24 days, and the final vote by 7 days. Since the typical executive search and vetting stage lasts 360 days, the committee stage lasts 60, and the disposition stages last 15, these changes dramatically shorten each stage.

**Logistics Effects.** As expected, the pace of policy prolongs the appointments process. As it turns its attention to policy, the Senate leadership devotes less time to appointments [H2e]. In addition, the increased political wrangling over policy probably presents other opportunities to use appointments as bargaining chips, further increasing opportunities for obstruction. During the executive stage, a one standard deviation increase in the number of roll call votes increases the executives stage by seven days on average, prolongs the committee stage by four days, and lengthens the wait for final disposition by a day.

**Orthodox Effects.** Most of the variables identified in prior studies do not perform consistently across all three appointments stages. Most notably, the coefficient on polarization has the wrong sign in the first, executive stage. In moving the executive vetting process along, a one standard deviation increase in polarization actually hastens those deliberations by seven and a half days. The impact of polarization elsewhere appears to increase deliberations as expected in both models: in the committee stage, a one standard deviation increase in polarization lengthens the process by 19 days, and in the final dispositional stage, this change prolongs the final floor vote by 10 days.

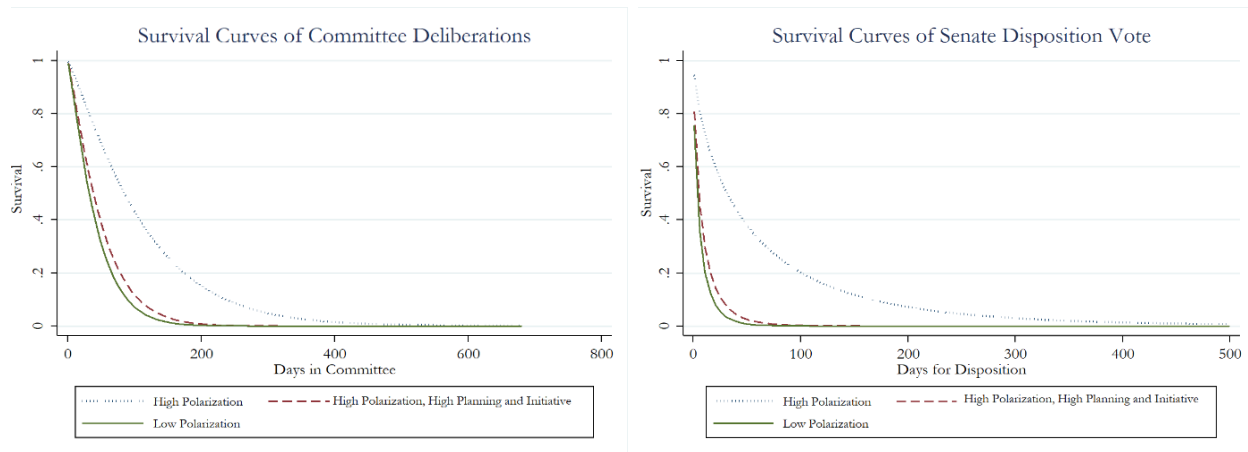
When considered as a percentage of the average time in each stage, polarization has a more dramatic effect at the final disposition stage. The final Senate vote typically takes place 21 days after committee approval, which lasts approximately 61 days, meaning that a one standard deviation increase in polarization lengthens the committee process by about 30 percent on average, but lengthens the floor vote by about 50 percent.

**Executive Duty.** The impact of focusing on executive duties [H2f] seems less clear. In those stages less in the public view, deliberations on critical positions shortens, but these positions receive no deference during the more visible dispositional stage.

**Controls.** The standard controls do not perform consistently. For example, the president's party Only the president's approval rating constitutes a robust predictor across all three stages. Consistent with the notion that obstruction comes out in the more visible dispositional stage, a popular president slows deliberations whereas during the closed stages, the popularity of the president shortens deliberations of that president's nominees. Obstruction of female nominees separately does not affect deliberations in any of the stages, nor do nominees to independent regulatory commissions, though the executive takes longer on those appointments.

To summarize, the results of our models confirm the important role of the president in appointment politics. The level of transition planning undertaken by a new administration shortens the amount of time necessary for identifying and vetting appointees, as does pressing the president's initiatives during the first 100 days. These actions, in turn, lead to expedited consideration in the Senate stages as well. And the possibilities for coordinated leadership further strengthens these effects. These patterns, all derived from institutional strengths, dampen as the pace of policy intensifies and as leaders turn their attentions to legislating. The more the pace of policy accelerates, the less attention to appointments the president and Senate leaders give and the greater the opportunism.

Collectively, our results suggest that presidential initiative can mitigate the effects of all but the highest observed levels of polarization. At its highest observed level, our models suggest that polarization can lengthen Senate committee deliberations by about 40 days and the final floor vote by 20 days. But if a president plans properly, and submits a nomination in the first hundred days, and it proceeds to a floor vote in that same period, the president can mitigate nearly all of the increase in the committee deliberations (see Figure 2), and reduce the duration of the appointments process by half.

**Figure 2. Survival Curves from Senate Models**

As we suggest in the conclusion, our approach and its empirical support provide good news for those concerned with the fate of the appointments process and its implications for the system of administration it supports. Far from being a hopeless, eternal quest made insurmountable by partisan rancor, as orthodox political theory implies, a feasible reform program could minimize and reverse the mess that appointment politics has become.

## IMPROVING THE APPOINTMENTS PROCESS

To date, political science research has treated the struggle between the executive and legislative branches as disassociated from the conduct of presidential appointments and the system of governance that they facilitate. The most advanced theories in political science have also minimized the president's role in forming coalitions, concentrating too much on the Senate's deliberative processes, its reified parties, and its most dramatic procedures. This despite the fact that appointments have made some of the most important constitutional history and have animated a good deal of current affairs. This focus dovetails with the orthodox opinion of pundits and other observers who bemoan the appointments process as hopelessly mired in polarized, partisan politics.

These theories and opinions suggest only one policy implication — presidents must better identify nominees that would make confirmation a foregone conclusion — and only one course of action — overcome obstructionists. This despite the fact that presidential nominations have received certain approval. Inside the Senate, the problems highlighted by polarization seem impervious to majority party adjustments to the deliberative processes intended to improve the process. For example, in 2013 the Democratic majority reduced the amount of debate available after cloture from 30 hours to 8 hours (Rybicki 2018) while reducing the majority necessary to invoke cloture. In addition, in the same year, invoking what became known as the “nuclear option,” the majority exempted from the filibuster rule all presidential nominations except Supreme Court posts (Peters 2017; Berman 2017). While keeping the cloture reform in place, the Senate applied a sunset provision to the debate limit, ending that reform in 2014. The change in using the filibuster on nominations remains in effect and has expanded now to all nominations in the executive and judiciary. After historically low numbers of nominations and appointments, the Republican Senate majority began to re-invoke these debate limits (Carney 2017, 2018; Editorial Board, WSJ 2018), which will likely have little effect in shortening deliberations or accelerating executive vetting.

Contemporary assessments still rate the appointments process a disaster and, as Figure 1 illustrated, delayed deliberations remain. Our research suggests that continued attempts to ameliorate conditions in a polarized Senate might easily have no effect on appointment politics. Instead, our

research highlights reforms that would target capacity, coordination, initiative, and planning during the campaign and produce a more aggressive transition period. Based in the results we have produced here, we can conclude that all of these would enable presidential administrations to stand themselves up faster, especially when the president leads a unified government. The greater priority the president gives to appointments before the legislative process gets underway, the more readily the Senate responds and acquiesces more quickly.

Thus, our research suggests reforms that could target capacity in both institutions to carry through on planning, initiative, and coordination. These reforms, designed to improve the system's overall efficiency without directly jeopardizing partisan positions, could make it easy for Senators to find common ground, especially on those kinds of critical positions we have highlighted, thereby undermining partisanship without having to address it directly.

In the past five administrations, the average number of nominations put forward before the first August congressional recess has amounted to around 340 nominees. If a new administration plans more intensely for the appointments process during the campaign and the transition, and then introduces these nominations before the end of the first 100 days, the stand-up rate would improve by about 33 percent. Again, nothing changes about the partisan response to the administration's nominations, yet this one change in initiative and the pace of appointments would alter the system's efficiency and reduce opportunism.

Standing-up the government in this way, of course, would present some *a priori* operational challenges. Five changes would underwrite further this proposed objective:

- a) Establish permanent confirmation staffs on every Senate authorization committee.
- b) Increase authorization for the Executive to hire more temporary investigators and to publish earlier the full listing of vacant presidential positions.
- c) Increase authorization for the US Office of Government Ethics to hire more auditing staff.
- d) Require the Senate to expand its outreach to the national presidential campaigns prior to the election.
- e) Authorize the creation of an Office of Presidential Personnel Management, including a permanent professional support staff managed by three presidential appointees (PA) and one director (PAS).

The failure to find a solution for the wrangling and the lengthening deliberations on presidential appointments and the resultant increasingly slow government stand-up represents a national tragedy, and not simply a partisan failure. As Hamilton implied, to tie up presidential nominations threatens more than just the electoral viability of the national candidate occupying the presidency. It also enfeebles the national government, undermines its economy and its defenses, and enervates the exercise of American power and leadership in the international arena. Designing reforms to take into consideration the role of presidential initiative and institutional capacity represents a unique opportunity for the legislative and executive branches to demonstrate a capacity to act and to improve national governance. They need not eliminate today's partisan rancor to reform the broken appointments process. Identifying these reforms, none inherently partisan, also represents a unique opportunity for scholarship to develop useful knowledge in the conduct of understanding appointments politics.

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## SUPPORTING INFORMATION

The supplemental information included in this document provides a replication of the research in McCarty and Razaghian (1999), Ostrander(2015), and Hollibaugh and Rothenberg(2018).<sup>16</sup> Section A assesses a series of hypotheses derived from McCarty and Razaghian’s (1999) theory of appointments politics, which we refer to as “the orthodox explanation.” That explanation serves as the theoretical foundations for more recent work on appoints, such as Ostrander 2015.<sup>17</sup> We attempt to replicate their results using their measures and techniques but employing a separate dataset, some 3,700 observations of presidential nominations from 1981 through 2018. Section B presents a replication of Hollibaugh and Rothenberg’s (2018) analysis using observations common to both our databases. Again, we employ their measures and techniques but rely on our data. The common observations cover non-judicial and non-foreign service appointments made during the first two years of each presidential administration (Reagan-Obama), for which an “ideal point” (cfscore) exists in Bonica’s *Database on Ideology, Money in Politics, and Elections*<sup>18</sup>. Section B also presents a robustness analysis of our main models but including their main variable of interest *nominee-filibuster divergence*.

### ***A. Replicating McCarty and Razaghian***

*Principal Hypotheses.* McCarty and Razaghian (1999) suggests three primary hypotheses about the pace of Senate deliberations: (H1a) partisan polarization, (H1b) divided government, and (H1c) an interaction that amplifies polarization.

*The Rank and Policy in Positions.* In addition to the three principal hypotheses, McCarty and Razaghian (1999) make two claims related to the type of positions under consideration. First, because lower level positions have less control over policy formation, fewer Senators will pay attention to nominations associated with these positions. Since Senators who wish to challenge the administration’s nominees will remain more determined than those Senators who support the President and try prevent obstruction, then any hierarchy of positions will also describe a pattern of increasing obstruction and, hence, delay:

*H1a. Determined Obstruction Distributed Across Positions.* Using the hierarchy inherent in the PAS system<sup>19</sup> as a stand-in for a position’s decreasing importance, it suggests an increasing unwillingness of supporters to resist obstruction for those nominations. So, a variable describing the range of positions carries a significant and positive sign on the length of deliberations.

Ostrander (2015) and McCarty, and (Razaghian 1999) also suggest that an agency’s policy jurisdiction could impact deliberations. While McCarty and Razaghian emphasize the degree to which those policy responsibilities define differences between the parties, Ostrander emphasizes a presidential interest in “seeking greater control over a bureaucratic agency” and controlling the number of positions at the top of an agency. McCarty and Razaghian emphasize the significance of social welfare, labor,

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<sup>16</sup> See references in Ba, Schneider, and Sullivan 2018, Presidential Leadership and Initiative in Appointments Politics, manuscript, the White House Transition Project.

<sup>17</sup> The relevant citations for related models: McCubbins and Schwartz 1984 and Calvert, Moran, and Weingast 1987.

<sup>18</sup> See Bonica (2014) and 2016, *Database on Ideology, Money in Politics, and Elections: Public version 2.0* [Computer file]. Stanford, CA: Stanford University Libraries.

<sup>19</sup> The PAS personnel system describes positions within the system in a hierarchy. Secretaries of cabinet agencies carry a designation in this system as “EX I,” deputy cabinet secretaries carry a designation as “EX II” along with the heads of critical regulatory boards, e.g., the Federal System, and so on through to boards and other positions which have no executive branch and policy-making responsibilities, e.g., foreign service positions and judges.

and education as partisan agencies while other agencies clearly carry the primary, non-partisan duties of the nation, e.g., infrastructure, defense, and foreign policy, with agriculture and treasury somewhere in the middle as a potential baseline.<sup>20</sup> Hence:

*Hib. Obstruction Distributed Across Agency Policy Agendas.* Agencies primarily engaged in policy that defines partisan cleavages will receive longer deliberations. Appointees to social welfare (Education, Housing, Health, and Veterans Affairs) agencies, Justice, and Labor will experience longer deliberations than those to the Treasury, Agriculture, Infrastructure (Energy, Interior, and Transportation) agencies, defense and foreign policy.

Ostrander makes two significant predictions. First, because independent regulatory agencies (IRCs) typically do not allow for acting agency heads to rise up from the career ranks as they do in cabinet-line agencies, delays in these agencies have a larger impact on policy change. Second, reflecting the non-partisan or “stand up” value in security, Ostrander predicts fewer delays for defense nominations.

*Hic. Independent Regulatory Commissions.* Nominations to IRCs generally experience greater obstruction.

*Hid. Defense Stand-up Exemption.* Nominations to the Defense Department experience less obstruction.

***A New Deal Hypothesis.*** Because Democrats created a large number of federal agencies during the post-War period (covered by their data), McCarty and Razaghian also hypothesize that Republican administrations would more likely propose appointments bent on dismantling or undermining the policies in those agencies’ purviews. In response, Democratic opponents — whether in the majority or minority — would more often obstruct these nominations with more vigor, resulting in generally slower Senate deliberations during Republican presidential administrations.

*Hie. Slower Republican deliberations.* Appointments made by Republican presidents should experience longer Senate deliberations than those made by Democratic presidents.

***Other Controls.*** Lastly, a number of other effects appear elsewhere in the empirical literature on appointments though the congressional dominance explanation would suggest no clear expectation on these potential effects. For example, Ostrander (2015) argues that the Senate yields to a popular president and has shorter deliberations for “earlier” nominations (see also McCarty/Razaghian), although he makes no clear argument as to why that would happen among determined opponents. Asmussen (2011) suggests the importance of minority nominations to cross-cut obstructionism on some positions. Ostrander reconfigures this argument to focus on gender.

Though some have raised the possibility that the Senate’s legislative “workload” would affect the pace of deliberations, congressional dominance theory makes no clear claim about its effect since it would not deter determined opponents, nor undermine the empowerment of Senate procedures. Similarly, dominance theory suggests no important connection with the “age of an administration” although others (e.g., Ostrander 2015) raise such a potential effect.

Finally, McCarty/Razaghian suggest that familiarity with a nominee (through repeated consideration) would undermine determination and so within the congressional dominance framework, would thereby speed up deliberations. That suggestion would pose a reasonable control:

- E1. *Gender Effect.* Deliberations for slow for nominations of “minority” candidates.
- E2. *Presidential Approval Effect.* As the president’s public approval rises, the pace of deliberations shortens.
- E3. *Learning Effect.* Deliberations will speed up for nominations that the Senate has considered previously.
- E4. *Early Administration Stand-up.* Senate deliberations shorten in the early stages (first 90 days) of an administration.

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<sup>20</sup> Of course, some policies, like trade and hence “commerce” and “treasury” would present a baseline.



### ***A Replication Analysis of McCarty/Razaghian***

Table A-1 reports a genuine replication of the model reported by McCarty and Razaghian (1999), using newer appointments data (from the 97<sup>th</sup> through the 115<sup>th</sup> Congress). In addition to replicating their model using a dependent variable that models only the whole of Senate deliberations, the table also reports the results of their model across all three appointments stage. As with McCarty and Razaghian, all the analyses employ accelerated time Weibull models without clustered standard errors.

Unlike the basic McCarty and Razaghian specification, the three staged models do reflect the explanation and analysis introduced in the main manuscript, where we treat the data in the Senate committee and disposition stages as censored. The Senate committee model treats as censored all appointments which the committee does not report and instead returns to the President at the end of the Senate, in accordance with Senate rule 30, §5 and §6. The disposition model treats as censored appointments that never receive a final Senate vote and end on the last day of the Senate session, again under Senate rule 30. McCarty and Razaghian handle the problem of appointments which persist across more than one Congress differently. They define the Senate duration of an appointment by the date the Senate confirms the nomination minus when it received the nomination. If a confirmed appointment began in a previous session and the Senate had returned it, they assign it a value of 1 on a dummy variable – *Previously Considered*, using this dummy variable as a control for learning. To replicate their method in the first specification, we also do not treat the data as censored but instead use a dummy variable to denote which observations may have abbreviated duration values. This treatment or the censored treatment does not seem to alter the results.

Our analysis replicates most of McCarty and Razaghian's significant results. For example, it supports the expectations on polarization and party structure (H1a-H1c). Increasing partisan polarization by one standard deviation (equal to a change of .1) under unified government increases the average duration of Senate deliberations by 18 days, while the same increase under divided government lengthens deliberations by 42 days. Divided Government has the effect of increasing Senate deliberations at all but the lower levels of observed polarization (lower levels of polarization range from 0.55 to 0.65, while the upper range of this variable equals 0.85).

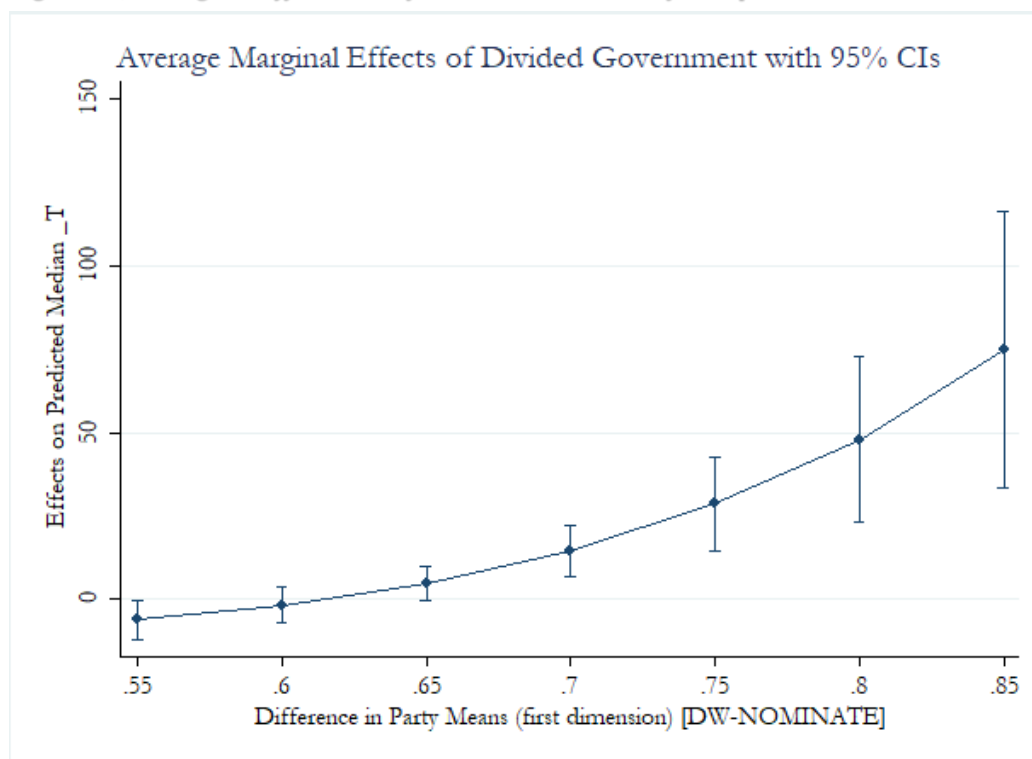
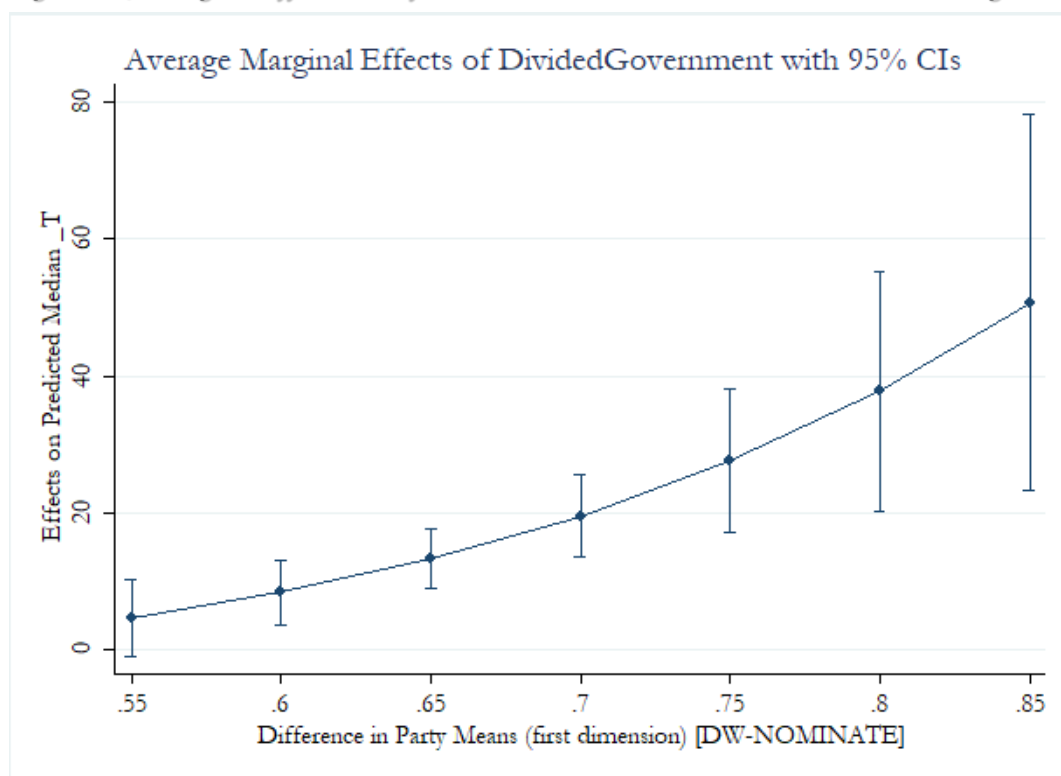
Interestingly, at the lowest level of polarization, divided government *decreases* Senate deliberation by about 6 days. Note that when divided government interacts with lower polarization, the impact on deliberations drops below zero — actually shortening deliberations. We suggest such an effect might reflect that the fact that static measures of senate party structure, such as divided government and its generalization in the variable “party imbalance” (positive and statistically significant), are probably mediocre measures of the dynamic politics that actually surround appointments, which are certainly affected by partisan structure but not wholesale determined by it.

On the other hand, the coefficient on the new administration dummy variable (negative and significant) supports the addition of that variable in the general deliberations model and the coefficients on the Republican president dummy variable and the level of appointment variable reflect expectations H1d and H1h. And while McCarty/Razaghian made no attempt to justify those effects, the limited comments they employed to establish H1e (on policy domains) did not find support in the empirical patterns. Those policy domains did not produce statistically significant coefficients in almost all instances and most of the coefficients presented carried the wrong sign.

**Table A-3. Weibull Model Replicating McCarty/Razaghian Analysis of Senate Deliberations, using data from 1981-2018**

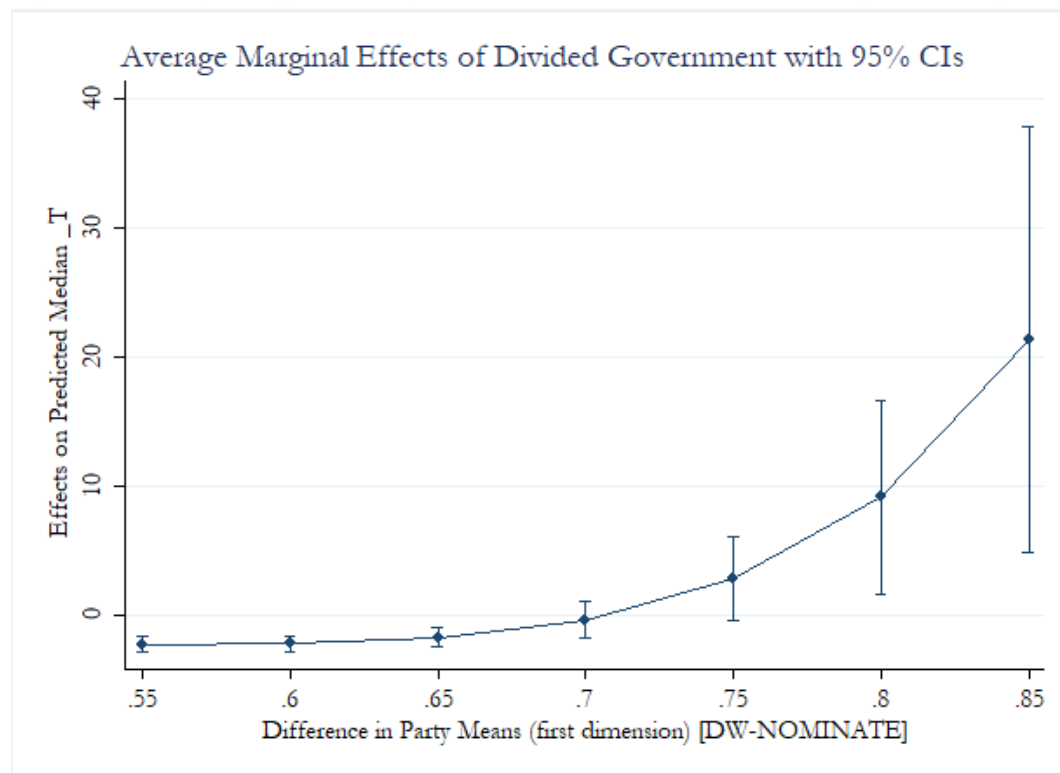
Type of Effect	Measure	Type of Deliberations>>		Executive Search and Vetting		Committee Vetting		Floor Disposition	
		Coeff.	s.e.	Coeff.	s.e.	Coeff.	s.e.	Coeff.	s.e.
	Constant	2.616*	0.215	4.529*	0.054	1.172*	0.194	-1.370*	0.324
Polarization	Difference in Party Means (in 10ths)	0.275	0.226	-0.034*	0.006	2.379*	0.221	0.473*	0.031
Institutional Structure	Divided Control	-1.421*	0.425	-0.932	0.119	-0.551	0.433	-4.376*	0.750
	Divided Control•Polarization	0.234*	0.064	1.536	0.179	1.313*	0.652	6.173*	1.152
	Party Imbalance (in 10ths)	0.168*	0.030	6.650	0.840	0.117*	0.03	0.249*	.054
Presidential Initiative	New Administration? (first 90 days)	-0.648*	0.064	-0.819*	0.016	-0.489*	0.064	-0.237*	0.103
	Days Since the Inauguration (in 1000s)	0.090	0.124	0.003*	0.000	0.579*	0.100	0.700*	0.200
Pace of Policy	Senate Roll Calls per month	0.004*	0.001	—	—	0.005*	0.001	-0.008*	0.002
	Total Nominations Yet Outstanding	-0.001	0.001	—	—	-0.001	0.001	-0.001	0.001
Executive Duty	Critical (Stand-up) Positions	-0.129*	0.014	-0.020*	0.004	-0.126*	0.014	-0.107*	0.024
Position Types (v Treasury)	Defense Nomination?	-0.056	0.090	0.026	0.026	0.050	0.089	-0.405*	0.168
	Foreign Policy Nomination?	-0.284*	0.087	0.010	0.025	-0.118	0.087	-0.586*	0.146
	Commerce Nomination?	0.101	0.102	0.055	0.029	0.277*	0.101	-0.343	0.191
	Infrastructure Nomination?	-0.273*	0.086	-0.004	0.025	-0.133	0.086	-0.121	0.162
	Non-Departmental Nomination?	0.022	0.079	0.012	0.023	0.236*	0.079	-0.280	0.148
	Agriculture Nomination?	-0.110	0.115	-0.009	0.033	-0.192	0.114	0.201	0.236
	Justice Nomination?	0.178	0.098	0.019	0.028	0.285*	0.099	0.033	0.186
	Labor Nomination?	0.245*	0.104	0.009	0.031	0.125	0.107	0.284	0.183
Other Controls	Soc. Welfare Nomination?	-0.086	0.087	-0.016	0.025	0.214*	0.087	-0.577*	0.162
	Republican President?	0.342*	0.060	-0.013	0.017	0.170*	0.0611	0.189	0.101
	Repeated Nomination (learning)	-1.241*	0.080	—	—	—	—	—	—
Summary Statistics:		n=3,346	LLR= -4411.6	n=3,472	LLR= -1273.1	n=3,172	LLR= -4198.584	n=3,162	LLR= -55516.2
		LR $\chi^2$ = 1276.9*		LR $\chi^2$ = 7181.1*		LR $\chi^2$ = 772.7*		LR $\chi^2$ = 807.1*	
		p=1.232 (0.016)		p=4.090 (0.063)		p=1.240 (0.016)		p= 0.736 (0.012)	

Source: Compiled by authors.

**Figure A-3. Marginal Effects Plot of Divided Government for Replication Model****Figure A-4. Marginal Effects Plot of Divided Government at the Senate Committee Stage**

Assessing the CTD explanation across the three stages of the process suggests that the Senate committee stage model most closely resemble McCarty and Razaghian's results. The effects of polarization, divided government, and the interaction between the two carry all have a statistically significant coefficient with the expected sign. The marginal effect of divided government seems stronger at the Senate committee stage (see Figure A-2): always positive and statistically significant, regardless of the level of polarization. The effect ranges from 5 days at low levels of polarization to 50 days at high levels of polarization coefficients on all of the control variable except the agency variable also have the appropriate signs and expected statistical significance.

**Figure A-5. Marginal Effects Plot of Divided Government at the Senate Disposition Stage**



At the Senate disposition stage, the model results vary slightly. While the coefficient on polarization, divided government, and the interaction term have the expected sign and statistical significance, the marginal effect of divided government (Figure A-3 actually reports a significant effect *reducing the length of disposition*). Only at the very highest levels of polarization (i.e., 0.8 to 0.85) does divided government actually increase the duration of deliberations in the disposition stage.

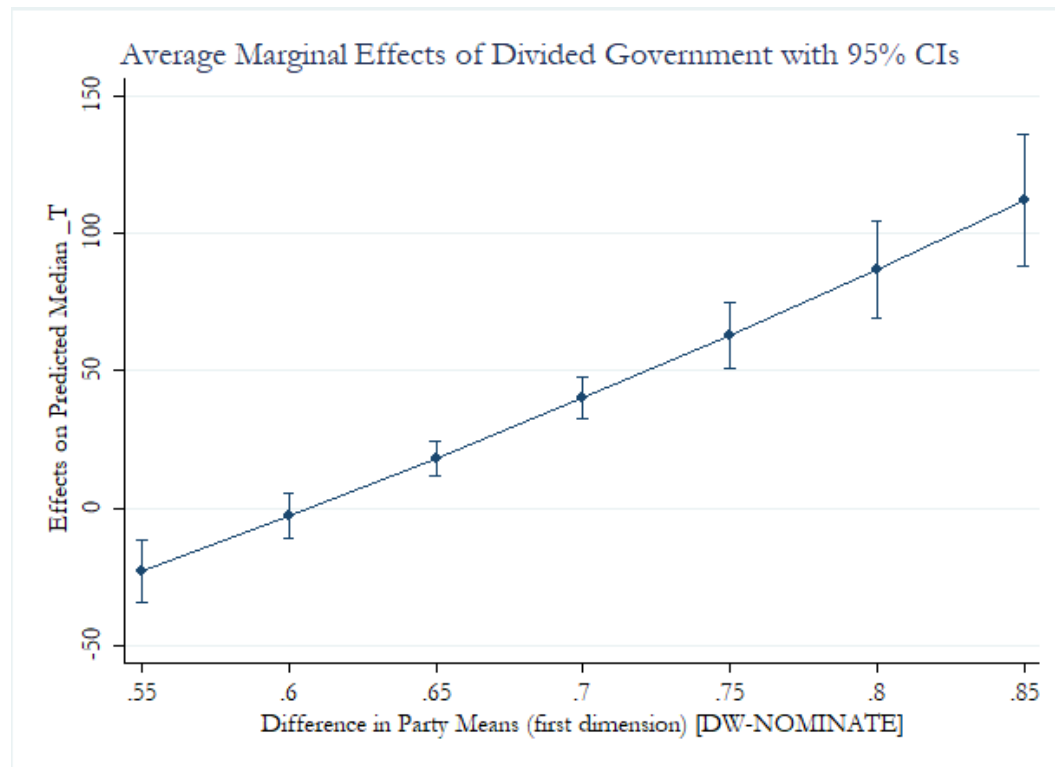
In the disposition stage, several control variables also lose statistical significance including republican president and the new administration dummy variable. The Senate workload variable carries a significant but *negative* sign. And, again, the effects of various agencies differ considerably.

All in all, then, the replication results across the two Senate stages suggest that the bulk of the effects take place not in the full Senate but within the confines of Senate deliberations at the committee stage. As illustrated earlier in Figure 1, the committee represents the vast bulk of Senate deliberations and so the basic dominance model reflects this basic fact. Where parties clash in the open and with the most fanfare, the CTD model seems least well adapted.

The results of polarization (party polarization), divided government, and the interaction term carry through as well in the executive stage reflecting again this somewhat unexpected pattern that the greatest party polarization effect occurs outside the most apparent clash of parties. At the lower level of polarization (.55) the marginal effect of divided government significantly reduces the duration of

candidate vetting by 22 days. At the highest level of polarization (.85), divided government increase the duration by nearly 112 days, on average (Figure A-1 through Figure A-4). Polarization has the expected and significant effect. Polarization has a drastically different effect on the duration of executive vetting under the two forms of government. Under divided government, a one standard deviation increase in polarization lengthens the executive vetting process by 29 days. While under unified government, a one standard deviation increase in polarization shortens executive vetting by about six days. Republican administrations take no longer than democratic administrations to complete identify and vet candidates. However, administrations do vet higher ranking candidates more quickly than lower ranked candidates, just as the Senate does. The executive also vetted candidates more quickly during the early parts of a new administration than afterwards.

**Figure A-6. Marginal Effects Plot of Divided Government at the Executive Stage**



In sum, then, across the stages, the orthodox explanation suffers somewhat. For example, divided government only has a clear positive effect on deliberations at high levels of party polarization. Lower levels reverse this central effect, shortening deliberations. And again this empirical pattern suggests the conceptual difficulties associated with a fixed factional structure and the accompanying assumptions about party structure. This pattern seems consistent with the argument presented in the main paper that presidential leadership and coordination with party leaders has a considerable effect on the ways in which coalitions form over appointments.

Secondly, workload and initiative as conceived of in the dominance explanation produced mixed results when considering their roles in the separate stages. For example, though the roll call version of senate workload performed as expected at the committee stage, it reversed its role in the final Senate floor stage. The difference between Republican and Democratic presidents varied across the stages as well. In the broad model, the results reflect a resistance to Republican nominees (H1e), possibly the reflection of their commitments in policy to reducing programs central to democratic policy-making over the previous decades and supported by majorities of that party. This expected resistance and partisan pattern associated with policy origins only appears during committee deliberations. Finally, in

considering the policy effects proposed by McCarty/Razaghian, those variables performed erratically at best, reflecting inconsistencies across the stages and satisfying almost none of the expectations.

### ***B. Robustness Studies Incorporating Ideology***

Hollibaugh and Rothenberger (2018) conduct the most recent analysis of presidential appointments, and advance a set of hypotheses consistent with the orthodox framework. However, rather than rely on a measure of party polarization as an indication of ideological divide between the Senate and the president, Hollibaugh and Rothenberger use a person-specific measure of ideology based on campaign finance records to operationalize the ideological divide. They also account for whatever ideological bias may be embedded in government agencies. Instead of operationalizing the party structure of the Senate via relative party size, as McCarty and Razaghian do, they examine the extent of ideological alignment between the president and the Senate via average ideal point scores sourced from Bonica's (2014) component analysis of campaign finance records. They further improve upon this analysis by considering the ideological alignment of the president and the Senate with the nominee and the agency to which the nominee will be appointed. Hollibaugh and Rothenberger (2018) specifically examine the following hypotheses relevant to the data and analysis we conduct here on the *duration* of vetting and confirmation:

- H3a. Deliberations should lengthen as the difference increases between the nominee's ideology and that of the relevant Senate filibuster pivot.
- H3b. Deliberations about a nominee should lengthen when the position involved has more independent decision-making authority.

We first replicate their analysis using the smaller dataset that includes the overlap of their dataset and ours. We then evaluate these hypotheses at all three stages of the appointments process, along with our variables and report them in Table B-1. Finally, to demonstrate the robustness of our variables to the inclusion of Hollibaugh and Rothenberger's ideology variables, we run our models and include the most widely available of their variables – the difference between the nominee's ideal point and that of the Senate filibuster pivot. We report these models in Table B-2. We do not include measures of the variables that rely on the ideology of the agency to which the nominee will be appointed because this severely restricts the sample to less than 1200 observations out of the 3700 we have gathered.

The data that Hollibaugh and Rothenberger rely on as a measure of ideology derive from Bonica (2014) and involve mostly for upper and mid-tier nominees who have previously run for public office and made their campaign finance records publicly available, or for those persons who have made substantial campaign contributions. The data cover the last two years of the Reagan administration through the first two years of the Obama administration. To produce the replication and robustness models using the ideology variables employed by Hollibaugh and Rothenberger, we combine their data with ours. Recall that our data covers the first two years of each administration beginning with Reagan, through to Obama, as well as the fourteen months of the Trump administration. The overlapping data has substantially fewer observations than we employ in our primary analysis, and far fewer observations than the dataset employed by Hollibaugh and Rothenberger. We also employ accelerated time Weibull models rather than split population models because we conclude our period of observation at the end of a Congress and not necessarily with the conclusion of each nomination. Despite these differences, we can confirm most findings of each study using this substantially smaller sample.

**Table B-4. A Replication of the Congressional Dominance Ideology Model, using data from 1989-2010**

Type of Effect	Measure	Types of Deliberations>>		Total Senate Deliberations		Executive Search and Vetting		Senate Committee Vetting		Full Senate Disposition	
				Coeff.	s.e.	Coeff.	s.e.	Coeff.	s.e.	Coeff.	s.e.
	Constant			3.856*	0.147	4.775*	0.060	4.105*	0.134	1.432*	0.231
Polarization	Nominee-Filibuster Divergence			0.447*	0.087	-0.004	0.035	0.275*	0.079	0.372*	0.138
	President-Agency-Senate Convergence			0.081*	0.037	-0.015	0.015	0.074*	0.034	0.087	0.061
	President-Agency Convergence			0.118*	0.025	-0.003	0.009	0.041	0.022	0.220*	0.041
	P-A-S Convergence•P-A Convergence			-0.027	0.026	0.008	0.010	-0.024	0.023	0.037	0.042
Institutional Structure	Policy Independence			0.066	0.034	0.001	0.013	-0.025	0.030	0.214*	0.058
Presidential Initiative	New Administration?			-0.160	0.104	-0.656*	0.041	-0.128	0.090	-0.091	0.188
	During the First 100 Days			-0.749*	0.080	-0.957*	0.033	-0.691*	0.072	-0.423*	0.194
Pace of Policy				—	—	—	—	—	—	—	—
				—	—	—	—	—	—	—	—
Position Type	Agency Decision-Maker Independence			0.062	0.040	0.036*	0.017	-0.026	0.037	0.314*	0.067
	Top Tier Appointment?			-0.408*	0.078	-0.071*	0.031	-0.464*	0.069	-0.200	0.124
	Mid Tier Appointment?			-0.125	0.066	-0.024	0.027	-0.223*	0.061	-0.008	0.106
Controls	Presidential Approval Rating			0.730*	0.123	-0.053	0.047	0.345*	0.118	-0.141	0.191
	Term Year			-0.060	0.063	0.735*	0.026	-0.124*	0.058	0.210*	0.101
Notes: * p-values < .05		Summary Statistics:		n=1,351		n=1,370		n=1,278		n=1,278	
				ρ=1.093 (0.021)		ρ=2.681 (0.057)		ρ=1.251 (0.026)		ρ= 0.695 (0.014)	

**Table B-5. Robustness for Politicized Presidency Model, Including Nominee-Senate Ideological Difference, using similar data from 1980-2017**

Type of Effect	Measure	Types of Deliberations>>		Executive Search and Vetting		Committee Vetting		Full Senate Disposition	
		Coeff.	s.e.	Coeff.	s.e.	Coeff.	s.e.	Coeff.	s.e.
	Constant	1.074	0.554	7.809*	0.347	0.781	0.570	-0.611	0.993
	Previous Stage					0.001	0.000	0.004*	0.001
Polarization	Difference in Party means (in 10ths)	0.401*	0.065	-0.183*	0.046	0.356*	0.064	0.315*	0.117
Institutional Structure	Party Imbalance (in 10ths)	0.279*	0.052	0.044*	0.022	0.220*	0.051	0.577*	0.090
	Unified Party Control	-0.564*	0.100	-0.411*	0.029	-0.553*	0.103	-1.094*	0.188
	Nominee-Filibuster Divergence	0.213*	0.065	-0.001	0.014	0.203*	0.065	-0.043	0.113
Presidential Initiative	Length of Transition Planning (in 10s)	-0.017*	0.005	0.005	0.003	-0.015*	0.004	-0.011	0.008
	During First 100 Days	-0.659*	0.051	-0.682*	0.014	-0.558*	0.067	-0.344*	0.122
Pace of Policy	Senate Roll Calls per month (in 10s)	0.002	0.001	0.001*	0.000	0.004*	0.001	0.007*	0.002
Executive Duty	Critical (Stand-Up) Personnel	-0.079	0.014	-0.028*	0.003	-0.095*	0.014	0.002	0.026
Controls	Independent Regulatory Appointment?	-0.046	0.053	0.028*	0.012	-0.114*	0.051	0.100	0.092
	Republican President?	0.864	0.259	-0.505*	0.138	0.829*	0.247	0.581	0.464
	First Year?	0.035	0.049	-0.681*	0.012	0.146	0.093	-0.360*	0.088
	Presidential Approval Rating	-0.001	0.003	0.000	0.001	-0.001	0.003	0.012*	0.005
	Female Nominee?	0.029	0.043	0.009	0.010	0.010	0.042	-0.092	0.075
Summary Statistics:		n=1,726		n=1,908		n=1,740		n=1,725	
		p=1.278 (0.022)		p=5.278 (0.092)		p=1.270 (0.020)		p= 0.732 (0.012)	



Table B-1 presents the results of the replication analysis. Again, the first column of this table presents a replication of their main model of Senate deliberations, while the subsequent three columns re-estimate this model using the three different dependent variables that we employ: length of executive identification and vetting, length of Senate committee deliberations, and duration of time between committee report and the final Senate vote of disposition. Using this smaller sample, we are able to replicate one of the main results of Hollibaugh and Rothenberg's model of Senate deliberations. The coefficient on *nominee-filibuster divergence* is positive and statistically significant. This effect holds at both the Senate committee and the Senate disposition stages as well. However, it would seem that the president does not consider this factor when identifying and vetting candidates (see column 2). We are not able to replicate the result of *agency-decision maker independence* on total Senate deliberations, probably due to the change in sample size. We do find that the coefficient on *agency-decision maker independence* is positive and statistically significant at the executive stage (column 2) and at the Senate disposition stages (column 4), however.

Table B-2 presents the results of the three main models from our manuscript, but including the *nominee-filibuster divergence*. We exclude *agency-decision maker independence* simply because using this variable results in the loss of an additional 330 observations from data availability and necessitates the loss of all observations from Presidents Reagan and Trump. In these models, we can confirm the effect of several of our main variables, including length of planning, roll call votes, and the effect of the first hundred days. Also, the coefficient on *nominee-filibuster divergence* is again positive and statistically significant in the Senate committee stage. The results provide good reason to suspect that both ideological differences and the political strategies of the executive affect the appointments process, though ideological differences matter most at the Senate committee stage.