

CHAPTER IV

STRUCTURING THE NEW AGENCY

I. INTRODUCTION

The statutory provision governing the Panel's study calls for it to present an implementation plan for establishing the social security agency "as an independent agency in the executive branch with its own independent administrative structure, including the possibility of such a structure headed by a board appointed by the President, by and with the advice and consent of the Senate.*'

Any new organizational structure for the social security agency should be well suited to both policymaking and administration. The Panel has sought to design the new agency to meet these essential organizational requirements.

II. POLICYMAKING AND-ADMINISTRATION FOR SOCIAL SECURITY

Strong management of very large and complex organizations requires the concentration of responsibility and authority in a chief executive--a single official capable, ideally, of providing energetic and decisive leadership.

While few would dissent from this principle of administrative organization, differences of opinion do arise over how best to organize executive policy formation, which in our government includes both the preparation of proposals for congressional action and the exercise of executive discretion in interpreting legislative intent.

Whereas good administration in the Panel's judgment requires considerable autonomy--that is, the concentration of power in a responsible official--good policymaking requires the blending of competing views and the **balancing** of different perspectives **on** policy questions. Only to a limited extent can this balancing and blending take place within a single executive agency--the social **security** agency in this case. It is necessarily a far more inclusive process, engaging the President and Congress, who, by reason of having won elections, are responsible for making the most important decisions about public policy.

It should be a responsibility of the agency head to develop and preserve the capacity of the social security agency to contribute to policymaking with advice, information, expert analysis, and the kind of judgment that is informed by the experience of program operations. Along with the ability to recall experience--what is often called "institutional memory"--and a greater capacity to look beyond the immediate future than that possessed by elected officials, who must be mindful of upcoming elections, these are the distinctive contributions that administrative agencies make to policy. The organization and leadership of the social security agency should, in the Panel's judgment, be designed to make these contributions to the President and Congress as promptly and vigorously as possible. The Panel believes that an organization headed by a single executive is likely to fix responsibility for policy advice. It would provide expert information, practical judgments, and a long-range view on policy questions more expeditiously and clearly than would a multi-member deliberative body, which would be vulnerable to indecision, dissension, and diffusion of responsibility.

A form of organization designed for deliberation, representation, and adjustment of different viewpoints, as a multi-member board would be, is appropriate to head an agency which has received an extraordinary delegation of broad adjudicatory and rule-making power. The leading examples are the Tennessee Valley Authority, a public corporation created in 1933 to develop the Tennessee Valley, and the various independent regulatory commissions, which have broad powers to make and interpret rules--in effect, to act on behalf of the legislature and the executive--in their respective areas of jurisdiction. Congress, however, has made no comparably broad delegation to SSA. In the Panel's judgment, only if such a delegation were made, in effect substantially devolving legislative powers for policymaking, would a multi-member board be logical and defensible as a policymaking form.

As a form for administration, the Panel believes that a multi-member board has serious disadvantages in that authority is diffused, and policy and administrative roles can be confused. The assumption that the board would confine itself to policymaking and leave administration to a chief executive officer assumes incorrectly that the two spheres of activity can be clearly differentiated in practice, and it overlooks or unwisely discounts the danger that the chairman of the board and possibly other board members would involve themselves in administrative matters properly the responsibility of the chief executive officer. The social security program, urgently in need of strong direction, should not today be exposed to the risks of this kind of contention between board members and the executive over who will be in charge. Such contention could exacerbate and prolong precisely those administrative problems that a reorganization should be designed to prevent.

Finally, the preeminent position of the chairman of a board would tend to diminish by comparison the stature of the chief executive and make it more difficult to attract the type of strong and capable administrator necessary to resolve the agency's serious management problems.

III. STRONG SINGLE ADMINISTRATOR

To achieve accountability and management effectiveness, the new social security agency should be headed by a single Administrator of high rank, with a statutory term of 4 years, eligible for reappointment. The Administrator would report to and be appointed by the President by and with the advice and consent of the Senate. This Administrator should have proven competence as a manager of large organizations and knowledge of Federal government operations. The position of Administrator should be established at Executive Level II, with concomitant authority and enhanced administrative and professional stature so as to encourage continuity in top management.

Many of SSA's operating and management problems have been exacerbated by the frequent turnover of Commissioners. During the past 12 years, nine Commissioners or acting Commissioners have headed the agency. This turnover has prevented sustained action to solve operational problems and has devastated agency morale. For example, as noted in Chapter II, SSA has been unable to keep its computer systems up-to-date. Prior to the current Systems Modernization Plan (SMP), at least two starts were made on plans to modernize SSA computer systems but were abandoned by succeeding Commissioners with different priorities. The frequent turnover of Commissioners has also led to major reorganizations that were not completed before the Commissioners who

ordered them vacated office, leaving successors to contend with or again modify what their predecessors designed. These reorganizations have confused the organizational mission and the identity of the agency.

Under the Panel's recommendations, the new social security agency would be headed by a single executive official who would report to the President and in whom operational responsibility and accountability would be firmly lodged. This official should have proven competence as a manager of large organizations and be knowledgeable of Federal government operations. The position of Social Security Administrator should be elevated in rank to attract the highest caliber candidates, to make the office comparable to other large operating agencies, and to enable the Administrator to have sufficient stature to deal with Members of Congress, with the highest officials in the Executive Office of the President, and with other department and agency heads. Specifically, the Panel recommends that:

• The Social Security Administrator be appointed by the President and confirmed by the Senate. In selecting a nominee for Social Security Administrator; the President should take into account candidates suggested to him by the Social Security Advisory Board described in the following section. However, since the Administrator would be the member of the administration principally responsible for social security, the President must be able to select a person in whom he has confidence.

• The position of Social Security Administrator be elevated to Executive Level 11. with the Deputy Administrator at Level III and supporting executive staff of commensurate levels. The rank of the

Administrator should be elevated to a level commensurate with the Agency's **program** responsibilities, its managerial challenges, and its size. (The Commissioner of Social Security is currently at Executive Level IV, a rank inadequate for the responsibilities inherent in the position.) The Administrator would be expected to deal with issues at the highest levels of government--within both the executive and the legislative branches. The recommended Executive Level II, currently held by administrators of major independent agencies as well as administrators of some large agencies within departments, would provide the necessary stature. An independent agency will also require additional executive positions for an inspector general, general counsel, and legislative liaison functions. In addition to needing stronger top leadership, the agency is seriously understaffed at the Senior Executive Service (SES) level. Executive development must be emphasized and strengthened at all levels. The Panel is not in a position to determine the number of SES positions appropriate for the new agency, but has noted that the agency that is most nearly comparable (IRS) now has substantially more SES positions than SSA.

- o The Social Security Administrator be selected on the basis of proven competence as a manager of large organizations and knowledge of Federal government operations. While it is desirable for the Administrator to have an understanding of and experience with social security, it is more important that the Administrator have the ability to run a large organization, particularly in the difficult environment of Federal operations.

o The Social Security Administrator be appointed for a term of 4 years coinciding with the term of the President, with eligibility for reappointment. There is precedent for statutory terms in certain agencies of the government. For example, the Surgeon General of the Public Health Service, the Director of the FBI, and the Director of the Bureau of Labor Statistics all have term appointments. Recent studies by the Grace Commission and GAO have recommended term appointments for certain Federal officials with important operational and management responsibilities. The GAO and Grace Commission recommendations attempt to build stability and continuity of leadership in important operational and management positions throughout the government to increase professionalism. The Panel agrees that professionalism and continuity should be encouraged. The statutory term of office for the Administrator should coincide with the term of office of the President, and the Administrator should be eligible for reappointment.

IV. ADVISORY BOARD FOR SOCIAL SECURITY

To promote independent review and encourage broadly based policy analysis, a permanent Social Security Advisory Board should be established within the new agency. Its functions would be to oversee management and assess policy issues in social security and to advise the Social Security Administrator, the President, and the Congress on important developments. Some of the more important functions of the Board would be (1) to make independent assessments of the annual reports of the Board of Trustees, major

studies on social security, and proposed legislation; (2) to engage in public dialogue and education about social security; and (3) to suggest to the President names to consider in selecting his nominee for the position of Social Security Administrator. This Board would consist of nine members, no more than five of whom may be of the same political party. Five of the members would be appointed by the President (no more than three from the same political party), and, to reinforce bipartisanship and congressional participation, two of the Board members (one from each political party) would be appointed by the Speaker of the House, and two other members (one from each party) would be appointed by the President Pro Tempore of the Senate. All Board members would be subject to Senate confirmation. They would be appointed for 6-year terms, with staggered terms for the initial Board members, and would be eligible for reappointment. The Board Chairman would be designated by the President. This Board would be part time, with regular meetings held at least bimonthly.

Social security policymaking in recent years has taken place in an atmosphere of crisis and improvisation. Deficits have been remedied only when insolvency was impending. Institutional approaches--the National Commission on Social Security Reform most notably--had to be created ad hoc to resolve difficult issues. Policymaking has taken place, too, in a context of severe fiscal constraint, which since the mid-1970s has exposed the social security programs to presidentially sponsored proposals for benefit reductions, some of them hastily prepared under the pressure of the annual budget cycle.

It is largely in response to this situation that proposals have developed to place the social security agency under direction of a multi-member governing board. Proponents believe that a bipartisan board

would have a stabilizing influence, improve deliberation, and deter actions designed to meet the budgetary goals of any particular administration.

For reasons already given, the Panel prefers that the independent agency be headed by a single Administrator, but it nonetheless favors creation of a permanent bipartisan board, with relatively long, overlapping terms, to participate in policymaking as an advisor to the Administrator, President, and Congress. Such a Board would constitute an institutional means for weighing major issues of social security policy in a stable, orderly fashion, calling attention to developing problems before they become acute and providing advice in response to whatever proposals for action the ordinary processes of politics and policy planning may produce. It would assist in sustaining institutional memory, bringing a long-term perspective to bear on policy questions and assuring open consideration of significant policy changes.

The Panel believes the Advisory Board could accomplish many of the objectives related to policymaking that are sought by supporters of a full-time board. In particular the Social Security Advisory Board would:

- o embody the bipartisanship that was conspicuously successful in the work of the National Commission on Social Security Reform,
- o help to produce a more deliberative decision-making process with respect to significant policy issues,
- o institutionalize the quadrennial Advisory Councils and minimize the need for ad hoc commissions, and
- o become an **important** repository of institutional memory since it would be constituted of board members with overlapping 6-year terms.

Board members should be persons who by their experience, expertise, and accomplishments in public or private capacities have demonstrated a commitment to the public interest, concern for the quality of public administration, and a broad knowledge of social security and other social programs. The Chairman should be designated by the President, so that an incoming President could appoint the Chairman, either from among those already on the Board or from outside. Although the Board would be part-time, its members would have substantial, time-consuming responsibilities. Therefore, they should be paid an annual retainer of \$15,000 and, for days when the Board or an authorized subcommittee meets, should receive per diem plus expenses. The Administrator would provide the Board with full administrative and analytical staff support, including the procurement, at the Board's request, of consultation or analyses from independent sources if necessary.

The Board's charter would assign it responsibility for giving advice on social security policies and operational issues. While meeting, it would consider a specific agenda of issues formed after consultation between the Chairman of the Board and the Social Security Administrator. In addition, the Board could establish subcommittees with specific responsibilities to meet in conjunction with the regular Board meetings, or separately. Specific functions of the Board would be to:

- 0 make recommendations from time to time as to the most effective methods of providing economic security through social insurance;
- 0 make an independent assessment of the annual report of the Board of Trustees of the social security system and advise the President and the Congress on the implications of the assessment;
- 0 engage in public dialogue and education about social security;

- o suggest to the President names to consider in selecting his nominee for the position of Social Security Administrator;
- o on its own initiative, or as requested by the President-or congressional committees having legislative jurisdiction over social security, review and assess major legislative proposals regarding OASDI and SSI, including their administrative feasibility and probable operational consequences;
- o review and assess the quality of service that the agency provides to the public;
- o make an annual assessment of the progress in upgrading the agency's computer-based technology for support of program operations;
- o review and make an assessment of the social security agency's progress in developing needed management improvements;
- o in consultation with the Administrator, review the development and implementation of a long-range research and program evaluation plan for the agency;
- o review and assess any major studies of social security as may come to the Board's attention.

The Panel emphasizes that this Board would not be in the executive branch "chain of command," but would be advisory in nature. The Administrator would have the responsibility for the operations and overall management of the agency's programs and would represent the administration before Congress on social security issues.

In summary, assuming that an independent agency is to be created, the Panel believes that a single Administrator advised by a bipartisan Board constitutes the organizational framework best suited to develop management

capability, correct current operational problems, and meet the long-run management challenges facing the agency. At the same time, the Panel believes that this structure would bring to bear on policy questions the consultative **expertise** and long-run point of view essential to the social security programs.