

**THE WHITE HOUSE 2001 PROJECT**  
***NOMINATION FORMS ONLINE***  
**REPORT NO. 14**

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**REFINING THE WHITE HOUSE  
PERSONAL DATA STATEMENT**

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Undertaken by presidency scholars and funded by the Pew Charitable Trusts, the White House 2001 Project's Nomination Forms Online program provides technical assistance to presidential nominees. See <http://whitehouse2001.org> for more information.

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# **THE WHITE HOUSE 2001 PROJECT**

## ***NOMINATION FORMS ONLINE***

### **REPORT NO. 14**

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Terry Sullivan, *The University of North Carolina at Chapel Hill*  
& the James A. Baker III Institute for Public Policy

Jennifer Hora, *The University of North Carolina at Chapel Hill*

### **SUMMARY**

As a bipartisan project, the White House 2001 Project does not normally engage in policy recommendation. It does not advocate. Instead, the White House 2001 Project provides basic information on the operations of the White House, including the presidential appointments process.

Based on a request from the Bush White House, this study proposes a revised White House Personal Data Statement. These recommendations result from assessing White House information requirements and the nature of information streams available at the time of nomination. The resulting report develops a Personal Data Statement with a minimum number of questions (less than three-quarters the length of the previous, Clinton White House Personal Data Statement questionnaire).

In an earlier analysis, the White House 2001 Project had reported on a strategy for reform requested by the Bush for President transition planning team — examining what would remain of the Personal Data Statement after eliminating all redundancies across the Executive branch forms.<sup>1</sup> That study derived from a different set of assumptions, in particular that the White House had access to a draft SF-278. It concluded that adopting such a strategy would shorten considerably the Clinton Administration's Personal Data Statement and focus a new questionnaire on the nature of potential conflicts of interests and some kinds of past legal entanglements. By comparison, this new report produces a slightly different Personal Data Statement, one equally focused as the previous report on information not readily available from the other sources. Additionally, it produces a Personal Data Statement that incorporates some potential liabilities not covered in the previous Executive Branch forms.

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<sup>1</sup> Terry Sullivan, *Changing the White House Personal Data Statement*, White House 2001 Project, Nomination Forms Online Program, Study number 9, 17 December 2000.

## PROCESS ASSUMPTIONS

The analysis presented here assumes three things about the nomination process at the point when the White House Counsel employs the Personal Data Statement:

1. The White House has already received some information regarding the nominee through the Office of Presidential Personnel which has already recommended the nominee's name to the President.
2. The White House Counsel's Office has received from the nominee a completed draft SF-86, FBI security questionnaire. The White House does not have the results of the FBI's field investigation.
3. The White House will not receive a draft SF-278, financial disclosure statement, before completing vetting and issuing an intent to nominate.

## INQUIRIES AND OBJECTIVES

The presidential appointments process involves three distinct operations with three generally different sets of inquiries:

1. Assets. Conducted by the White House Office of Presidential Personnel, this process identifies and then recruits potential nominees. It develops information about potential nominees and their assets as presidential appointees.
2. Liabilities. Coordinated by the White House Counsel's Office, this process scrutinizes potential nominees and their potential liabilities for the administration.
3. Commitments. Conducted by the Senate committee of jurisdiction this process probes the nominee's commitments to what might be thought of as the congressional "oversight" functions. These questions establish a relationship between the nominee, as a would-be confirmed appointee, and the committee as the grantor of that confirmation seeking some assurances.

For the most part, the White House Personal Data Statement plays a role in the second part of the process and as such should provide an insight into the nominee's liabilities. Recommendations for the Personal Data Statement, therefore, involves three considerations:

- The Personal Data Statement *can encourage* nominees to describe potential liabilities by asking questions that make clear the information they should supply. It cannot prevent nominees from consciously concealing their liabilities.
- The Personal Data Statement should cover those issues that will reduce a potential nominee's chances of receiving a nomination. Taking that approach means identifying those issues the White House considers pre-eminent. Since it does not have information on what the Bush White House considers especially sensitive issues, the White House 2001 Project could make recommendations on these kinds of questions. A section of the recommended Personal Data Statement takes that fact into account.
- It also suggests that the White House consider what kinds of conflicts of interest do not disqualify a nominee from holding a particular position but rather would require remedies or controls.

## TWO SPECIAL AREAS OF INQUIRY

Two areas of inquiry require special attention because they present special information requirements for the White House in vetting potential nominees. First, financial conflicts of interest pose a particular challenge because few understand the complexity of the issue. Second, legal entanglements present a challenge because the way in which the FBI goes about inquiring into legal issues does not assist nominees in reaching full disclosure.

### POLICY CONFLICTS OF INTEREST

*Special Reference.* In the area of financial conflicts, the White House can rely on the expertise at the US Office of Government Ethics, especially its Deputy Director Jane Ley who has worked at OGE since its creation.

To understand how inquiry and conflicts of interest overlap, consider four types of conflicts:

1. *Employment.* Past association with an organization or firm through direct involvement either as an employee or management or board of that organization or firm which then shapes the ways in which a nominee considers policies.
2. *Advocacy.* Past association as a counselor or outside attorney for an organization or firm or as an advocate of a particular policy that affects the ways in which the nominee considers policies, primarily to be consistent with past behavior.
3. *Financial commitment.* Association with an organization or firm through indirect means like investments or debts that would give the nominee a direct financial interest in the outcome of policies.
4. *Transactions.* Past financial association with an organization or firm which, at the least, creates the appearance of a nominee beholden to the good will of the organization or firm.

Each of these types of conflict of interest poses special information requirements and consideration when analyzing potential liabilities for nominees.

In assessing the requirements for the Personal Data Statement, the White House 2001 Project reached the following conclusions:

- *Employment and Advocacy.* For the most part the SF-86 covers those liabilities that derive from Employment and Advocacy. While the FBI muddles through these connections, its “Supplemental Questionnaire” does a good job of delineating the nominee’s past history on these two types.

*Therefore, the White House Personal Data Statement need not ask questions about Employment and Advocacy, except for those inquiries that do not appear on other Executive forms but do appear in Senate committee questionnaires.*

- *Financial Commitment.* Since financial commitments generate a special kind of conflict, they require only a “remedy” for the conflict. The government has a number of such remedies available, some not always pleasant for the nominee. On the other hand, we can presume that the nominee took the potential for such remedies into account when volunteering for service. Gathering information on these elements of potential conflict then can wait for after the nomination process and drafting the SF-278 or SF-450. More importantly from the standpoint of the Counsel’s Office, the responsibilities for remedies falls to technically proficient and experienced Designated Agency Ethics Officers and USOGE.

*Therefore, the White House Personal Data Statement need not inquire into the assets or liabilities of nominees.*

## Refining the White House Personal Data Statement

- *Transactions.* This area poses an actual problem for the White House. Transactions often do not leave a trail of assets or liabilities to report on the SF-278 or SF-86. They do, however, pose liabilities for the White House and its nominee.

*Therefore, the White House Personal Data Statement needs to inquire about these potential sources of conflicts.*

## **LEGAL ENTANGLEMENTS**

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In this area, the FBI has a presumptive position. However, the manner in which the FBI requests information makes it more difficult for nominees to track the information being requested. Theoretically, the information required to assess liabilities would include the following information:

- *Investigation.* Has the nominee ever been the target of a civil, administrative, or criminal investigation?
- *Arrest.* Has the nominee ever been arrested for a criminal offense?
- *Charged.* Has the nominee ever been charged with criminal offense or had a complaint or suit lodged in a civil or administrative proceeding?
- *Convicted.* Has the nominee ever been convicted of a criminal offense or been found against in a civil or administrative procedure?
- *Outcome.* What outcome derived from these civil, administrative, or criminal proceedings?

In contrast, the FBI requests information on specific types of activities (e.g., separate questions for fire arms and drug offenses). It also mixes investigations, arrest, civil and criminal processes as well as outcome questions together into a not very clear set of inquiries. It would seem that these are confusing to nominees and could potential undermine the usefulness of the questionnaire for the White House. It should consider redrafting an admittedly duplicative set of questions more likely to elicit a more coherent answer from potential nominees. In the mean time, the White House Personal Data Statement need not inquire into this area.

*Therefore, the White House Personal Data Statement should not ask questions about legal entanglements.*

## **ADDITIONAL DECISION CRITERIA**

One approach to the Personal Data Statement emphasizes the importance of “critical selection criteria,” those characteristics of potential nominees that would pose insurmountable liabilities for the White House or prove as unquestioned assets. The White House 2001 Project cannot know, *a priori*, what the White House considers those criteria.

*Therefore, the White House Personal Data Statement leaves room for such special criteria without making recommendations as to what they might be.*

## PROPOSAL FOR A WHITE HOUSE PERSONAL DATA STATEMENT

| <b>TOPIC and Specific Inquiry</b>   | <b>Comments</b>   |
|---|---|
| <b><i>PERSONAL AND FAMILY INFORMATION</i></b>   |   |
| 1. Social security number   | <p>The bulk of personal contact and family information is either on the Contact Sheet or the SF-86. With two exceptions: the children and medical condition questions. Both the typical Senate committee and the SF-278, financial disclosure, forms request information on children. So, the inclusion here is to avoid 'blind-siding.'</p> <p>The medical condition question here is broader than any questions asked by the FBI and covers other potential disabilities.</p> |
| 2. Names of children  |   |
| 3. Ages of children   |   |
| 4. Do you have any medical conditions that could interfere with your ability to fulfill your duties? Please explain.  |   |
| <b><i>ASSOCIATIONS AND ADVOCACY</i></b>   |   |
| 5. Do you or your spouse or any family member or business with which you, your spouse, or any family member have any significant interest in any relationship with the government through contracts, consulting services, grants, loans or guarantees? If yes, please provide details.  | This question does not appear on the Executive Forms but does appear in some of the Senate committee questionnaires.  |
| 6. Please list each membership you have had with any civic, social, charitable, educational, professional, fraternal, benevolent or religious organization, private club, or other membership organization (including any tax-exempt organization) during the past 10 years. Please include dates of membership and any positions you may have had with the organization. | The Executive Branch does not ask this question at all, but it does appear on standard Senate committee questionnaire.  |
| 7. Have you ever registered as a lobbyist or other legislative agent to influence federal or state legislation or administrative acts? If yes, please supply details including the status of each registration.   | Though Associational, these questions are not asked elsewhere until the Senate.   |
| 8. Please list each book, article, column or publication you have authored, individually or with others. Also list any speeches you have given.   |   |
| 9. <i>Honors and Awards:</i> List all scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.   |   |
| 10. Identify each instance in which you have testified before Congress in a non-governmental capacity and specify the subject matter of each testimony.   |   |

## Refining the White House Personal Data Statement

| <b>TOPIC and Specific Inquiry</b>   | <b>Comments</b>   |
|---|---|
| 11. If you are a member of any licensed profession or occupation (such as lawyer, doctor, accountant, insurance or real estate broker etc.) please specify: the present status of each license and whether such license has ever been withdrawn, suspended or revoked and the reason therefore.               |   |
| <b>FINANCIAL COMMITMENTS</b>  |   |
| 12. Provide the identity of and a description of the nature of any interest in an option, mineral lease, copyright or patent held, directly or indirectly, during the past 12 months and indicate which, if any, have been divested and the date of divestment.   | This question surveys a special kind of asset that <i>may not appear</i> on the SF-86 and the SF-278. OGE is researching this issue and you should clarify this issue with them. Several of the Senate committee questionnaires ask for this information separate from standard assets. |
| 13. Describe the terms of any beneficial trust or blind trust of which you, your spouse, or your dependents may be a beneficiary. In the case of a blind trust, provide the name of the trustee(s) and a copy of the trust agreement.   | These questions do not appear in Executive forms but do regularly appear on Senate committee questionnaires.  |
| 14. Provide a description of any fiduciary responsibility or power of attorney which you hold for or on behalf of any other person.   |   |
| <b>FINANCIAL TRANSACTIONS</b>   |   |
| 15. Please describe any contractual or informal arrangement you may have made with any person or any business enterprise in regard to future employment or termination payments or financial benefits that will be provided you if you enter government employment.   |   |
| 16. Please describe all real estate held in your name or in your spouse's name during the last six years. Please include real estate held in combination with others, held in trust, held by a nominee, or held by or through any other third person or title-holding entity. Please also include dates held. | The real property ownership inquiry constitutes one of the classic examples of muddled misdirection in the presidential appointments process. <sup>2</sup> This question does the best job of getting at the information needed.  |

<sup>2</sup> Nominees must muster information on real estate property over four forms in three different time periods, designating three separate classes of owners, sorting on at least two separate types of transactions and in some cases indicating values across 15 distinct categories. See Terry Sullivan, *Analyzing Questionnaires for Nominees*, White House 2001 Project, Nomination Forms Online Program, Study number 8, 4 December 2000 and Terry Sullivan, "Fabulous Formless Darkness – Presidential Nominees and the Morass of Inquiry," *The Brookings Review*, Spring 2001:22-27.



## Refining the White House Personal Data Statement

| <b>TOPIC and Specific Inquiry</b>   | <b>Comments</b>   |
|---|---|
| <p>17. Report any purchase, sale or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence or a transaction solely between you, your spouse or dependent child.<br/>Check the "Certificate of Divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.</p>   | <p>This question comes from the SF-278 but the White House cannot have a clear idea as to the financial liabilities of a potential nominee without covering transactions on property, stocks etc. which might come from "sweetheart" deals.</p> |
| <p>18. For you, your spouse and dependent children, report the source, a brief description and the value of: (1) gifts (such as tangible items, transportation, lodging, food or entertainment) received from one source totaling more than \$260, and (2) travel-related cash reimbursements received from one source totaling more than \$260. For conflicts analysis, it is helpful to indicate a basis for receipt such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. <b>Exclude</b> anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also for purposes of aggregating gifts to determine the total value from one source, exclude items worth \$104 or less. See instructions for other exclusions.</p> |   |
| <p>19. Selection: a) Do you know why you were chosen for this nomination by the President?<br/>b) What do you believe in your back ground or employment experience affirmatively qualifies you for this particular appointment?</p>   | <p>This inquiry appears on almost all Senate committee questionnaires. If the White House has a standard response to this question, then it need not have the nominee attempt to answer this question here.</p>                                 |
| <b>TAXES</b>  |   |
| <p>20. Have you and your spouse filed all federal, state and local income tax returns?</p>  |   |
| <p>21. Have you or your spouse ever filed a late income tax return without a valid extension? If so, describe the circumstances and the resolution of the matter.</p>   |   |
| <p>22. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?</p>  |   |
| <p>23. Have you or your spouse ever paid any tax penalties? If so, describe the circumstances and the resolution of the matter.</p>   |   |

## Refining the White House Personal Data Statement

| <b>TOPIC and Specific Inquiry</b>   | <b>Comments</b>  |
|---|--|
| 24. Has a tax lien or other collection procedure ever been instituted against you or your spouse by federal, state or local authorities? If so, describe the circumstances and the resolution of the matter.  |  |
| 25. Do you presently have or have you in the past had domestic help? (i.e. housekeeper, babysitter, nanny, or gardener) If yes, please indicate years of service for each individual and also give a brief description of the services rendered.  |  |
| <b>LEGAL ENTANGLEMENTS</b>  |  |
| 26. Please list any bankruptcy proceeding in which you or your spouse or any business in which you or your spouse were an officer have been involved as a debtor.   | A version of this question appears on the SF-86 but does not cover the same time period, even considering the additional instructions. |
| 27. Please list any and all judgments rendered against you including the date, amount, name of the case and subject matter of the case and the date of satisfaction. Please include obligations of child support and alimony and provide the status of each judgment and/or obligation. |  |
| 28. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, please provide details.   | This inquiry appears on several committee forms.   |
| <b>GENERAL INFORMATION</b>  |  |
| 29. Please provide any other information including information about other members of you family, that could suggest a conflict of interest or be a possible source of embarrassment to you, your family or the president.  |  |
| 30. Have you ever had any association with any person, group or business venture that could be used, even unfairly, to impugn or attack your character and qualifications for a government position?  |  |
| 31. Do you know anyone or any organization that might take any steps, overtly or covertly, fairly or unfairly, to criticize your appointment, including any news organization? If so, please identify and explain the basis for the potential criticism.                                |  |
| <b>ADDITIONAL DECISION CRITERIA</b>   |  |
| 32.   |  |
| 33.   |  |
| 34.   |  |
| 35.   |  |

## ABOUT THE AUTHORS

Professor Terry Sullivan is Associate Director of the White House 2001 Project. He is currently assigned as Edwards Chair of Democracy and Public Policy at the James A. Baker III Institute for Public Policy of Rice University. He is a permanent member of the political science faculty at the University of North Carolina at Chapel Hill. He has two scholarly specialties: congressional rules and presidential leadership. He has written two books focus on congressional decision-making: *Procedural Structure: Success and Influence in Congress* and *Congress: Structure and Policy*. On the subject of presidential leadership, Professor Sullivan has written a number of articles including: “The Bank Account Presidency: the Temporal Path of Presidential Influence” and “Bargaining with the President: A Simple Game.” His current book project focuses on presidential bargaining called *Making A Difference: LBJ, Presidential Bargaining and Leadership*.

Professor Sullivan has served as an American Political Science Congressional Fellow. He is a Lilly Endowment Teaching Fellow, a past Carl Albert Fellow, and a Post-Doctoral Fellow in Political Economy at the Carnegie-Mellon Graduate School of Industrial Administration. He is past President of the Presidency Research Group, a worldwide association of scholars focused on the American Presidency. Currently, Professor Sullivan is Features Editor of *Presidential Studies Quarterly*.

Jennifer Hora is Research Coordinator for the White House 2001 Project and Director of Support for the *Nomination Forms Online* Program. She currently attends the University of North Carolina as a doctoral student in Political Science with specialties in intergovernmental relations and American institutions, particularly the presidency. She is a coauthor on a number of research projects on the presidency including one recently published in the *Presidential Studies Quarterly* entitled “Presidential Recordings as Presidential Data — Evaluating LBJ’s Recorded Conversations.”

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## ABOUT THE WHITE HOUSE 2001 PROJECT

<http://whitehouse2001.org>

Presidency scholars lead a two-part project designed to provide incoming White House staff members with information on operating key White House offices and to help presidential nominees fill out the tidal wave of forms they face in the appointments process. Funded by The Pew Charitable Trusts, a foundation known for the stature of its programs and the nonpartisan nature of its organization, the White House 2001 Project works with two broad, Pew initiatives: The Transition to Governing Project of the American Enterprise Institute and the Presidential Appointee Initiative of the Brookings Institution. White House 2001 was designed and developed by the board and members of the Presidency Research Group, the worldwide professional organization of scholars focused on the American presidency and a section of the American Political Science Association.

### THE WHITE HOUSE INTERVIEW PROGRAM

Unlike corporations both large and small, a White House begins without a record compiled by its previous occupants. The goal of the White House Interview Program is to smooth the path to power by furnishing incoming staff with substantive information about the operation of seven White House offices critical to an effective beginning: Chief of Staff, Staff Secretary, Press Office, Office of Communications, Office of the Counsel to the President, Office of Management and Administration, and the Office of Presidential Personnel. Through interviews with current and former White House staff members from the last six administrations, the White House Interview Program provides new staff with detailed information about how their White House offices function, the organization of their units, and the roles played by the heads of each office.

In addition to this institutional memory, the White House Interview Program provides a support package of important tools previous staff have identified as invaluable. These tools include a "rolodex" of contact information about the people who previously served in their posts with current addresses and phone numbers. The White House Interview Program also provides the first ever detailed organization charts of White House offices approximately every six months through the Carter administration. The scholars associated with the project, researching and writing about the White House staff, are nationally recognized for their work on the presidency. They are: Professors Peri Arnold, MaryAnne Borrelli, John Burke, George Edwards, Karen Hult, Nancy Kassop, John Kessel, Martha Joynt Kumar, Bradley Patterson, James Pfiffner, Terry Sullivan, Kathryn Dunn Tenpas, Charles Walcott, Shirley Anne Warshaw, and Stephen Wayne.

### NOMINATION FORMS ONLINE

In order to address the volume of information required from appointees and the problem of the plethora of forms to be filled out by nominees, the *Nomination Forms Online* program provides a software package that nominees can use to complete the myriad of forms required by the White House, the FBI, the US Office of Government Ethics, and, where appropriate, the Senate committee of jurisdiction. The software uses innovative programming techniques so that the software distributes repetitive information across the several forms nominees must complete. The software allows the nominee to store information for future use in completing annual reports. It also makes available a portable file of data in standard formats so the nominee can share information, at his or her discretion, with the White House Office of Presidential Personnel and other agencies. Nomination Forms Online is freeware.

# THE WHITE HOUSE 2001 PROJECT REPORT SERIES

*available in PDF format (as noted) from: <http://whitehouse2001.org>*

## ***GUIDE TO TRANSITIONS SERIES***

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This collection of reports from the White House 2001 Project traces the lessons learned from previous transitions.

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|---|---|
| 1. Opportunities and Hazards – The White House Interview Program                | 3. Lessons from Past Transitions            |
| 2. Meeting the Freight Train Head On – Planning for the Presidential Transition | 4. A Tale of Two Transitions: 1980 and 1988 |

## ***WHITE HOUSE OPERATIONS SERIES***

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This collection of reports describes topics of general concern to White House operations. Those in the general series marked with an asterisk (\*) are currently only available to the Presidential Transition Team.

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| 5. The Presidency and the Political Environment* | 6. The White House World – Start Up, Organization, and the Pressures of Work Life* |
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## ***APPOINTMENTS REFERENCE SERIES***

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This collection of reports analyzes the mountain of paperwork facing nominees. Those in the general series marked with an asterisk (\*) are currently only available to the Presidential Transition Team.

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|---|--|
| 7. A Guide to Inquiry*                    | 9. Changing the White House Personal Data Statement* |
| 8. Analyzing Questionnaires for Nominees* | 14. Refining the White House Personal Data Statement |

## ***STAFF RESOURCES SERIES***

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This collection of resources made available for the incoming team. Those in the series marked with an asterisk (\*) are currently only available to the Presidential Transition Team.

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|---|
| 10. Report Series Index                   |
| 11. WH2001 Contacts Database, Alphabetic* |

12. WH2001 Contacts Database, by  
Administration\*

13. WH2001 Contacts Database, by  
Office\*

### ***WHITE HOUSE INSTITUTIONAL MEMORY SERIES***

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This White House 2001 Project collection of reports creates an “institutional memory” for the White House Staff. Currently, these reports are available only to the Presidential Transition Team. Look for a release of these reports in the Spring of 2001.

21. Office of the Chief of Staff

22. Organization Charts for the Office  
of Chief of Staff

23. Office of the Staff Secretary

24. Organization Charts for the Office  
of the Staff Secretary

25. Office of Management and  
Administration

26. Organization Charts for the Office  
of Management and Administration

27. Office of Presidential Personnel

28. Organization Charts for the Office  
of Presidential Personnel

29. Office of Counsel to the President

30. Organization Charts for the Office  
of Counsel to the President

31. Press Office

32. Organization Charts for the Press  
Office

33. Office of Communications

34. Organization Charts for the Office  
of Communications