

THE POLITICS OF FEDERAL REORGANIZATION: A LEGISLATOR'S PERSPECTIVE

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Reorganization of the federal executive is not a phenomenon that occurs in isolation; it takes place in and through a set of extraordinarily complex institutions and processes.

Clearly, executive branch reorganization is a matter of high priority and importance, both for Congress and the President. As President Carter said when he signed the Reorganization Act of 1977¹ into law on April 6, 1977:

I think of all the campaign speeches that I made throughout the Nation, the most consistent commitment that was made to the American people was that I would move as quickly as possible to improve the efficiency and the effectiveness and the sensitivity of the Federal Government bureaucracy in dealing with the needs of the American people.²

"[M]y administration," the President continued, "is determined to reorganize and streamline the executive branch of our Government."³

As part of this effort, the President created a Reorganization Project within the Office of Management and Budget, and assigned it an ambitious agenda. The objectives stipulated for the reorganization of the executive branch were specified as follows:

- Ensuring maximum efficiency and economy in Government;
- Promoting more effective planning and coordination of government activities;
- Simplifying Government;
- Making Government more responsive;
- Opening Government proceedings;
- Reducing fragmentation, overlap, and unnecessary paperwork;
- Developing incentives for increased productivity;
- Giving managers the authority necessary to do the job and then holding them accountable;
- Increasing the predictability and consistency of Government;
- Improving the relationships between Federal, State and local governments to ensure a balanced partnership and better coordination.⁴

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This article is based on an address by the author, "Federal Reorganization and Its Likely Impact on State and Local Government," delivered on September 20, 1977, at a Conference on Government Reorganization sponsored by the Woodrow Wilson International Center for Scholars in association with the Center for the Study of Federalism.

1. Pub. L. No. 95-17, Stat. (1977).
2. Reorganization Act of 1977: The President's Remarks at the Bill Signing Ceremony, 13 Weekly Comp. of Pres. Doc. 493 (Apr. 6, 1977).
3. Statement by the President on Signing S. 626 Into Law, 13 Weekly Comp. of Pres. Doc. 493, 494 (Apr. 6, 1977).
4. "President's Reorganization Project," 13 Weekly Comp. of Pres. Doc. 494 (Apr. 6, 1977).

It is not surprising that President Carter, as the first former governor to become President since Franklin D. Roosevelt, has emphasized improving relations between the federal government and state and local governments. Moreover, Mr. Carter served as governor of Georgia during a period of rapid expansion of federal programs that have considerable impact on state and local governments, and a hallmark of his administration there was a reorganization of the executive branch of the state government.

THE CONTEXT OF REORGANIZATION

In analyzing the politics of reorganization, we must examine the structure of the political system within which that reorganization is to take place.

The American Political System

Three elements fundamental to the context of our consideration of the impact of reorganization are the separation of powers within our federal system, decentralized political parties and a federal system in constant flux.

The American Constitution, and the political system of which it is a part, are unique, and they are complex. They are characterized by separated institutions sharing powers. Although responsive to different if at times overlapping constituencies, the President, Congress and the courts all have real influence in the decision-making processes of our government.

For example, reorganization focuses on decisions taken by the executive, yet actions of Congress can produce policy despite and over executive branch objections.

Congress has itself initiated reorganizations of the executive. It was Congress that, in opposition to the views of the Nixon administration, mandated the location in the Department of Health, Education, and Welfare of both the Rehabilitation Services Administration and the Administration on Aging.

In addition to the separation of powers, our system of governance is made more complex by our decentralized political parties. Members of the House and Senate, like governors and mayors, are not beholden to the President or to a national party organization. Our national parties are not highly disciplined structures but rather loose coalitions linked by ties of history, ideology, self-interest and our electoral mechanism. American parties are not consistently effective instruments for setting national policies in clear directions.

A third element that enriches the complexity of our governing processes is our federal system. For the Founding Fathers, the federal system embraced a national government exercising a limited number of specific powers and state governments retaining all those powers not delegated to the national government.

It is a truism that our Constitution has proved flexible enough to accommodate the changing needs of the nation, and that we now have a system in which the national and state governments share many powers rather than there being two rigidly confined and exclusive spheres of authority.

The late Morton Grodzins aptly characterized our federal system as a "marble cake." Said Grodzins, "Whenever you slice through it, you reveal an inseparable mixture of differently colored ingredients. There is no neat horizontal stratification So it is with Federal, state and local responsibilities in the chaotic marble cake of American government."⁵

5. Morton Grodzins, "Centralization and Decentralization in the American Federal System," in *A Nation of States: Essays on the American Federal System* 3, 4 (Robert A. Goldwin ed. 1961).

The reality is still more complex than Grodzins' analogy. We do not today enjoy even the simplicity of a federal-state-local arrangement. There are school boards, metropolitan governments, regional compacts and a variety of other special authorities.

And although there may be some activities in which there is a clear delineation of powers—national defense, for example, at one end of the spectrum, and fire protection at the other—the marbled layer cake metaphor is useful to describe the overlapping of authority in other areas such as education, pollution control and economic development.

Reorganization: One Among Many Federal Policies

Yet I must compound further the complexity of the context by reminding you that federal executive organization is only one among many federal policies that affect what state and local governments do.

Statutory formulas for distribution of federal grants, revenue sharing and overall federal postures on urban, suburban and rural problems have a direct and significant impact on state and local governments.

Moreover, many general policies of the federal government, policies not adopted with specific state and local concerns in mind, can nonetheless powerfully influence them. I cite only two instances of what I mean: The President's commitments to a balanced budget and to zero-based budgeting.

It must be obvious, too, that political developments at the national level such as change, after years of divided government, in the partisan pattern of control of the federal executive and legislative branches to control by the same party can have significant impact on the relationships between states and localities and the federal government.

Reorganization and the Broader Environment

There is a third kind of factor which can shape the impact of federal reorganization: the entire range of non-governmental social, economic and human variables. The rates of inflation and of the growth of the GNP, the level of unemployment, the birth rate, the supply and price of OPEC oil—these are all elements over which the federal government is not sovereign but that nonetheless have a profound impact on the entire layer cake of federalism.

Finally, we cannot forget that in discussing government generally and reorganization specifically, we must take into account human behavior and personal idiosyncrasy. Members of the same Cabinet in an administration committed to executive reorganization may seek to meet that commitment in radically different ways.

Thus, it is clear that reorganization is only one among many federal policies that shape relations with the American people, the states and localities, and these relations are significantly molded too by factors outside or beyond the control of government. To reiterate, executive reorganization does not occur in an isolated context

You will not, in view of my analysis so far, be surprised at my admonition that we must not rush to attribute direct cause and effect correlation between federal executive reorganization and the government's efficiency or effectiveness, or between reorganization and the federal government's impact on states and localities.

In like fashion and without deprecating the potential significance of reorganization, I would warn against any easy assumption that the problems

of states and cities can be cured by restructuring of the federal executive.

For all these reasons, one cannot predict with confidence the consequences of any given reorganization scheme. The title of a 1966 book on the subject makes my point: *It All Depends*.⁶

A FEDERAL LEGISLATOR'S PERSPECTIVE

Having attempted to place my analysis in this broader context, I should like now to address more directly the question of the impact of federal executive reorganization on state and local governments. I shall here interject that I believe that most of my observations apply as well to the impact of federal reorganization on non-governmental institutions that are also affected by federal programs, such as colleges and universities, hospitals and social service agencies.

As you know, I write not as part of the executive branch but as a legislator and more particularly still as a Member of Congress who chairs a subcommittee with jurisdiction over federal programs for education of the handicapped, vocational rehabilitation, older Americans, arts and humanities, child abuse prevention and treatment, libraries, educational research, alcohol and drug abuse education, and environmental education. I also serve on the subcommittee with responsibility for federal student assistance and a variety of programs assisting colleges and universities.

I comment then as one of those who helped write a number of programs which have given rise to the new relationships in the federal system.

REORGANIZATION FOR "GOOD GOVERNMENT"

The announced objective of federal reorganization is to improve the performance of government. Reorganization, we are told, will make government more efficient, economical and effective. It will produce greater simplicity, uniformity, consistency and predictability. It will make government more open and responsive to public concerns. It will enable federal executives to plan more intelligently and to exercise better control over their programs. In short, reorganization promises to "make government work" and to produce "good government." These objectives for reorganization are succinctly set forth in the statement of purpose of the President's Reorganization Project, cited earlier.

It is at this point that I feel constrained to voice a degree of skepticism about the pretensions of the backers of executive reorganization to achieve this litany of "good government" goals.

Let me express some of my reservations.

Mechanistic Analogies

First, in pressing for reorganization, we must be aware of seduction by simple mechanistic analogies.

If we see government as a machine, we have the comfort of believing that with relative ease we can rearrange the gears, levers and rods and can understand, control and predict the results of our handiwork. But government is not a tinker toy or erector set or even a computer. We should seek our analogies not in the precise worlds of mechanics or physics but in the organic one of biology; reorganization is less like changing a carburetor than performing a heart transplant.

6. Harvey Sherman, *It All Depends: A Pragmatic Approach to Organization* (1966).

The Inevitability of Trade-offs

A second reason we should be skeptical of accepting at face value the promises asserted for reorganization plans is that reorganization involves inevitable trade-offs. All of the objectives of reorganization cannot be achieved simultaneously. Some of these goals point in opposite directions and are incompatible with others. For example, grouping related programs in order to eliminate overlap and duplication clearly implies a centralization of authority. On the other hand, making government more open and responsive to citizens suggests decentralization.

There is another trade-off in reorganization. Although it is supposed to make government perform better in the long run, in the short run reorganization often means disruption of established relations. On-going delivery systems and familiar forms and phone numbers cannot be replaced without a measure of delay and confusion. Anticipated improvements must be weighed against such losses.

Some reorganizations may, indeed, prove capable of producing the results represented for them. Federal programs may be able to help state and local governments operate more effectively, smoothly and efficiently. It is possible to mesh federal purposes and accountability with state and local flexibility without undue friction or burden.

The most thoughtful analysis of the trade-off phenomenon is an essay on reorganization by Herbert Kauffman in the 1977 Brookings Institution study, *Setting National Priorities: The 1978 Budget*. Kauffman's article is a map of the minefield that federal reorganizers must cross. He warns:

No given administrative pattern will inevitably increase efficiency, effectiveness, or responsiveness [N]obody should expect sudden, swift, dramatic diminishment in the size and cost of the executive branch of the federal government as a result of reorganization The 1977-78 controversies over government reorganization are only the opening skirmishes in what promises to be a long, hard, and frequently futile endeavor.⁷

Reorganization Policy

Beyond my reservations about both mechanistic analogies and insensitivity to the inevitability of trade-offs, there is a third reason for my apprehension about the representations made for reorganization. It is that too often reorganizers omit—some of them perhaps deliberately—an explicit recognition that reorganization of the executive branch of the government of the United States is not simply an exercise in improving the efficiency of government.

Reorganization is a fundamentally political act, not political in the partisan sense (although it may be), but political in that every organization—and every reorganization—means a distribution—or redistribution—of power and influence over the substance of policy.

A given table of organization allows some people to be more easily heard while closing the door on others—and access is power. A given organization focuses on some approaches to dealing with problems while ignoring others. A given organization in practice defines the issues the government will address.

Organization is not just management. It is policy, and in the American democratic system, policy is politics.

7. Harvey Kauffman, "Reflections on the Administrative Reorganization," in *Setting National Priorities: The 1978 Budget* 402, 417-18 (Joseph A. Pechman ed. 1977) [hereinafter cited as Kauffman].

THE POLITICS OF REORGANIZATION: THE VOCATIONAL REHABILITATION AND AGING PROGRAMS

Let me illustrate my point with an example. The education subcommittee I chair had some protracted and bitter battles with the Nixon administration over the question of where in the Department of Health, Education, and Welfare the vocational rehabilitation program and the Administration on Aging should be located. In both these cases, the Nixon administration was attempting to consolidate programs to serve handicapped adults and the aging with the welfare programs in the department. Beneath a surface rationality for these organizational changes were some crucial policy implications. Both the vocational rehabilitation and aging programs serve their target groups without regard to income. Putting these programs in the welfare bureaucracy was a step in the direction of making eligibility for vocational rehabilitation and services for the aging subject to a needs or poverty test. If the two became welfare programs, their potential clientele would be reduced.

For example, only the aging poor rather than all of the aging would have been served. This organizational change would also have diminished the political power of the handicapped and the aging, for a program with only poor clients has much less political influence than one which includes some middle income constituents. They are the ones who are the most politically active and articulate. Exclude the middle income group from eligibility and political support for the programs would correspondingly wane. Then cutbacks in funds for them would become easier, the basic Nixon objective all along.

To counter these goals of the executive branch, Congress insisted by law that the vocational rehabilitation and aging programs be kept out of the welfare bureaucracy, and that their administrators report directly to the Secretary of Health, Education, and Welfare.

Another dimension of the same story was the Nixon administration's attempt to dilute the vocational rehabilitation program under which social services to handicapped persons are provided through a counselor system. The administration proposed that these counselors offer services not only to the handicapped but also to welfare recipients and others. Once again, a plausible contention that better use be made of an existing and effective delivery system concealed an effort to slash funds by loading new tasks on the vocational rehabilitation counselors. The proposed change threatened to swamp them and the rehabilitation system with new clients, and to produce less rather than more effective services for everyone.

This struggle between my subcommittee and the executive branch has several other chapters, including, in our view—and I here note that Republicans on our subcommittee joined Democrats in this attitude—deliberate attempts by the executive branch to evade Congressional intent as embodied in laws that ran contrary to the administration's policy preference.

My point here, I trust, is clear. Members of Congress become deeply involved in reorganizational issues not because we enjoy drawing up organizational charts but because reorganizations directly affect the allocation of dollars, the location of the authority to spend them, and, most important, the purposes for which money will be spent. These are all questions that involve public accountability for the use of tax dollars and are, therefore, questions of deep and legitimate concern to Congress. Congress acts in these instances because of the clear and substantial policy, that is to say, political, implications of reorganization.

One other illustration of the point I am making was the struggle between Congress and the Nixon administration over its reorganization of the Office of Economic Opportunity. The issue here was certainly not one of cutting red tape and improving efficiency but rather the more fundamental question of whether the War of Poverty should be consigned to an early grave.

In all these cases, again to quote Kauffman, "The calculus of reorganization is essentially the calculus of policies itself."⁸

THE POLITICS OF REORGANIZATION: THE OFFICE OF HUMAN DEVELOPMENT

Because I have here cited instances of reorganization in which a Democratic Congress was at odds with a Republican administration, I must make clear that the willingness of Members of Congress—at least of this one—to criticize a reorganization effort is not confined to administrations controlled by the opposite party.

In September, 1977, the select education subcommittee sharply criticized an Assistant Secretary of Health, Education, and Welfare about a major reorganization of the Office of Human Development (OHD) which had been announced in late July.

By way of background, I must explain that at a hearing before our subcommittee in March, 1977, I had questioned the Assistant Secretary for Human Development, Ms. Arabella Martinez, about her reorganization plans, which had not then, she told the subcommittee, been formulated.⁹

After I reminded her that the subcommittee had jurisdiction, both legislative and oversight, over a number of the programs for which she had administrative responsibility, Ms. Martinez assured the subcommittee that "We would be very pleased to have your involvement in our process."¹⁰

This response was certainly in keeping with President Carter's pledge of April 6, 1977, the day he signed the Reorganization Act. Said the President, "The reorganization process which is set into motion today will be an open one. We intend to involve the Congress, State and local governments, and individual groups and citizens who will be affected by change . . ."¹¹

On the same day, the White House Press Office released a sheet containing questions and answers about the President's Reorganization Project.

Here are three of the questions and part of the answers to them:

Q. Will the Administration's commitments to openness extend to the reorganization project?

A. Hopefully, we have learned from the failure of previous reorganization proposals which were developed in a political vacuum or with only superficial outside input. A hallmark of our approach will be consultation with the Congress, affected interest groups, agency personnel, state and local government officials, and the public.

Q. Is the public going to be able to participate in the development of reorganization proposals?

8. Kauffman, *supra* note 7, at 406.

9. *Proposed Extension of the Child Abuse Prevention and Treatment Act: Hearings Before the Subcomm. on Select Education of the House Comm. on Education and Labor, 95th Cong., 1st Sess. 142 (1977) (Statement by Arabella Martinez) [hereinafter Child Abuse Prevention Hearings].*

10. *Child Abuse Prevention Hearings, supra* note 9, at 142 (Statement by Arabella Martinez).

11. Statement by the President on Signing S. 626 Into Law, 13 Weekly Comp. of Pres. Doc. 493, 494 (Apr. 11, 1977).

A. Public hearings and a solicitation of views of affected groups will be a part of the program

Q. Won't an 'open' reorganization process which involves the Congress and special interest groups tip your hand and stir up more opposition to your plans?

A. No. Opposition is most likely when Congress and interest groups are surprised by plans to which they have not contributed. An open process, by giving all interests a chance to be heard, should result in greater support in the long run.¹²

The reorganization of the Office of Human Development about which Assistant Secretary Martinez was asked by our subcommittee to testify embraces a wide range of federal programs, including services for handicapped children and adults, child welfare, families, Native Americans, the aging, veterans – programs with an estimated annual budget totaling nearly five billion dollars.

Despite the assistant secretary's commitment in March, 1977, and the clear language of the White House statement, there was no serious effort at all on the part of the HEW officials responsible for the OHD reorganization to consult with, in the language of the April 6 White House question and answer sheet, "Congress, affected interest groups, agency personnel, state and local government officials, and the public."

A few days before Ms. Martinez appeared before my subcommittee, witness after witness representing groups of Americans directly affected by the reorganization of OHD testified to us that they had been given no opportunity to make any contribution to this effort.

The executive director of a coalition of local, state, and national organizations of and for disabled persons, having been told upon inquiry that they would be advised if any reorganization were undertaken, testified that the group next heard about the reorganization on the day it was announced.¹³ A spokesman for the state welfare administrators observed that not only were they not consulted about the reorganization but that one and a half months after the fact they still did not know with whom in the new structure they should now deal.¹⁴ A witness for the American Foundation for the Blind told the subcommittee, "There is no question in my mind that we have been confronted with a fait accompli."¹⁵ A representative of another client organization summarized the theme of nearly all the spokesmen of the constituent groups affected by the OHD reorganization. He wrote, "It seems that administrators tend to take the view that the organization plan for service delivery rests within their private domain, where legislators and the public dare not tread."¹⁶

Aside from expressing their distrust of the reorganization because of the absence of consultation, the witnesses raised a host of substantive concerns.

12. Executive Office of the President, *President's Reorganization Project* 10, 11 (Apr. 1977).
13. *Reorganization of the Office of Human Development: Hearings Before the Subcomm. on Select Education of the House Comm. on Education and Labor, 95th Cong., 1st Sess. 14 (1977)* (Statement by Frank G. Bowe, Director, American Coalition of Citizens with Disabilities Inc.) [hereinafter *OHD Reorganization Hearings*].
14. *OHD Reorganization Hearings, supra* note 13, at 178, 179 (Statement by Gregory L. Coler, Chairman, Social Service Committee, National Council of State Public Welfare Administrators, American Public Welfare Association).
15. *OHD Reorganization Hearings, supra* note 13, at 56 (Statement by Irvin P. Schloss, Director, Governmental Relations, American Foundation for the Blind).
16. James Gashel, *Testimony Before the Subcomm. on Select Education of the House Comm. on Education and Labor* (Sep. 8, 1977) (National Federation of the Blind document, at 1) (written statement submitted to the Subcomm. on Select Education). See also: *OHD Reorganization Hearings, supra* note 13, at 28, 29 (Statement by James Gashel, Chief, Washington Office, National Federation of the Blind).

They questioned the efforts on the priority and independence of various programs that would result from the new groupings and layering provided for in the reorganization.

Not a single member of our subcommittee (or the full Committee on Education and Labor) was consulted on the reorganization, nor, I found on inquiry, were Senators on our counterpart committee, the Committee on Human Resources, asked for their opinions.

And in further questioning of some of my senior colleagues on the House Ways and Means Committee who have legislative and oversight responsibility for some of the programs in OHD, I discovered that none of them had been approached by HEW officials for their opinion on the reorganization.

Just as astonishing is that members of the President's OMB Reorganization Project did not learn of the OHD reorganization until one day before it was announced.

Our subcommittee meetings, in light of this history, were not pleasant. Subcommittee members, including the chairman, were vigorously critical of the OHD reorganization in several ways.

There was obviously indignation, not to say outrage, at the complete failure of HEW officials to engage in open consultation on the reorganization before it went into effect.

In view of the fact that the basic reorganization had already been put into place, subcommittee members were clearly skeptical, indeed, incensed, at the assistant secretary's pledge after the fact of the reorganization "to work closely with Members of Congress and their staffs, constituent organizations and employee unions at every stage of implementation."

Subcommittee members also noted that staff members of the President's Reorganization Project had been in close touch with our subcommittee concerning their efforts, and that officials in other divisions of HEW had not feared to talk with Members of Congress and interested groups. Here I would cite, for example, both the Commissioner of Education and the Director of the National Institute of Education.

Subcommittee members raised other questions about the OHD reorganization which, like the reorganization itself, have important relevance to efforts to reorganize the rest of the executive branch.

We wanted to know—and still do—if the reorganization will result in thinning personnel responsible for the delivery of services in order to fatten the assistant secretary's administrative staff.

We were all struck by the lack of awareness by the assistant secretary of the history of Congressional concern about the effects of reorganization on policy in her area of responsibility.

There are, it seems to me, two lessons here. First, there ought always to be, by way of justification for a reorganization, some hard-headed evidence and analysis that suggest that the change will on balance produce improved services to people and/or savings in cost. Simple assertions that these results will follow a modification of the table of organization just will not do.

Congress was given no such justification for the reorganization of OHD. Instead, we were told that "THE PRESENT ORGANIZATION IS UNMAN-AGEABLE." as if that declarative statement and the fact that it was all in

capital letters and underlined were enough to prove the case.¹⁷

The second lesson to be derived from the assistant secretary's inability to give a rationale for reorganization in terms of its impact on policy is the one I made earlier, namely, that every organization—and every reorganization—means a distribution—or redistribution—of power and influence over the substance of policy.

We also wanted to know—and still do—why HEW officials engaged in reorganization of OHD were not coordinating their efforts with those persons in the President's Reorganization Project who are charged with similar responsibilities.

Now I cite this particular example of reorganization for several reasons. It touches on an area with which I have some familiarity. It illustrates problems and pitfalls in executive reorganization that run across the entire spectrum of the federal executive. It is, indeed, a classic case of how not to reorganize.

And above all, it demonstrates the validity of the proposition that, as Kauffman said, "The calculus of reorganization is the calculus of politics itself."

QUESTIONS TO ASK CONCERNING REORGANIZATION

Here then are some questions that I believe are at least among those that should be directed to every proposed reorganization:

What are the policies that will be affected by the reorganization and how will they be affected?

For example, will the plan be likely to result in more effective delivery of services to the clientele? Will money be saved without diminution in services? And where are the hard evidence and analysis to substantiate the change?

No one can object to making the bureaucracy tidier or the life of administrators easier so long as reaching these goals does not subvert the purposes of the programs they administer.

Another question: What are the trade-offs in a proposed reorganization?

For example, is location at a higher level in the bureaucracy to be the price paid for less adequate funding of the program?

Still another question: Has the proposed reorganization been subjected to the consideration and questioning of Congress, state and local officials and others affected by the change?

Or has consultation been so lacking or so cosmetic as, despite the genuine merits of the reorganization, to arouse such suspicion and hostility that the plan is crippled?

THE IMPACT OF EXECUTIVE REORGANIZATION ON STATE AND LOCAL GOVERNMENT

The kinds of questions I have been raising as a Member of Congress are, in my view, the same kinds of questions that state and local officials should ask in assessing the impact on their activities of a proposed reorganization.

17. U.S. Department of Health, Education, and Welfare, *Fact Sheet on OHD Reorganization* 14 (Exhibit 2) (Jul. 26, 1977), reprinted in *OHD Reorganization Hearings*, *supra* note 13, at 97 (attachment to Statement by Arabella Martinez, Assistant Secretary for Human Development Services, U.S. Department of Health, Education, and Welfare).

If my analysis is not too far off the mark, it seems clear that reorganization will affect the capacity of state and local officials to get a hearing, to voice their concerns, to have access.

Because funds will flow through the channels established by reorganization, these officials must ask if these channels will move the money in different directions and ones important to states and localities.

In turn, the ways in which state and local government organize themselves can be significantly affected by changes in the organization of the federal executive. There will usually be a pull toward paralleling the new federal organization in order to be able effectively to take advantage of the federal programs.

It should be noted that legislation that follows a federal reorganization often provides incentives or in some cases a mandate that states and cities develop organizational structures compatible with the federal organization and the policies it reflects.

For example, the Rehabilitation Act of 1973¹⁸ required as a condition for receiving federal money for vocational rehabilitation of handicapped persons that each state administer with clear lines of accountability the federally funded vocational rehabilitation programs. Congress was concerned that money intended for services to the handicapped be spent for that purpose and not for some other. One state, for instance, ignored the law, insisted on a different organizational arrangement and is now facing the loss of millions of dollars. In this connection, I might note that the Auditor General of that state recently issued a report which concluded that the administrative structure chosen by state officials produced waste, a loss of effective managerial and fiscal control and lower quality services to handicapped persons.

CONCLUSIONS: IMPROVING THE PROCESS OF REORGANIZATION

The process of reorganizing the federal government would be greatly improved if it were to become more openly and explicitly political, not in a partisan sense but in the simple acknowledgment that organization involves policy.

It is for precisely this reason, that reorganization usually involves substantive policy, that there can be no simple prescriptions for an appropriate organization.

Decisions about reorganization often mean decisions about competing goods rather than discovering the one right answer. The preferred reorganization may therefore depend largely on one's judgment about preferred policy and in turn that judgment, understandably, will be significantly affected by where one sits. A President, OMB Director, Cabinet Secretary, Senator or Congressman, governor or state legislator, mayor or school board member are likely to have very different perceptions of the policy impact of a particular reorganization. The answer to the question of whether any reorganization is good from a policy perspective is again: "It All Depends."

What does this conclusion mean in terms of the impact of federal reorganization on state and local governments?

It means that in evolving reorganization proposals, the federal executive must be open: open to the realization that reorganization means policy, and

18. 87 Stat. 355, codified at 29 U.S.C. §701 *et seq.*

open therefore to honest consultation with Members of Congress, interested groups, state and local officials and others affected by the proposed change.

Reorganizers should, therefore, abandon the view that, for example, Congressional concern with reorganization is tiresome meddling with matters that are none of Congress' business.

Even as the federal executive must do much better in consulting Congress and the interest groups, reorganizers must be more sensitive to hearing the views of state and local officials.

And I believe that this exhortation applies equally to us in Congress whenever we consider legislation that affects state and local units of government and other institutions in society.

More specifically on this point, I believe that we in Congress should engage in more oversight hearings such as the ones my subcommittee held on the Section 504 regulations under the Rehabilitation Act¹⁹ and on the implementation of the Education for All Handicapped Children Act.²⁰

I think that within the limits of our time and resources, Congressional committees should hold more hearings across the country, outside Washington, D.C., at which state and local leaders can voice their concerns and offer their recommendations.

More broadly, I believe that both Congress and the federal executive should work more closely with organizations of governors, state legislators, school superintendents and teachers and parents, to cite only a few, in the continuing effort to build bridges for an on-going dialogue between and among the several partners in the federal system.

Reorganization of the executive branch of the federal government must be viewed in the context of the American constitutional and political system.

Because of the many variables involved, predicting the impact of reorganization will not be easy.

Although traditionally discussed in terms of improving the performance of government, reorganization is not an exact science and often involves trade-offs among competing goals.

Above all, it must be understood that reorganization affects the distribution of power and influence over policy. For reorganization to be effective, therefore, at least in a democratic society, there must be open acknowledgement of this truism and a corresponding commitment to genuine involvement of the affected parties in the process that produces the change.

For reorganization of government, like government itself, should have as its principal purpose the service of the citizenry.

19. *Oversight Hearings Before the Subcomm. on Select Education of the House Comm. on Education and Labor on Implementation of Section 504, Rehabilitation Act of 1973*, 95th Cong., 1st Sess. (Sep. 9, 13 and 16, 1977).

20. *Oversight Hearings Before the Subcomm. on Select Education of the House Comm. on Education and Labor on the Education for All Handicapped Children Act*, 95th Cong., 1st Sess. (Sep. 26-27, 1977).