INTERAGENCY CONFLICT: A MODEL FOR ANALYSIS

I. INTRODUCTION

Growth in the size and scope of our government has been a constant feature of life in twentieth century America. More and more areas of private activity, especially private commercial activity, have fallen under government regulation. As this growth has occurred, less virgin turf has remained into which government agencies can expand. But government growth has been inexorable, and the result has been, by design or otherwise, agency overlap—and interagency conflict.¹

The Symposium of which this Note is a part is designed to evaluate areas in which poorly drafted legislation, overlapping statutes and regulations, unclear foreign policy, and overlapping agency jurisdiction impede U.S. exports, or fail to advance exports as intended. The other Notes present these governance problems in substantive areas and suggest ways to solve or lessen the problems. In three of the areas studied,² interagency conflict is an important component of the governance problem.

This Note, on the other hand, presents a theoretical, interdisciplinary³ framework designed to facilitate understanding of in-

¹ That conflict is a normal by-product of interagency interactions is not to be doubted. In A. DOWNS, INSIDE BUREAUCRACY (1966), conflict is seen to be a function of “territorial sensitivity.” Downs stated that “every large organization is in partial conflict with every other social agent it deals with.” DOWNS, supra, at 216. This conflict is normal even where one agency’s interests are not being threatened by another; that is, even where its “territory” is safe. This is because agencies have different “mind-sets” which cause them to view problems very differently.


³ Past attempts to categorize interagency interactions and their behavioral manifestations have been in large part one-dimensional; most efforts have generated a useful set of contextual propositions which are often understood only within the author’s discipline. Legal analysis, for instance, has tended to focus on an agency’s enabling legislation, its written mandate from the legislature, and the regulations which emerge as an agency’s construction of how the legislature wanted to regulate. Unfortunately, these guidelines (enabling legislation, written mandates, agency regulations) are often drawn with a calculated imprecision, and correct interpretation may evade even the expert legal analyst.

Similarly, psychological approaches have focused on variables relevant to that discipline—the roles of motivation, personal environment and perception are emphasized in focusing on the inner-dynamics of people within the agency. See R. F. SIMPSON, THEORIES OF SOCIAL EXCHANGE (1972). Organizational behaviorists also tend to focus on the individual in his role in the organization. See E. SCHEIN, ORGANIZATIONAL PSYCHOLOGY (1965).
teragency conflict situations. The goal is to help the lawyer faced with government interagency conflict to be aware of the forces at work, the good and bad aspects of the situation and thus, to help the lawyer predict the outcome. The premise of this Note is that a broad understanding of the factors which contribute to interagency conflict will help the practitioner to minimize the negative effects and maximize the positive effects of these conflicts.

Section II of this Note presents a descriptive framework, in practical and comprehensive terms, for understanding interagency conflict. Nine variables (only some of which may be relevant in a given conflict) are explained in terms of their antecedents, consequences and methods of measurement. The antecedents are introduced in terms of the role they play in giving rise to the particular conflict variable at issue. The consequences on the other hand are discussed for their value in helping the attorney faced with conflict to predict the outcome when a given variable of conflict is present. As for measurement, where quantification is possible, the framework describes how it can be done and the type of

Sociologists and organizational theorists, on the other hand, use the organization in relation to society as their unit of analysis. See BUREAUCRATIC STRUCTURE AND PERSONALITY IN SOCIAL THEORY AND SOCIAL STRUCTURE (R. Menton ed. 1957); Perrow, A Framework for the Comparative Analysis of Organizations, 32 AM. SOC. R. 194 (1967); and J. THOMPSON, ORGANIZATIONS IN ACTION (1967). Political economists follow a rational approach to decision-making and use economic analysis to explain the bureaucracy. See A. DOWNS, note 1 supra.

Each of these disciplines has contributed insights to the phenomena of interagency conflict, many of which shall be drawn upon in this Note. In addition, these separate disciplinary perspectives have demonstrated the shortcomings of all single disciplinary approaches. A multi-dimensional approach is thus the one taken here in attempting to develop a comprehensive framework for analyzing interagency conflict. Such an approach is advocated by John McIntyre, Rusk Center Fellow, University of Georgia School of Law, who has done extensive research on the interagency decision-making process.

These variables were selected from a review of the multi-disciplinary literature on the subject of bureaucratic and organizational relationship and conflict. It has been necessary to omit some factors from the framework which undoubtedly explain or cause a great number of conflicts among agencies but which were determined to be too unmanageable or unpredictable to utilize in the conceptual scheme. Two factors omitted from the framework are personality of agency actors and ideological and historical climate. The existence of personality clashes among agency actors presumably causes a great many conflict situations. The existence of such clashes, however, does not prevent occasionally productive interactions characterized by a high degree of personal antagonism. Moreover, these clashes cannot be adequately explained in general terms since individuals display different personality characteristics depending on the nature of the other person's personality. An "interaction grid" to explain personality clashes in interagency conflicts would be as disparate as the people involved. See E. DALE, THE GREAT ORGANIZERS (1960).

Another variable omitted is the ideological and historical climate of the times (Zeitgeist). There is no doubt that interagency conflict in particular instances would have had different results in World War II than in, for example, the Depression of the 1930's or the 1979 era of cutbacks in government. Not only is the mood of the people different, but the mood of agency actors is different. Because of the unique nature of each historical era, however, this variable does not lend itself to systematic analysis.
information useful in doing so. Where it is not, ways are suggested to understand the antecedent or consequence, sometimes in the form of propositions, sometimes by suggesting outside support for the measurement's validity.

Section III of this Note is an application of the theoretical framework and each of its variables to a particular interagency conflict situation. The Export Promotion Program administered by the Departments of Commerce and State is the example chosen.

II. NINE VARIABLES

A. Number of Agencies Involved

The first analytical variable in the conceptual scheme is the number of agencies involved. The involvement of two or more agencies in a given area is a *sine qua non* of interagency conflict. It is a common sense notion, verified by experience, that the greater the number of agencies involved, the greater the potential for and likelihood of interagency conflict. Moreover, the conflict situations which can be most systematically analyzed and assessed are those generated by the simultaneous involvement of two or more agencies in solving the same problems or regulating the same matter.

Involvement of several agencies may occur in any number of ways and may have different antecedent conditions. Typically, an agency is given a designated role through various formal and informal processes. Generally, there is some written enabling authority for the primary activities and responsibilities each agency has, although the authorizing document may have uncertain legal significance. Even in formal authorizing instruments there may be no language spelling out the nature and type of involvement which the agency is authorized to pursue. An enumeration of general regulatory purposes and a listed set of powers and sanctions are characteristics of the best documents authorizing agency involvement in a given policy area. Such enumeration assures that the agency's regulatory weapons are beyond question, while its level of involvement and methods of implementation remain flexible enough to meet changing times and circumstances.

Because the agency creation process may be unclear, an

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5 The formal and informal processes by which agencies are created are discussed in Section II. A *infra*. As will be shown, the type of process by which an agency is created may influence interagency interactions.
agency’s internal construction of its mandate is often as vital a determinant of its involvement in a given policy area as is its enabling statute. This internal construction of the mandate can be most effectively understood by looking at manifestations of agency intention which differ in any way from the legislative authorization. The most important of these manifestations of agency intent include the internal memoranda circulated in the agency, inter-agency memoranda, press releases or press conferences, Congressional testimony by agency actors, agency pronouncements and policy statements transmitted by the media, and agency posture in trade publications.

A determination of the number of agencies involved in a given area helps focus attention on the formal and informal processes which create the agency and describe its purpose, and on the agencies’ internal construction of how these representations of legislative or executive intention might best be implemented.

A final measurement of agency involvement is simply the number and type of interactions an agency has with a given clientele, regardless of the express or implied legal authority to so interact with the client in that policy area. Agencies frequently become involved in new policy areas when their clients have activities and interests in those areas. The agency’s interest in the client may be thus transformed into a new policy interest vis-a-vis the various other activities in which the client is involved.

What are the consequences of a number of agencies becoming involved in the same policy area? When the number of agencies is great, there are several detrimental consequences to policy formation. As the number increases, there are greater difficulties in collecting and utilizing information. Communication among the agencies involved becomes more complex and clients are besieged with a bewildering variety of agency requests and requirements. Inter-

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6 An example is the Department of Agriculture’s (USDA) regulatory function regarding the farmer/client. The USDA is involved in setting parity levels to assure farm prices which will adequately compensate farmers. This indirect method of income assurance or subsidization for the farmer-client tends to induce USDA involvement in a vast number of low-income subsidy programs involving some farmers but run by other government agencies, especially since the receipt of benefits from one such program will be conditioned on eligibility or non-eligibility in other programs. USDA’s mandate to implement a series of target prices for agricultural commodities is thus transmuted, via an agency interest in adequate income for farmers, into a broad policy interest in all other agency programs for low-income persons. Likewise, the USDA role in the Food Stamp program may give it a policy involvement in all other programs involving Food Stamp recipients. See Hearings Before the Subcomm. on Agricultural Research and General Legislation of the Senate Comm. on Agriculture, Nutrition and Forestry, 95th Cong., 2d Sess. (1978).
agency communications must be formalized and often become stylized into consolidated formats, resulting in great time cost. New methods and mechanisms must be introduced to coordinate functions and policy, including interagency task forces, staff coordinating groups, and policy exchange mechanisms to coordinate disparate goals. In simple terms, more committees and paperwork become necessary. Ultimately, the large number of agencies creates great informational difficulties. Collection and transmission of information may in fact become an end in itself, leading to redundant performance of tasks. Moreover, as the number of agencies involved increases, there are a greater number of decisions which must be made, and hence a greater number of conflict points. At a threshold level, informational overload results, and each agency becomes less aware of the other agencies' activities. Ultimately, all of this lost or ignored information results in client confusion and frustration.

Unfortunately, the consequences above have become an all too familiar bureaucratic model to citizens and businesses in the United States who deal with federal agencies. For the victims of multi-agency involvement, there are a greater number of procedures to follow and regulations to comply with. Different forms and a variety of paperwork requirements emerge from the different agency requests for information. Time delays are expected concomitants in an agency process featuring a large number of agencies. These delays may in fact be the most obvious characteristic of multi-agency involvement.

Another way to conceptualize the consequences is to examine the mode and type of communication channels which have been created for agencies and their clientele. When a great number of agencies are involved there is typically no one channel through which all agency actors can communicate simultaneously. Even though victims of multi-agency involvement may have many channels to the government, the existing channels may not be useful for obtaining information or effective in registering complaints or pointing out problems. The existing channels are usually not the type needed for effective communication; the receiver of the communication cannot evoke the desired response. Because of the

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7 See E. Bardach, The Implementation Game 52 (1977). Ideally, a consolidated decision-making apparatus would result in fewer conflicts than one where individual agencies make independent decisions, ignoring other agencies. But as the number of agencies is increased, a point is reached where the number of conflict points becomes essentially unmanageable, and the conflict points are ignored by necessity.
many burdens placed on clients in the multi-agency paradigm, and the limited ability to effectively communicate, it is easy to understand why there would be problems associated with the sheer number of agencies involved.8

B. Jurisdictional Boundaries

A second variable vital in analyzing interagency conflict is the setting of jurisdictional boundaries. Ambiguous boundaries between and among agencies may create confusion on the part of agencies and regulated parties. They may also lead to jockeying among agencies for position and to greater potential for conflict. Clearly drawn boundaries, on the other hand, ought to enhance agency governance.

Boundaries may be set by formal or informal processes. Formal processes include enabling statutes, Congressional directives and statements of agency purpose, executive orders, judicial decisions,9 and legislative history. The chief advantage of jurisdictional boundaries which are created by formal processes is that there is an external, written source of authority by which to measure the scope of agency power.10

Unfortunately, not all written sources of agency authority are perfectly clear. The consequence of ambiguity is that greater potential for conflict over interpretation of authority arises due to the difficulty of assigning credit or blame to individual agencies for policy decisions. As a result, the risk that no one is accountable

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8 For a discussion of some of the problems of interagency action in the context of Export Administration, see Note, Through the Antiboycott Morass to an Export Priority, 9 GA. J. INT'L & COMP. L. 357 (1979).
9 A variety of Constitutional questions, beyond the scope of the Note, may be presented in the field of interagency relations. The most likely area of litigation is due process for those subject to inconsistent regulatory demands in cases where a recognized liberty or property interest is taken as a result of noncompliance and where agency action involved an unconstitutional classification. Cf. Milus v. Hills, 588 F.2d 545 (6th Cir. 1978).
10 The importance of this external source can be easily overstated. The legal significance of written standards will vary, depending on the source and context in which the standards were written. Even binding legal documents in the agency jurisdiction area may be of limited utility to a party subjected to agency regulation, since imprecise language and inhospitable judicial fora make challenges to agency authority difficult to sustain. Broad discretion for agency actions continues to be the judicial norm. See Zenith Radio Corporation v. United States, 437 U.S. 433 (1978). In that case a Treasury practice dating back to 1898, failing to assess countervailing duties for non-excessive remissions of excise taxes, was upheld in a unanimous decision by the Supreme Court. The Court stated that "an administrative practice has peculiar weight when it involves a contemporaneous construction of a statute by the persons charged with the responsibility of setting its machinery in motion, of making the parts work efficiently and smoothly while they are yet untried and new," id. at 450.
emerges. All agencies claiming authority may regulate simultaneously according to their perceptions of the written document. Where formal guidelines are the chief boundaries, they must be clearly drawn, they must delegate function and authority, they must be understandable and they must be accepted by the agencies involved; otherwise, interactions among the agencies involved will be non-productive.

What is a clearly drawn jurisdictional guideline or authorizing instrument? A number of measurement standards can be posited. One straightforward test is a reading of the instrument itself, calculated to determine whether the guideline can be reasonably understood on its face. If a broad historical understanding of the problem addressed is necessary for an understanding of the mandate or guideline, it is probable that there are in fact different historical understandings. One might compare academic treatises on the subject area to an agency's own understanding of the historical sequence leading to its creation.

The specificity, completeness and commitment of legislative enactments in directing administrative agencies to achieve their purposes can be called statutory stringency. It has been suggested that the following factors are most relevant in assessing statutory stringency: program objectives, geographic scope of program coverage, precision of program coverage, exempted activities, activities of other government agencies (pre-emption), program approval criteria, burden of proof, administrative criteria for continuing the program, mandatory development conditions, primary enforcement responsibility, citizen enforcement responsibility, administrative enforcement responsibility and sanctions for noncompliance (fines, jail terms, injunctions, etc.), and judicial oversight.

Agency boundaries, responsibilities and powers are often set by

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12 Id.
13 Lawyers will recognize the unique role the courts play in overseeing administrative decision-making. See note 10 supra. Courts show great deference to administrative determinations and practices, and even policy-making, see Udall v. Tallman, 380 U.S. 1, 16 (1965), particularly where there has been acquiescence over time by the legislative branch. Administrative fora are viewed by many courts as serving quasi-judicial functions, and determinations made there are only reluctantly overturned. Usually they are reversed only if they are deemed to be "unreasonable" constructions of legislative purpose. The burden of proof is typically placed on the party challenging the determination or practice to show such unreasonableness. See note 9 supra.
informal as opposed to formal processes. These informal processes include custom or practice acquiesced in by Congress, inter-office arrangements, liaison procedures and an internal construction of the organizational mandate which is not effectively challenged. Where informal processes are recognized and accepted by agency actors at a level beyond the personalities which created them, they can be quite effective in dividing policy areas among several agencies. Informal processes are most effective when a consensus exists by agreement or by action by one agency and tacit acceptance by another as to how an area should be divided. When an agency has formal authority to carry out policy, but lacks the effective implementing powers, it has an incentive to effectuate an informal partnership with a related agency possessing such power. In most cases, there must exist some outside incentive, calculated to counteract agency self-interest, to make such informal divisions work. While it is difficult to "measure" the consequences of informal processes, it is accurate to note that where informal practices have been accepted over time they are similar to formal guidelines and may be similarly viewed and understood.

C. Power Principles

A third important factor in interagency conflict analysis is

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14 The power and influence held by an agency's clientele can play an important role in the shaping of informal boundaries. If the client has political power or prestige in Congress, it may be able to influence the formation of formal boundaries by lobbying efforts. The influence, if its exists to such a degree, may be used as a bargaining chip to influence agencies involved in simultaneous regulation to divide boundaries informally and consensually. The structure of the client's activities may influence informal decisions as well, such as where the client is a business engaged in resource production, manufacturing and marketing.

15 For a discussion of how agencies are motivated by self-perpetuation goals, see Section II. C infra.

16 A number of consensus-inducing factors exist. While direct threats to survival tend to turn the agency inward to fight for continued existence, more subtle threats to restrict funds or reduce activities may induce cooperation in dividing jurisdiction with other agencies. Agency heads may wish not to personally antagonize clients who may be future employers, and may thereby be induced to divide regulatory responsibilities with other agencies. A division may promise to transfer, in effect, the power devices of one agency to another. Agencies may informally divide jurisdiction in a policy area where such action might promise to quiet publicized problems under existing jurisdictional guidelines.

17 Informal practices or customs approach the weight of more formal law when they are accepted over a long period of time. The role of agency regulation is perhaps most clear in the tax area, where litigated questions often resolve around the validity of an Internal Revenue Code Regulation. Cf. United States v. Correll, 389 U.S. 229, 307 (1967), Bingler v. Johnson, 394 U.S. 741, 749-751 (1969), and Commissioner v. South Texas Lumber Co., 333 U.S. 496, 501 (1948).
power, or the relative power that each agency in an interaction possesses. For regulated parties, an agency’s power to enforce its mandate is naturally a crucial consideration. In interagency conflicts however, more than enforcement power alone is involved in measuring the power of a given agency. Power principles are those aspects of a government agency such as money, personnel and support that give it clout and allow this clout to be utilized in pursuit of agency interests.

An obvious antecedent of power in at least any capitalist society is money. An agency’s financial clout may be measured rather simply at one level by the amount of money the agency receives from legislative appropriations, and the percentage of funds it receives from such appropriations. As an agency’s funding increases, important policy actors in both the public and private sectors begin to seek and obtain a variety of stakes and interests in agency operations and survival. The more visible actors in this process are Congressional committee members, who have oversight functions vis-a-vis the agency involved, and the clientele of the agency, who seek to lobby and influence their regulatory domain. The agency’s own staff, being in sole possession of frequently complex and important facts, seeks to utilize this intelligence as an incentive, tool, or weapon, depending on the surrounding climate.\(^{18}\)

An increasingly large number of enterprises rely on contracts with agencies in an expanding number of areas. The number of jobs dependent on an agency, both by internal hiring and by private sector contracting, is thus an important part of financial clout. The most reliable measure of job dependency involves an assessment of the economic implications of contracts between agencies and the private sector. The agency payroll and the payrolls of affiliated corporate enterprises are further indicators of dependency. The more jobs which depend on the continuity of agency functions, the more potential power an agency has.\(^{19}\)

\(^{18}\) Agency data-collecting functions are discussed in Section II. E, infra. The agency’s possession of complex data which is often indecipherable to outsiders gives it a unique power when it is forced to justify its actions and time expended. The use of separate forms by different agencies, containing the same information, but often organized in different ways, may be at least partially explained by the differing use each agency has for given information.

\(^{19}\) An agency’s job dependency factor is “potential” power only because the effective clout generated is extremely hard to measure. The clout may be diminished or enhanced by competing policy interests, the state of the economy, the political environment, etc. In any case, the number of jobs dependent on an agency is important, even if used only as a “scare
Another power principle involves the agency's available methods of assuring compliance with its regulatory edicts. These compliance mechanisms or sanctions may be assessed by a four-step inquiry into (a) the number of available sanctions (b) the type of sanctions (c) the willingness to use sanctions and (d) the actual use of sanctions. Viewing sanctions as ways to insure compliance and effectuate agency policies, an agency with more sanctions should have a stronger claim to a policy area than other agencies with interests in the same area but with fewer and weaker sanctions.\(^2\)

Agency prestige can mean power as well. The vital prestige component to agencies involves relationships with the legislature. Congress' disposition towards an agency and its responses to agency requests over time are the most reliable ways to measure this prestige factor.\(^2\) This legislative disposition can be quantified by analyzing annual budget increases or decreases, by examining expansion or contraction of available sanctions, and by comparing executive requests for agency budgets with the budgets ultimately authorized by Congress.

One cannot dispose of the topic of agency power without discussing the motives and behavior patterns of government tactic\(^5\) in the political arena (notwithstanding the fact that the nexus between agency activities and employment attributed to them is a somewhat tenuous one). In industries heavily dependent on government contracts, such as the aerospace and defense industries, a nexus is clearly noticeable in the layoffs and dislocations which follow rejected projects. It is nonetheless difficult to determine exactly how many jobs would not exist but for government contracts or agency activities; the number of executed contracts may reflect only economic factors in the private sector. Still, an important way to conceptualize the power an agency possesses is to ask how many people would lose their jobs or be temporarily dislocated if an agency were abolished or its funds were cut.

Once again reality is far more complex than the posited proposition. Certain types of sanctions may be far more effective weapons in an agency's arsenal than others, as to both compliance effectuation and power in interagency interactions. Moreover, the same set of complicated deterrence equations which intrigue defense policy analysis may play important roles in agency interactions as well. For example, weapons which are never used, and weapons which are used too often and ineffectively, will lose their credibility as deterrence mechanisms. By analogy, sanctions never imposed are idle threats; sanctions used too often, unless consistently effective, will not be feared but will induce balancing by those subject to the sanctions between probable costs and benefits of compliance versus non-compliance. Balancing is too risky an approach where sanctions are used wisely, i.e., sparingly and with effectiveness.

It is important to differentiate the treatment of agency requests over time (which includes funding requests, requests for additional sanctions and requests for new legislation) from the requests contained in budget statements in any given year. The prestige factor involves a broad legislative disposition to deal with certain policy problems in certain ways—i.e., by agency oversight and regulation. While funding is an important part of this, and is easy to measure, it is not the only factor encompassed by prestige.
bureaucracies. An understanding of agency motivation and behavior is especially important for those who deal with government regularly. Anthony Downs has developed a model of territorial relations in which are incorporated features of a number of models to explain bureaucratic behavior.22 Downs explains the relationships existing between and among agencies according to the concept of “bureau territoriality.”23 The policy space24 surrounding each of an agency’s functional areas is divided into three territorial zones.25 The degree of dominance that the agency exercises in each portion of policy space determines how the zones are drawn.26

In the first of these three zones, the “interior,” a bureau exercises the dominant role over social policy. The interior consists of two sub-zones, the “heartland,” in which the bureau is the sole determinant of policy, and the “interior fringe,” in which it is dominant but subject to the influence of other bureaus. In “no man’s land,” no single bureau is dominant but many have some influence. The “exterior” is the third territorial zone. It, like the interior, is subdivided into two zones. In the “periphery,” a bureau has some influence in policy space where another is dominant. In “alien territory,” it has no influence at all. The heartland of any bureau is alien territory to all other bureaus.27

Uncertainty permeates both bureau boundaries and policy space due to the complex nature of society. This creates an “incessant jockeying . . . as each bureau struggles to defend or extend the existing borders of its various territorial zones.”28 Bureaus

22 Downs, supra note 1, at 211-12.
23 Id. at 211.
24 “If we imagine that a given social function (such as eliminating poverty) is located somewhat in n-dimensional space, we can conceive of its relationships with other functions in terms of relative proximity. The basic measure of distance along any dimension of this space is degree of interdependence. We can use an infinite number of dimensions to measure the proximity of different organizations, since any variable or relation that can be applied to all of them forms a dimension. We can then focus upon the specific dimensions appropriate to our analysis.

Each social function performed by a bureau has a certain location in policy space in relation to the functions of other bureaus. The function has the location, not the bureau. Hence a bureau with many functions has many simultaneous locations in policy space. The whole set of these locations can be referred to as the bureau’s location, but the “space” we are talking about is policy space not organization space.” Id. at 212.
25 Id. at 213.
26 Id.
27 Id.
28 Id. at 215.
thus are sensitive to invasions, and the dynamics of change assure that each bureau will become a "territorial imperialist." Excessive territorial sensitivity causes "socially irrational inertia" and the adoption of "specifically irrational forms of change." To minimize conflicts engendered thereby, bureaus either narrow their actions to effect fewer external agents, or more commonly, ignore all other social agents in designing proposals and carrying these proposals out without regard to the interests of those other agents. Ultimately, agencies take insufficient advantage of real interdependencies or adopt highly unrealistics policies not adjusted to the limitations of their agents and bureaus.

To summarize then, there are five antecedents to power in agency interactions. These are an agency's position in policy space, its financial clout, its methods of assuring compliance, the number of jobs dependent on the agency and the prestige the agency holds. Each of these may be measured in a variety of ways, and as a group they generate a number of consequences. First, agencies are motivated to use their resources to resist encroachments from other agencies into their policy space and to carve out new territory for themselves. Second, as agency funding increases, policy actors obtain important interests in agency operations and survival. Third, the agency with the most resources or the highest "power quotient" will be most effective in asserting its interests over the interests of other agencies.

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29 Id. at 216, 217.
30 Id. at 217. Downs calls this the "Shrinking Violet Syndrome," which results in leaving government economies of scale unexploited. Buffeted by fast and fierce adverse feedback from other agencies, agency actors oversensitive to criticism adopt more narrowly focused programs and policies. By avoiding feedback from other involved agencies, the "shrinking violet" appears to be efficient but in fact takes no advantage of the resources of other agencies.
31 Id. at 217-18. Downs calls this the "Superman Syndrome." This allows agency actors to avoid the difficulties of adjusting policy to the real demands of other agencies. Such actors never check with other agencies to find out whether their assumptions are feasible, and "grandiose but impractical policy formation" results. For an example of this syndrome, see Note, Through the Antiboycott Morass to an Export Priority 9 GA. J. INT'L & COMP. L. 357 (1979), for discussion of Justice Department's Antitrust Division reaction to criticisms of the Bechtel Decree vis-a-vis inconsistencies created between antitrust law and the Export Administration Amendment and Regulations.
32 "Power quotient" means the total power an agency has when all its bases for power are accumulated. In a mathematical sense, the choice of the term "quotient" is unfortunate and incorrect. There is assuredly no way to specify a number which correlates to this power. The best time to determine an agency's total real power comes in time of crisis, when all competing interest groups, financial largesse, and individual and group resources emerge on one side or the other as to agency actions.
Fourth, agencies with sanctions available and wisely used have stronger claims to the same policy space vis-a-vis other agencies not having such sanctions. Fifth, the more jobs dependent on an agency, the more potential power is held by the agency.

Finally, the consequences enumerated above may be best understood by asking these questions: (a) how close to an agency's interior policy space does an area lie? (b) who supports the agency, publicly and privately, and how is this support manifested? (c) what is an agency's bargaining stance with other agencies in relation to its power resources? (d) what sort of media exposure does an agency receive, assuming that its use of sanctions will be typically considered to be "news"? and (e) how many people would lose their jobs, or be dislocated, by abatement in agency funding?

D. Work Environment

The work environment of any agency is unique. An understanding of the relevant components of this environment will have important implications for predicting an agency's effectiveness in handling interagency conflict.

Every agency spends a certain amount of its time performing routine tasks through standard operating procedures. This includes filling out and maintaining forms, producing reports, and preparing budgets. Standard operating procedures allow large numbers of agency personnel to deal with numerous chores rather mechanically. In contrast to this routine approach to tasks is an agency's orientation towards a broader perspective on gathering, using and disseminating information that it not limited to standard responses. The different extent to which each agency encourages its actors to use non-routine procedures and approaches in solving problems as opposed to standard operating procedures is one antecedent to interagency conflict.

One measure of this factor is the percentage of time each agency spends in collecting and processing routine data and information. Internal agency procedures and reporting requirements are a direct measure of the agency's pre-occupation with standard operating procedures. A determination of the amount of discretion given agency actors for implementing policy is another means

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85 A major criticism of agency functions is that the ever-increasing amount of time spent on routine is time wasted on trivia. Id.
of understanding this idea. The extent to which agency actors are given the discretion to develop new approaches to problem-solving is not readily measured unless such a policy is the written rule or is expressly understood by the agency actors and can be ascertained by observation or interview. Another indicator of this discretion factor is the percentage of agency actors who are employed as staff personnel as opposed to line personnel.

Consequently, the more an agency focuses on standard procedures in its everyday performance of tasks, the more sluggish and less flexible is the agency's response to situations not amenable to such standard responses. Prime examples of such non-standard situations are policy tasks over which several agencies have jurisdiction and authority. In their approach to this conflict-producing subject-matter, the overriding concern of agencies devoting a large percentage of time to routine procedures is the ultimate effect the interagency interaction will have on routine procedures. Conflict here is likely to be non-productive if the interaction is between similarly operated agencies or with agencies which are predominantly policy-oriented. The latter sort of agency tends to give its actors broader latitudes in the interaction, so that a creative, flexible response to interagency conflict with the goal of achieving a policy outcome is possible.

Assessments of the approaches of agency actors in the interac-

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36 The Internal Revenue Service is one agency well-known for its multitude of regulations governing the taxability of income. Although agency actors apply many of these regulations in a mechanical fashion to determine a taxpayer's tax liability, some of these regulations call for a considerable amount of discretion by agency actors. One notable example is the determination of the valuation of land. I.R.S. The Audit Technique Handbook for Estate Tax Examiners, 250 Basic Considerations, reprinted in D. KAHN and L. WAGGONER, FEDERAL TAXATION OF GIFTS, TRUSTS AND ESTATES 72 (1977) directs that:

It is your job to recommend the fair market value of the property. Recognize that in the absence of actual sales the matter of valuation is one of opinion. Therefore, maintain a sense of proportion and exercise sound discretion and judgment in arriving at your recommendation. Do not recommend extremes! If your investigation shows that the returned value is essentially correct, recommend it. Slight differences based upon opinions of qualified experts should not be the basis for change. However, a sale, reflecting fair market value and made within a reasonable time of the valuation date, would be a proper basis for change even though the change might not be substantial.

37 Although many differences between line and staff personnel in an agency are more theoretical than real, Downs believes that staff are more prone to innovation than line actors. DOWNS, supra note 1, at 154-55.

38 ALLISON, supra note 34, at 83. This consequence is further supported by Harold Laski's description of the signifying characteristics of a bureaucracy as "a passion for routine in administration, the sacrifice of flexibility to rule, delay in the making of decisions and a refusal to embark on experiment." B. SCHWARTZ, ADMINISTRATIVE LAW 44 (1977).
tion and of agencies’ responses to the conflict are relevant in analyzing this consequence of the work environment. These same measures are applicable to the other consequences of the work environment and will not be separately discussed. Although these measures are somewhat vague in directing one in how to make an analysis, a skilled administrative lawyer should be able to detect weaknesses and strengths within agencies as to their work environment and then be able to extrapolate agencies’ potential for success or failure in interagency relations.

A second antecedent or cause of interagency conflict is the differing levels and types of supervision exercised over agency actors by their respective agencies. This antecedent is related to the one discussed above, since agencies with a greater focus on routine procedures tend to have stricter supervision to insure compliance and standardization.

One useful measure of supervisory oversight is an examination of the established hierarchy of command through queries as to whether the lines of command are clear and understood by the agency actors and as to whether the actors’ task assignments are unambiguous. The strictness of supervision can be measured by investigating the type of disciplinary action taken against violators of standard operating procedures and the stringency of this action.

Several consequences for interagency conflict result from the supervision antecedent. First, as the supervision increases and becomes more hierarchical, the basis for interaction across agencies is narrower. Second, the time lag in getting permission for proposals and commitments is greater because the actors in the interaction must defer to their superiors, unless the actors involved are at the top of the hierarchy. This time lag problem may be offset, however, for the greater the supervision, the greater the certainty that the approved proposals represent the highest levels of the agency hierarchy. From this certainty it follows that the approved proposals will be reflected in action and that the agency’s policy will remain constant. Thus, as these last two consequences demonstrate, more supervision and hierarchical control can have positive implications for policy formulation. However, the two other consequences mentioned, a narrow basis of interaction and time lag for getting permission, show that the supervision factor may also yield nonproductive implications for interagency conflict.
The satisfaction of agency employees, both program and staff, is another antecedent to the work environment variable. The less that employees are satisfied with their work situation, the greater the internal conflict and energies consumed in dealing with dissen- 

sion can be expected. In turn, if the agency expends much of its time and energy in internal bickering, it is less likely to engage in interagency interactions at all. If such an agency's authority or jurisdiction over one of its policy areas is shared by another agency and conflict emerges in policy implementation, the agency with internal employee dissatisfaction will tend to be weak and ineffective in representing and implementing its policy position with respect to the other agencies' positions. On the other hand, the better the esprit de corps, productivity, efficiency and responsiveness of an agency (all signs of a positive work environment), the more aggressive the agency is likely to be in interagency relations and the more effective it should be in securing a dominant role for its policy position.

In order to measure employee satisfaction, it would be helpful to make a comprehensive observation of employees in their work environment. Some traces of employee satisfaction might include a high morale and esprit de corps among all levels of the agency, efficiency in daily operations, a quick and thorough response to problems and conflicts, and a high degree of productivity. Low turnover and a high job interest are other indices. Additional signs of employee satisfaction can be gleaned from a measure of the number of conflicts between program and staff actors and from the type of disciplinary action taken against staff employees for violating standard operating procedures and agency rules.

Another concept applicable to each of the antecedents of the work environment variable—(1) focus on standard operating procedures versus broad discretion, (2) supervision, and (3) employee satisfaction—is a historical survey of the variations in these measures over an agency's history. Knowledge of an agency's past work conditions should aid in understanding its present conditions and in predicting its future work environment.

Agencies' varying degrees of emphasis on standard operating procedures, different types of supervision, and different levels of employee satisfaction make each agency's work environment unique. The more differentiation there is among agencies in these

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elements of the work environment, the more potential there is for conflict in their interagency relations,\(^4\) assuming that an agency's particular work environment affects its relationships with other agencies.

E. Point of View or Mind-Set

Dominant characteristics of each agency (or sub-agency) tend to create a particular "point of view" or "mind-set"\(^2\) which distinguishes it from other agencies and describes the agency's approach in the policy implementation process. The dissimilarity of agencies' "mind-sets" is commonly heralded as a source of conflict between agencies. Moreover, the agency "mind-set" may create a barrier between the individual agency and the entities which are regulated by the agency.

A number of factors contribute to the total "mind-set" of the agency. Factors based on the background of the agency actors include the actors' skills and training. Agencies increasingly demand specialists in the particular fields in which their tasks are concentrated. There has been a marked trend to employ more and more scientists in the top level of the Civil Service; generalists such as politicians, lawyers, and businessmen are employed to a lesser extent.\(^3\) For any agency job, certain minimum educational and technical training levels in explicit areas of expertise are required. The agency's mean bureaucratic level is determined by a composite of such factors.

Agencies also have their own preferences in regard to their employees' aspirations and leanings, such as pro-consumer or pro-labor preferences. An antecedent directly contributing to whether an agency will be successful in employing actors with similar

\(^4\) Lawrence and Lorsch conclude, however, from their study of six plastics firms, that even though the potential for conflict increases the more internal differences there are between the units of each organization, one cannot assume that more manifest conflict automatically results. Lawrence and Lorsch, Differentiation and Integration in Complex Organization, 12 Ad. Sci. Q. 1 (1967). As Pondy points out in his study of organizational conflict, conflict is often resolved or deterred before it reaches the level of non-cooperative behavior. Pondy, Organizational Conflict: Concepts and Models, 12 Ad. Sci. Q. 504 (1967).

\(^2\) Even though "mind-set" usually connotes a more all-encompassing attitude then "point of view," the two terms are used interchangeably here to describe an agency's overriding way of "looking at things," i.e. which viewpoint is shared by a sizable majority of the agency actors.

\(^3\) D. Price, The Scientific Estate 60-61 (1965). Staff personnel tend to be more technically trained, better educated, and younger than line personnel, thus creating the possibility of intra-agency conflict or tension between the two groups. Downs, supra note 1, at 155.
viewpoints to its own and in strengthening its agency "mind-set" is the agency's mode of recruitment. Important factors include areas (such as the private sector or universities) from which an agency solicits employees, the barriers an agency erects to block potential candidates from employment, and the tests (such as civil service exams) that must be passed to secure employment. Another "mind-set" factor is the agency's mode of operation, including licensing, regulation, management, and largesse, depending on the broad objectives of the laws governing the agency's operation.

There are several concrete ways in which the enumerated factors contributing to an agency's overriding point of view can be measured. For one, a survey of agency actor's backgrounds, including their education, technical skills and training, and socio-economic status, can be made to ascertain whether there are similar characteristics for actors within a certain agency and if there are, what this common background is. A more focused survey of the background of the agency actors directly involved with the conflict can be compared with the general survey to determine whether the smaller group of actors are an "aberration" within the agency. Interviews, either personal or through questionnaires, are a means of supplying data on personality characteristics of agency actors. A percentage comparison of an agency's scientific types to its generalist types can be taken. Finally, agency publications are a revealing source of a particular agency's viewpoint. Recruitment publications are especially useful in determining an agency's "mind-set" because the descriptions of what types of people the agency wants to hire reflect either the types of people already employed or the agency's dissatisfaction with its present employees and its aspirations to hire new ones to conform to the desired "mind-set."

Different "points of view" or "mind-sets" of agencies have significant consequences for the understanding of conflict created

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"A breakdown of agencies into these different functions is the best means of explaining this category. Licensing agencies such as the Federal Communications Commission are involved in comprehensive control of certain industry sectors through regulations implemented to achieve high levels of industry uniformity. Regulatory agencies such as the Federal Trade Commission and the Securities and Exchange Commission do not have such comprehensive control of an industry. The Forest Service is an example of government management of its own resources. Government largesse is traditionally associated with those agencies dealing with welfare and transfer payments. F. Huszagh, Survey of Major Federal Laws and Regulations That Control Export Trade, Seminar on Export Trade Regulation 7 (Rusk Center, University of Georgia School of Law 1978)."
in interagency relationships. First, if agencies do not talk the same language, fundamental communication problems are bound to arise when agencies try to settle problems of overlap. Even if agencies are willing to cooperate with each other, if each agency has a basically dissimilar approach to problems, cooperation can be frustrated unless each agency has a thorough understanding of other agencies' peculiar "mind-sets." Another consequence is that disparate agency "mind-sets" can make it difficult to arrive at consistent policy outcomes.\(^5\) Moreover, when agencies have different viewpoints of both the nature of problems\(^6\) and their solutions, the conflict likely to result will rarely be productive, as power principles will dominate the struggle between agencies—each agency asserts that its own views are the "right" ones and should prevail.\(^7\)

The working of these power principles is also evident in the relationships between agencies with different "mind-sets" and the private sector areas the agencies are seeking to regulate. If two or more agencies with different "mind-sets" are involved in regulating a particular private sector area whose business orientation is not shared by the regulating agencies, each agency will seek to impose its own point-of-view as the dominant one and create its own power base.\(^8\) In the interagency struggle, the private sector's interests are ignored unless the private sector has learned to speak at least one of the agencies' languages. If the private sector does so, a reinforcing relationship could develop between the private sector and the agency as the agency relies on the private sector for its external support base and the private

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\(^5\) The possible incentives discussed in footnote 7 are less useful in motivating agencies to cooperate in their interactions.

\(^6\) An example of conflicting viewpoints in approaching common problems is seen with the prevalent problem of inflation. A labor-oriented agency might identify the problem as high business profits, while a business-oriented agency might view government spending, increases in the money supply, and high wages as key problems.

\(^7\) See Section II. C, Power Principles, supra.

\(^8\) An example of this problem arose in the mining industry. A mining company had entered into an agreement with an Indian tribe to provide for the development of a new copper mine on their reservation. Since the reservation fell under the jurisdiction of the Bureau of Indian Affairs (BIA), the agreement had to be approved by the BIA and the Secretary of the Interior. The BIA was ready to grant approval when it was decided that since the reservation was under the custody of the government, an environmental impact statement would have to be filed and accepted. Four years later, this statement has yet to be completed as archaeologists, zoologists, federal and state historical preservation groups, and a number of other government agencies claiming jurisdiction of some parts of the project have shackled it. Thompson, Regulation—Can We Survive?, 64 MINING CONG. J. 43 (1972).
sector relies on the agency to look out for its interests. The obvious danger here is of collusion between the regulated and the regulators.49

Measures of the consequences of disparate agency "mind-sets" for interagency conflict are more assessable than for many other variables. Weekly news magazines and other media sources like to report bickering between agencies and the private sector's problems in dealing with agencies.50 Business publications provide insights into the private sector's problems with agencies.51 Congressional hearings on problem areas describe conflict and elucidate the consequences of the differing points of view of the various agencies.52 In addition, interviews with agency actors can help determine what agency actors view as problems and the effects of these viewpoints on conflict and collaboration between agencies.

F. Personal Identification with the Agency

Another variable which is relevant to an analysis of interagency conflict is the agency actors' identification with the agency. Establishment of an identifying nexus between the employee and his agency is often dependent on the career objectives of the person hired by the agency. If a candidate's career objective is to move up the hierarchical ladder in a particular agency to a top agency position, or at least to seek long-term employment with

49 One description of the nature of the relationship between the regulating agency and the regulated is that "over the years there develops a relationship which can be described only as regulatory symbiosis: regulators and regulated have learned to live with each other and have, in fact, grown intimately dependent on each other." Evan, Administrative Law and Organization Theory, 29 J. LEGAL EDUC. 113 (1973).


51 A study by Business Round Table (an organization of chief executives of major U.S. corporations) of 48 corporation members concluded that the federal regulations of six agencies cost those companies $2.8 billion per year. As pointed out by an analysis of the study in BUSINESS WEEK, one of the shortcomings of the study was its concentration on the cost of the regulations to business and its lack of attention to the benefits of these regulations. A Start at Auditing the Cost of Regulation, BUS. WEEK, March 26, 1979, 30, 34.

52 One example of such hearings, Hearings Before the Subcomm. on Commerce, Consumer and Monetary Affairs of the House Comm. on Government Operations, 95th Cong., 1st Sess. (1977), focuses on the problem of export promotion. The conflicting roles of the State and Commerce Departments in this area will be discussed infra in Section III of this Note, APPLICATION OF THE FRAMEWORK: EXPORT PROMOTION PROGRAM. Usually, however, there is little direct discussion about interagency conflict in Congressional hearings due to Congress' role (i.e., Congress is not a mediator) and to the tendency of agencies to deny conflict in their interactions. For conflict to surface in these hearings, therefore, it must be over a serious, publicly-disclosed problem.
the agency, then the candidate can be typed a careerist.\textsuperscript{53} On the other hand, if the member's ultimate career objective is not tied to this particular agency or he is only seeking short-term employment, then he can be considered a transient.\textsuperscript{54}

Measures of the careerist versus transient factor include examining who is promoted by agencies through a comparison of agency employees near the top of the agency with those near the bottom of the agency and examining the agency's turn-over rate to determine the percentage of long-term as opposed to short-term employees. Background information on agency personnel\textsuperscript{55} and the nature of the employees' jobs are useful for ascertaining the career objectives of agency personnel.

Interagency conflict is usually more difficult to resolve when the agency actors are careerists. This consequence develops from the relationship between the agency and careerists.\textsuperscript{56} Agencies tending to employ careerists can apply the potent weapon of job security and promotion to assure compliance with agency goals.\textsuperscript{57} In turn, careerists, as opposed to transients, will tend to depend more on the agency for self-respect, prestige, and power.\textsuperscript{58} The careerist's identity is thus tied closely to that of the agency. Group discipline and cohesiveness is high. A "group-think" mentality emerges from consensus among actors:

When a policy-making group becomes highly cohesive, a homogenization of viewpoints takes place, helping the group to preserve its unity by enabling all the members to continue to support the decisions to which the group has become committed.\textsuperscript{59}

Moreover, the more cohesive the group, the greater group-think

\textsuperscript{53} Many civil service employees can be termed careerists. Another area manned primarily by careerists is the military services. Promotion to higher rungs of their structured ladders is often dependent on established criteria. One of the advantages of both of these areas is the long-term benefits employees receive.

\textsuperscript{54} Approximately 16\% of public officers are appointed outside the competitive civil service, either by the President or by or under the authority of department heads who are presidential appointees. The importance of these officers, who are generally "transients," is seen in their positions which include every substantial policy-making office. SCHWARTZ, supra note 38, at 27.

\textsuperscript{55} See factors included in background in Section II. E, Point of View or Mind-Set, supra

\textsuperscript{56} For example, some jobs, such as jobs in the military, carry a certain number of years of commitment when one enlists and other jobs, such as cabinet and sub-cabinet positions, are dependent on the President who appointed the agency officers.

\textsuperscript{57} DOWNS, supra note 1, at 211. Downs calls this behavior the "Law of Self-Serving Loyalty."

\textsuperscript{58} Seiler, supra note 40, at 123.

\textsuperscript{59} I. JANIS, VICTIMS OF GROUP THINK 116 (1972).
type of conformity exists due to the greater inner compulsion of each member to avoid creating disunity by believing in the soundness of the leader's or majority's proposals.\textsuperscript{60} Since the agency "line" will be protected at all costs, interactions with other agencies will tend to be inflexible.

On the other hand, conflict resolution should be easier when the actors in the interaction are non-careerists. Not constrained by any "group-think" mentality, transients and those more concerned with their reputation outside the agency as a capable problem solver are more flexible and innovative in their interagency approaches.

Symptoms of "group-think" mentalities among agency actors are: 1) an illusion of invulnerability, 2) construction of rationalizations, 3) a belief in the inherent morality of their group, 4) stereotyped views of the leaders of enemy groups, 5) application of direct pressure to nonconforming individuals, 6) self-censorship, 7) an illusion of unanimity, and 8) mind-guards for leaders and fellow members from adverse information.\textsuperscript{61}

G. Goal Consensus (or Compatibility)

Agencies are directed in their tasks toward achieving certain objectives or goals. Congressional mandates specify some of these goals. Other operational goals emerge as a set of constraints defining acceptable performance from a mix of the expectations and demands of other agencies and governmental bodies, demands from citizens and special interest groups, and bargaining within the agency. These agency goals are not compatible with the interests of every group within the agency; rather, they represent an initial resolution of intra-agency conflict.\textsuperscript{62} This conflict over goals, however, is heightened when each actor represents a different agency desiring to advance different, sometimes directly opposite objectives.

The conditions that each agency has been directed towards in its enabling legislation or the internal construction of its mandate\textsuperscript{63} are an important factor in determining whether the goals of

\textsuperscript{60} I. Janis, Group. Think, in CLASSICS OF ORGANIZATIONAL BEHAVIOR 157-58 (W. Natemeyer ed. 1978). The danger of "group think" is that each individual will think his group's proposal a good one without making a careful scrutiny of the advantages and disadvantages of the alternatives. \textit{Id.} at 158.

\textsuperscript{61} \textit{Id.} at 158-162.

\textsuperscript{62} ALLISON, supra note 34, at 82.

\textsuperscript{63} See discussion in Section II. B, Jurisdictional Boundaries, supra.
those agencies in the interaction will conflict or be compatible. Other indications of agency goals may be found from a survey of the interacting agencies' clientele, from congressional hearings, and from a historical survey of the various agencies' goals.

Whether agencies with compatible goals will work to maximize policy consistency in the interaction process is dependent in large part on the proportion of incentives to disincentives to reach results. As has been shown already, incentives are necessary to motivate agencies to cooperate in their interactions with other agencies which have overlapping authority or jurisdiction over the same policy task. Incentives include the threat of congressional review of appropriations, the threat of presidential involvement and his possible anger over immobilization, and the threat of press involvement.

On the other hand, disincentives to interagency cooperation exist for an agency when it has the opportunity to dominate other agencies. This occurs through application of power principles or when it perceives room for aggrandizement of the territory of another agency and desires to show that this particular agency is not doing a satisfactory job. If incentives are greater than disincentives in the interagency relationship, agencies with compatible goals will work to maximize consistent policy outcomes. This is true even though the agencies' perspectives of their goals are probably different. However, if incentives and disincentives are equal, the outcome of the interaction is then dependent on the personalities of the agency leaders directly involved in the interaction. If the other possibility of disincentives being greater than incentives is the case, the outcome is non-productive and interagency conflict becomes manifest and persists.

If agencies have been designated specific policy roles by congressional mandate or have been allocated specific roles through informal processes, it is highly possible that the goals of even compatible interacting agencies might be improper in relation to these policy roles. Agencies often exceed the limits of the jurisdictional and territorial restraints imposed upon them by Congress, especially when the boundaries are not well defined. This independent agency action may also occur in interagency relations as those agencies with compatible goals collude to assure a power basis in the desired policy area for each cooperating agency. See note 16, supra.

See discussion in Section II. C, Power Principles, supra.

Id.
If the mandate governing the common policy tasks of many agencies is unclear, a struggle between the interacting agencies over the hierarchy of goals to govern the interpretation of the mandate often ensues. The agencies which are stronger and more aggressive are likely to be successful in asserting and having their particular construction of the mandate prevail, especially if there is a lack of policy guidance from above the agency level.\(^{67}\)

Although the existence of a reward system of incentives is difficult to measure, the examination of directives from various branches of government to the interacting agencies might be a useful barometer. To determine those agencies which are most successful in asserting their understanding of mandates, a representative sample of critical interagency decisions can be taken to see which agencies' views prevail most often.

H. *Deflection of Goals*

Another variable is the deflection of agency goals. Agency efficiency is enhanced by rational pursuit of its proper goals; when an agency is deflected from this pursuit it will not perform as intended. Deflection of goals can occur in a number of different ways.

One situation in which deflection occurs is when an agency's programs have gotten underway and begin to move in their intended direction. Groups originally on the outside see new opportunities for their own goals and objectives to receive attention, and they manage to have their goals added to the agency's initial ones. This has been called the "Piling On Game."\(^{68}\) Although the initial goals remain, their importance has been reduced.

A survey of agency clientele to determine whether it has become more diverse over the agency's lifetime is one measure of deflection by the addition of new goals. Another measure is a historical survey of the goals themselves to see to what extent they have remained constant. Congressional hearings on the program in question might also reveal the addition of new goals. Changes in top agency personnel might result in new goals being

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\(^{67}\) One example of this consequence is seen in the export licensing area. This area is characterized by a multiplicity of agency actors who disagree on a hierarchy of goals. A struggle ensues among the agency's actors each time a problem arises as to which goal should receive priority, and there is a definite lack of unified policy guidance from above the bureaucratic level. The national security interest often prevails in the process of agency compromise.

added by the new leaders.

The danger of the "Piling On Game" is that the additional goals may create an unsupportable political burden for the agency. An example of a collapse caused by such a burden is Project Mohole, a government venture in "big science." When an agency’s goals become so multitudinous and important as to be incapable of fulfillment through lack of funding, personnel or expertise, the agency’s very survival may be threatened. The agency’s role in interagency relations is then reduced to self-preservation. The goals of stronger agencies are likely to prevail in such conflict situations. One incentive to the threatened agency to cooperate in policy implementation is a guarantee from other interacting agencies to not adversely affect its existence by encroaching on its jurisdiction. An examination of the threatened agency’s success in achieving its goals through concrete activities is a means of determining the extent of overburdening from additional goals.

Another instance of goal deflection is when the agency’s primary goal is too difficult to attain and the agency instead directs its energies to achieving short-term objectives. Philip Selznich described this problem as a common one for government agencies:

> Running an organization, as a specialized and essential activity, generates problems which have no necessary (and often opposed) relationship to the professed or ‘original’ goals of the organization. The day-to-day behavior of the group becomes centered around specific problems and approximate goals which have primarily an internal relevance. Then, since these activities come to consume an increasing proportion of the time

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69 Id.
70 Project Mohole began with a grant from the National Science Foundation (NSF) to the American Miscellaneous Society (AMSOC) and its affiliate for the project, the National Academy of Sciences (NAS), for initial feasibility studies of drilling through the ocean bottom to a hypothesized layer below the earth’s crust and above the earth’s mantle known as the Moho. These studies were successfully completed. At this point, the Executive Secretary and new Chairman of AMSOC prodded AMSOC into taking on the broader objective of widespread sampling of the layers above the Moho to add to mankind’s understanding of the history of the oceans and life itself. This attempt to increase the project’s scope and complexity "divided the scientific community, increased the technical problems for the contractor, alienated necessary allies in the establishment agencies (NSF and NAS), and fueled political opposition that had opposed the project from the start even in its less ambitious versions." The end result was that the Senate and House refused to fund the project, whose estimated costs had increased to at least $100 million. Id. at 85-88.

and thoughts of the participants, they are—from the point of view of actual behavior—substituted for the professed goals.\footnote{Id. at 8.}

To determine whether an agency has strayed from serving its intended purpose to a fixation on internal problems or on objectives for which immediate results are possible, an examination of espoused agency goals over time to determine to what extent they have changed and a comparison of mandated goals to espoused goals are useful measures.

When an agency has displaced its primary goal, the short-term objectives it substitutes are probably goals over which Congress did not intend for the agency to have any jurisdiction or authority. The new goals might well be those which other agencies are pursuing under their legal mandates. The resulting confusion of roles can create conflict between agencies operating under their mandated goals and the agency which has embarked upon the pursuit of self-formulated goals, especially if the agencies’ regulations and other means of achieving the goals are inconsistent. Moreover, this situation creates confusion in Congress and the Executive Branch over which agency is accountable for achieving particular goals. Fundamental problems of allocation are presented as well. Ways to measure goal deflection include surveys of budget requests and allocations to determine if money is requested for the same purpose by different agencies and surveys of regulated parties to measure protests of conflicting and overlapping regulations.

I. Agency Representation in the Interaction

The final variable in the analysis relates to the type of person selected by the agency to represent it in interactions with other agencies. What happens in any situation obviously depends on the people involved. In interagency conflict situations, the status, agency rank, career stage, background and personality type of the actors can be as important as any of the factors above.

Since status is an indirect symbol of prestige and power, agencies are status-conscious. An agency actor’s status and authority within the agency will thus normally reflect the importance and prestige of the interagency interaction and assignment. The situation is complicated, however, by the use of various mechanisms in the interagency interaction beyond one-to-one relationships by
representatives of each agency.

Committee voting systems have been frequently resorted to by agencies to help solve some of the complex and intractable problems with which two or more agencies may be confronted. The voting system may require only a plurality to assure a decision, or it may require a majority or even unanimity. If the level of representation on the committee is not uniform, i.e., some representatives are at the secretary level, some are staff officers, and others are low-level bureaucrats, significant problems arise because agencies are status conscious.\(^7\)

It is especially difficult to carry out serious interactions when authority and prestige are inconsistent if the interaction is subject to public scrutiny. One might expect, for instance, a cabinet secretary to carry out private negotiations with another state's premier, but a public treaty signing must be effectuated by two actors having the same authority and prestige. Legally significant agreements could not effectively be completed by actors having different levels of prestige. Thus, in conceptualizing the consequences of agency representation, it is important to ask where the interaction takes place, who the parties are, and whether the interaction is public or private.\(^4\)

### III. APPLICATION OF THE FRAMEWORK: EXPORT PROMOTION PROGRAM

An area in which this framework can be applied is the area of the joint export promotion program of the Commerce and State Departments. Due to concern over the efficiency and economy of this program, the House of Representatives Subcommittee on Commerce, Consumer, and Monetary Affairs held hearings in March 1977 on this export promotion program.\(^5\) Their stated concern was that although the program had been sold to them primarily as an aid to small businessmen who want to export but

\(^{7}\) Seiler, at 121, *supra* note 40.

\(^{4}\) In an interview with Professor Dean Rusk, Mr. Rusk pointed out that the "top men" in the agency have occasionally demanded that all interagency communications be channeled through them. When this happens, Mr. Rusk said, communication is discouraged. Understanding is best facilitated and promoted when intelligence is exchanged at comparative levels in the bureaucracy. Interview, University of Georgia School of Law, Athens, Georgia, Feb. 6, 1979.

lack the experience and knowledge, there were substantial
grounds for believing that the major beneficiaries of the program
were large, experienced exporters.\textsuperscript{76} This concern was reinforced
by a Joint-Evaluation Report by the Commerce and State Depart-
ments released in February 1977.\textsuperscript{77} One of the findings of the
House Subcommittee was that a principal reason for the export
program being undermined is the chronic conflict between the
Commerce and State Departments in their joint administration of
this program.\textsuperscript{78}

Commerce Department responsibility for export promotion is
centered in the Domestic and International Business Administra-
tion (DIBA) with primary responsibility in its Bureau of Interna-
tional Commerce (BIC).\textsuperscript{79} Various offices of the BIC formulate and
operate programs abroad and in Washington; the DIBA’s Office of
Field Operations serves as liaison to the U.S. business community
for the programs.\textsuperscript{80} State Department responsibilities are an-
chored for the most part in the Bureau of Economic and Business
Affairs and in the regional bureaus.\textsuperscript{81} In addition, Foreign Service
personnel are responsible for operating and servicing the pro-
grams in the various countries.\textsuperscript{82}

With the number of participating agencies limited to State and
Commerce and their sub-agencies or offices, this is not the best
example for validating the “number of agencies involved”
variable. Still, even when only these two agencies are involved,
several of the conflict problems anticipated for large numbers of
agencies are present. For instance, there are failures and delays
in communication at all levels between the two agencies. One ex-
ample of this arises out of the separate budget procedures under-
taken by both agencies. At the top levels, the Commerce Depart-
ment has failed to inform the Department of State of budget
changes affecting key programs until after the changes have
become formal parts of Commerce’s budget, and State in turn has
failed to inform Commerce in advance of reprogramming actions
or of changes made in working level agreements on budgets and

\textsuperscript{76} Id. at 1.
\textsuperscript{77} 1977 Hearings, supra note 75, Appendix 2: Joint Commerce/State Evaluation of the
Commercial Function [hereinafter cited as Joint Evaluation Report].
\textsuperscript{78} HOUSE COMM. ON GOVERNMENT OPERATIONS, EFFECTIVENESS OF THE EXPORT PROMOTION
POLICIES AND PROGRAMS OF THE DEPARTMENTS OF COMMERCE AND STATE, H.R. REP. NO. 95-576,
95th Cong., 1st Sess. 5 (1977) [hereinafter cited as EXPORT REPORT].
\textsuperscript{79} Id. at 2.
\textsuperscript{80} Id.
\textsuperscript{81} Id.
\textsuperscript{82} Joint Evaluation Report, supra note 77, at 188.
resources allocated to the programs. 83

Time delays are a significant consequence of program output having to be transmitted by more than one agency before it reaches the client. With the Trade Opportunities Program, a trade lead originates with the Foreign Service, is transmitted to the Commerce Department in Washington where it is processed, and is then sent to subscribers. In the approximately twelve days that this takes, a "hot" lead can turn "cold," 84 thus thwarting the program objective.

The mandates setting forth the allocation of jurisdiction over export promotion programs diffuse authority between the Commerce and State Departments. 85 Commerce is granted general statutory authority and responsibility for domestic and international trade promotion, while State is given control of all overseas operations carrying out such functions. State and Commerce functions in this area necessarily overlap, and the turbulent relations between the Departments in administering these joint programs suggest that their formal guidelines do not clearly define their roles. As predicted by the framework, a tendency toward interagency conflict results when jurisdictional guidelines are ambiguous. An example of this conflict is seen in the problem of who to blame for recommending businessmen with questionable ethical backgrounds in Commerce's World Trade Data Reports. 86

Commerce and State attempted to clarify their jurisdictional boundaries by formulating a number of working agreements over the years. A clarification of the role and position of commercial attaches in the Foreign Service and of Commerce's role in selecting and controlling these attaches was a special focus of these agreements. 87 However, because these agreements were not accepted by the agency actors in their attempted implementation, 88 they have not been effective in securing cooperation between the

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83 EXPORT REPORT, note 78 supra, note 42.
84 Id. at 43.
85 Reorganization Plan No. 11 of 1939, the Foreign Service Act of 1946, and Executive Order 10249 (June 4, 1961). EXPORT REPORT, note 78 supra, at 41-42.
86 When questioned on why foreign businessmen involved in questionable or illegal foreign payments were placed in the Report, Commerce first put the blame on State, claiming State was responsible at its foreign service posts for collecting information and preparing the Report, while Commerce merely disseminated this data. EXPORT REPORT, note 78 supra, at 37; 1977 Hearings, note 75 supra, at 257, 279.
87 EXPORT REPORT, note 78 supra, at 42.
88 Commerce accused State of not making a good faith effort to comply with the agreements, and State charged that Commerce sought to go beyond the objectives of the agreements. EXPORT REPORT, note 78 supra, at 44.
two agencies. Indeed, this lack of coordination of program responsibilities is partly the reason why "there is at this time no generally agreed or widely understood U.S. policy on the extent of need for or the purposes of official export promotion." Due to responsibility for the overall coordination of the export promotion program being "fuzzy," ad hoc liaison procedures for each area of interest are the present means of operation. Since "no institutional arrangement now exists for effective coordination when problems cannot be resolved at the operating level," conflict is inevitable.

The power principle variable helps to explain the basic tension existing between State and Commerce. Each agency is Downs' "territorial imperialist" engaged in an underlying struggle to dominate or maintain control of export promotion activities in foreign nations. A common mistrust exists between Commerce and State and neither agency is content with its present position in policy space vis-a-vis the other agency.

Commerce takes an aggressive stance; some groups within Commerce want the agency to have its own foreign service or at least greater control over foreign commercial activities and control over State employees engaged in commercial work under the present system. On the other hand, State firmly adheres to its position that the United States should have one unified foreign service to carry out all U.S. governmental activities in foreign nations. Instead of putting more of its employees in these foreign commercial positions (as might be the expected means of asserting its dominance), State handles its end of the power struggle by putting less employees on commercial matters than other functions and putting those officers of lowest career status in commercial positions. The House Report concludes that the present situation—a stand-off marked by suspicion and bureaucratic conflict between the agencies—is expected to continue and as long as it does, "export promotion efforts will continue to be inefficient and ineffective."

An example of Commerce's use of its "power quotient" to maintain its active involvement in the foreign activities of its export programs is its staunch support of fifteen U.S. trade centers

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88 EXPORT REPORT, note 78 supra, at 42; Joint Evaluation Report, note 77 supra, at 168.
89 Joint Evaluation Report, note 77 supra, at 170.
90 EXPORT REPORT, note 78 supra, at 44.
91 Id.
92 Id.
93 Id.
94 Id. at 48.
operated in major foreign commercial markets. Commerce uses its financial clout here as it devotes more than one quarter of the Bureau of International Commerce's total export promotion budget to the operation and staffing of these trade centers.\footnote{Id. at 2-3.} Even though these trade centers are inefficient,\footnote{Even the Joint Evaluation Report recognized that "established trade centers tended to produce diminishing returns in markets where they have existed for a few years." Joint Evaluation Report, note 77 supra, at 168.} Commerce views them as a prestigious way of promoting its presence abroad in partial competition with State. State's weapon for maintaining its control over foreign commercial programs is the Ambassadors' or Deputy Chiefs of Missions' exercise of their discretion to divert funds marked for commercial purposes to administrative, political, social, or other functions.\footnote{EXPORT REPORT, note 78 supra, at 46-47.} Such actions by State generate considerable conflict with Commerce. A sanction which Commerce uses to exert some control over State and which also produces interagency conflict is its role in evaluating State Department personnel responsible for commercial functions.\footnote{Id. at 47.}

Although there is agreement between Commerce and State on the general goal of increasing the level of U.S. exports by encouraging and assisting U.S. business, there is little direction on how to achieve this goal.\footnote{Id. at 8-9.} The legal mandates do not provide much guidance on this problem. The Commerce and State Departments have conflicting policy objectives and priorities in their participation in export promotion, and this lack of consensus has hampered cooperation.\footnote{Id. at 44.} Because the situation between Commerce and State is best understood as a power struggle, the goal consensus variable does not significantly aid in understanding the interrelations between the two departments.

The goal deflection variable, in contrast to the goal consensus variable, helps explain a major problem contributing to the ineffectiveness of the present export promotion program. Due to the difficulties of achieving the goal of promoting exports when Commerce and State disagree as to the means to be used, both agencies have tended to lose sight of the primary goal by concentrating on short-term objectives, (Commerce's trade centers for instance). There has been a tendency to view marketing programs as ends in themselves rather than as trade promotion tools.
This results in a failure to diagnose a company's particular export problem and to seek a remedy.\textsuperscript{101} Probably the most glaring failure of the joint export promotion program is the slight benefit that small businessmen who desire to export but lack export experience have received from it. Congress was told by State and Commerce when it funded this $50 million a year joint export program that aid to these small businessmen would be the major thrust of the program.\textsuperscript{102} Instead, large multinational firms who do not need governmental aid have been the major beneficiaries of the program. Commerce and State have taken the lackadaisical approach of supporting projects such as the out-moded trade center program instead of trying to formulate new programs to stimulate would-be exporters. The small businesses and inexperienced exporters are thus ignored, despite their serious need for export promotion aid and despite the departments' pledge to Congress to direct their programs toward the needs of this group.

An examination of the Departments' differing approaches to their job responsibilities reveals several important consequences for interagency conflict which are anticipated in the work environment variable. First, as to the planning, development, and evaluation of export promotion programs, an area in which Commerce has primary responsibility, there are serious communication problems within the Department between planners and those in the agency responsible for designing, operating, and carrying out the programs. This is in large part due to the confusion in Commerce's hierarchy of command. Policy guidance from the top officials is limited and there is little coordination between departments with interrelated functions.\textsuperscript{103} In addition, the State Department takes a rather inactive role in the planning and evaluation aspect as it primarily confines its role to a determination of whether the resources available to the programs are appropriate.\textsuperscript{104} Because of the wide differentiation in the approaches of State and Commerce to program planning and evaluation, the potential for conflict anticipated by our framework is realized in the coordination of important activities such as a commercial program budget.\textsuperscript{105} Similar coordination problems exist in the actual provision of commercial programs and services, an area in which State and Commerce

\textsuperscript{101} Joint Evaluation Report, note 77 supra, at 169, 182.
\textsuperscript{102} 1977 Hearings, supra note 75, at 1.
\textsuperscript{103} Joint Evaluation Report, note 77 supra, at 185-186.
\textsuperscript{104} Id.
\textsuperscript{105} Id. at 182.
share responsibilities. Because there is no mechanism within each agency to resolve problems at operating levels, neither of the two main units involved in interagency coordination—Commerce’s Office of International Marketing and State’s Bureau of Economic and Business Affairs—is able to speak effectively with a single voice.\footnote{Id. at 190.} The lack of certainty that the proposals from the separate agencies represent their respective hierarchies creates, as our framework explains, problems for effective interagency liaison. The lack of similarity between the two organizations and their approaches to their functions also creates difficulties for interagency conflict resolution.

One of the most important variables contributing to an understanding of the conflict between State and Commerce in the export promotion area is the agencies’ different “mind-sets” or “points of view.” The Department of State has a political “mind-set;” its commercial functions in the export promotion program are performed with a non-commercial orientation. Commenting on the low status that State has for a long time given economic and commercial matters, the Commission on the Organization of Government for the Conduct of Foreign Policy stated in 1974 that:

\begin{quote}
The evidence also seems compelling, as presented in virtually every case study, that the government-wide problem of non-communication—which is so severe that it might be termed cultural division—between “political” and “economic” specialists is even more serious at State than elsewhere, and that the professional caste to which the economist is relegated in that Department is generally and more systematically lower.\footnote{E. K. Hamilton, \textit{Summary Report: Principal Lessons of the Last Decade and Thoughts on the Next} in Appendices: \textit{3 Commission on the Organization of the Government for the Conduct of Foreign Policy, Appendix H at 9} (1975) (Murphy Commission Report).}
\end{quote}

As suggested by our framework, a survey of the backgrounds of the State Department employees engaged in export promotion compared with the backgrounds of State employees in general is a useful means of determining whether this smaller group of employees is an aberration within State or whether it shares State’s common background. Even though the State employees in export promotion need to have substantial commercial skills and experience to effectively perform their functions, surveys show that the overwhelming majority of persons in Deputy Chief of Mission positions and of foreign service officers in commercially
designated positions have little or no commercial experience.\textsuperscript{108} (The changes that State initiated in 1973 to fill more commercial positions, especially principal officers, with experienced personnel have not resulted in noticeable improvements in this area).\textsuperscript{109} In addition to being treated as second class citizens with respect to their status within State,\textsuperscript{110} State Department personnel in the commercial field also suffer from a lower mean bureaucratic level than State personnel in general. Studies reveal that, due in large part to the unfavorable bias toward commercial work among some senior State officials, those with principally commercial experience have a difficult time being promoted to upper level positions.\textsuperscript{111} Export promotion personnel in Commerce have, appropriately, a commercial "mind-set." Many of them, however, are too generalist-oriented "mind-set." Many of them, however, are mand. Thus, a number of problems have been noted in the training, recruitment, and assignment of Commerce officers.\textsuperscript{112}

With their differing "mind-sets," Commerce and State actors do not talk the same language. Moreover, evidence of attitudes tenaciously held by some officers in the two agencies concerning the motivations and interests of the other agency indicates that neither agency understands the other's viewpoint.\textsuperscript{113} Both of these factors have created fundamental communication problems between State and Commerce which, as this framework predicted, have adversely affected the interagency implementation of the export promotion program.

A further refinement of Commerce's "mind-set" is that it is oriented in favor of large corporations. This orientation is reflected in Commerce's principal advisory group for export promotional issues, the President's Export Council, which consists exclusively of big business representatives.\textsuperscript{114} It is no wonder that small businessmen complain that they have not had an adequate voice in formulation of federal export promotion programs.\textsuperscript{115} One expects small businessmen's needs and interests to be ignored when Commerce and State have conflicting "mind-sets" and small businessmen are unable to speak the language of either agency.

\textsuperscript{108} EXPORT REPORT, note 78 supra, at 45, 46.  
\textsuperscript{109} Id. at 45.  
\textsuperscript{110} Id. at 46.  
\textsuperscript{111} Id.  
\textsuperscript{112} Joint Evaluation Report, note 77 supra, at 172, 193.  
\textsuperscript{113} Id. at 169.  
\textsuperscript{114} 1977 Hearings, note 75 supra, at 109.  
\textsuperscript{115} EXPORT REPORT, note 78 supra, at 14.
The policy of the State Department to staff its commercial positions with personnel having low status within State is bound to have negative implications for State's effectiveness in asserting its positions in conflicts with Commerce. Applying the variable dealing with an actor's representation in the interaction process, Commerce actors' are aware of State actors' low status. On the other hand, Commerce is known to send inexperienced personnel to trade missions as advance people to work with the foreign service posts, identity prospective buyers, arrange appointments, and handle administrative details. State actors at the foreign service posts are likely to view these particular Commerce personnel as unnecessary and inefficient, and thus are likely to dominate any interactions with them.

There is no evidence from the hearings and reports relied on for information from which to draw a conclusion on whether conflict resolution is easier when non-careerists rather than careerists are the agency actors involved in the interaction. This lack of evidence may be substantially due to the fact that both Commerce and State are plagued in the export promotion area by high staff turnover which results in inefficient management and program performance.

IV. CONCLUSION

People and groups who must deal with two or more government agencies often have problems. They may be asked to perform several inconsistent tasks, they must often fill out time-consuming forms, and they may be ordered to take action or be threatened with punishment. These contacts with government agencies are especially annoying when there is doubt that the agency has the authority it claims. This framework, it is hoped, provides a critical way to view the problems inherent in interagency interaction. While we have applied the framework to only one export-related program, the broad analytical variables should be useful in other situations where interagency conflict arises.

Not all of the factors will be relevant in analyzing a given problem. Some problems involving multi-agency conflict are purely legal problems. Their solutions lie in the statutes which create the agencies and in the regulations imposed by the agencies. Other problems, such as personality problems, are beyond the scope of

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116 Id. at 34-35, 46.
117 Id. at 34-35, 46.
this Note. Still, it is hoped that this Note provides a set of factors to help illuminate the actions, motivations and interests which play a role in the interagency process. When concrete problems narrow the field of inquiry and the relevant government agencies take conflicting approaches to these problems, this framework is designed to be a starting point for analysis leading to a better decision-making process.

Betsy C. Cox

Gary Shmerling
APPENDIX
VALIDATION OF ANALYTICAL FRAMEWORK

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<thead>
<tr>
<th>VARIABLES</th>
<th>ANTECEDENTS</th>
<th>WAYS TO CONCEPTUALIZE OR MEASURE</th>
<th>CONSEQUENCES</th>
<th>WAYS TO CONCEPTUALIZE</th>
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</thead>
<tbody>
<tr>
<td>A. Number of Agencies Involved</td>
<td>1. Agencies are either designated policy roles or they claim a role by their internal construction of their mandate. (See Jurisdictional Boundaries)</td>
<td>An agency’s involvement in an area may be shown by:</td>
<td>As the number of agencies involved in a policy area increases:</td>
<td>1. The no. of procedures and regulations from different agencies.</td>
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<td>2. The mandates given to each agency are unclear or imprecisely drawn.</td>
<td>1. Manifestations of its intentions in effectuating a policy role via:</td>
<td>1. There are greater difficulties in collecting and utilizing information and communication from other agencies and “besieged” clients.</td>
<td>2. The different forms and paperwork requirements which emerge from different agencies’ requests for information.</td>
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<td>3.</td>
<td>a) Internal memos between agencies (and within the agency);</td>
<td>2. Interagency communications must become more formalized and often can be consolidated only at great time and expense.</td>
<td>3. The modes of agency interaction—the no. and type of channels for communication.</td>
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<td>no. of agencies</td>
<td>b) Press releases or conferences;</td>
<td>3. New mechanisms must be created to coordinate policy:</td>
<td>4. The times delays which are inherent in receiving a program’s outputs or results.</td>
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<td>decision points</td>
<td>c) Congressional testimony;</td>
<td>a) Interagency task forces;</td>
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<td>d) Agency pronouncements and trade publications.</td>
<td>b) Increased staff participation in coordinating;</td>
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<td>When point x is reached, the number of decision points is so large that many of them begin to be ignored since they are unmanageable.</td>
<td>c) Exchange of policy statements rather than internal memos.</td>
<td>5. Less awareness of other agencies’ actions—lost information causes confusion in the client.</td>
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<td>2. Enabling legislation and Congressional pronouncements of agency’s mandate.</td>
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<td>3. The no. and type of interactions (by different agencies) with clients, regardless of any legal authority to do so.</td>
<td>6. With a greater number of decision points and thus points of contact, the potential for conflict is greater.</td>
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</table>
WAYS TO CONCEPTUALIZE OR MEASURE

1. Boundaries set by formal processes

Formal processes:
- Enabling statutes;
- Congressional directives and statements of agency purpose;
- Executive orders;
- Judicial decisions (due process and constitutional restrictions);
- Legislative history.

Informal processes:
- Custom or practice (acquiesced to by Congress);
- Inter-office arrangements via memos;
- Liaison procedures;
- Internal construction of mandate;
- Power of different clientele.

WAYS TO CONCEPTUALIZE

1. Where formal guidelines are the chief boundaries:
- They must be clearly drawn as to delegation of function and authority;
- They must be understood;
- They must be accepted by the agencies involved or interactions will be nonproductive and full of conflict.

2. The more ambiguous these guidelines are, the greater potential there is for interagency conflict due to the difficulty of assigning credit or blame to individual agencies for policy results.

3. Formal guidelines provide an external, identifiable standard by which to resolve conflicts and claims of authority.

4. Informal processes must be recognized and accepted by agency actors (beyond the personalities creating them) to be effective.

5. Informal processes are effective if:
   - Formal boundaries are unclear and imprecise;
   - A consensus exists as to which informal procedure should be used;
   - There are outside incentives to make the informal divisions work.

CONSEQUENCES

STATUTORY STRINGENCY (the specificity, completeness, and commitment of legislative enactments in directing administrative agencies to achieve their purpose)

- Program objectives;
- Geographic scope of program coverage;
- Precision of program coverage;
- Exempted activities;
- Activities of other government agencies; preemption;
- Program approval criteria;
- Burden of proof;
- Administrative criteria for continuing program;
- Mandatory development conditions;
- Primary enforcement responsibility;
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<th>VARIABLES</th>
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<tr>
<td>B. Jurisdictional Boundaries (continued)</td>
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<td>6. Where an agency has formal authority to carry out policy functions, but no power to implement them, informal processes may be worked out with agencies having such power. (See Power Principles)</td>
<td>k) Citizen enforcement responsibility; l) Administrative enforcement responsibility and sanctions for non-compliance (fines, jail terms, injunctions); m) Judicial oversight.</td>
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<td>2. Is a historical understanding of the problem necessary to understand the mandate? (If so, does the agency have its own interpretation of the mandate?)</td>
<td>3. Informal agreements—difficult to conceptualize a set of consequences. Where informal agreements have been accepted over time, they are similar to formal guidelines and may be similarly conceptualized.</td>
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</table>
WAYS TO CONCEPTUALIZE OR MEASURE

C. Power Principles

1. From Downs’ dynamic model of territorial relation-position in policy space (interior, no-man’s land, exterior)

2. Financial clout

3. Methods of assuring compliance

4. Number of jobs dependent on an agency (public and private)

5. Prestige

WAYS TO CONCEPTUALIZE

1. Agencies are motivated to use their power to resist encroachments from other agencies and to carve out new territory.

2. As agency funding increases, important policy actors obtain vested interests in agency operations and survival (including Congress and Congressional committees, clientele, and agency actors).

3. The agency with the most resources or “power quotient” is more effective in asserting its interest over other agencies.

4. Agencies with sanctions, especially when they are used, have a stronger claim to the same policy space vis-a-vis other agencies.

5. The more jobs that are dependent on the agency, the more potential power is held by the agency.

WAYS TO CONCEPTUALIZE

1. How close to one agency’s interior (central interest is another agency’s position in policy space?)

2. Who supports an agency, publicly and privately?

3. What is an agency’s bargaining stance with other agencies in relation to its financial resources?

4. Since use of sanctions by agencies is typically “news,” what sort of media exposure does an agency get?

5. How many people would lose their jobs (or at least be dislocated) if an agency were abolished or its funding was cut?
**Variables**

**D. Work Environment**

**Antecedents**

1. Focus on routinized, bureaucratically-orientated work v. broad perspective on gathering, using, and disseminating information

2. Level and type of supervision

3. Satisfaction of employees

**Ways to Conceptualize or Measure**

1. a) Percentage of time spent in collecting and processing routine work; b) Internal procedures and reporting requirements.

2. Establishing hierarchy of command—are lines of command clear and understood by agency actors? Is there clarity of task assignment?

3. Disciplinary action against violation of standard operating procedures—is it lax or stringent?

4. Amount of discretion given line (program) officers.

5. Program v. staff conflicts.

6. Variations in these measures over the agency's history.

**Consequences**

1. The greater the focus on routine, the more sluggish and less flexible is the agency's response to interagency conflict.

2. As supervision increases and becomes more hierarchical:
   a) The basis for interaction across agencies is narrower;
   b) Time lag in getting permission for proposals and commitments is greater;
   c) The greater certainty that approved proposals represent the agency's hierarchy;
   d) The greater certainty that proposals will be reflected in action and that the agency's policy will remain constant.

3. The greater the internal conflict and energies spent on it, the less likely the agency is to engage in interagency conflict.

4. The better the morale, esprit de corps, productivity, efficiency, and responsiveness of an agency, the more likely it is to be aggressive in interagency relations.

5. The greater the differentiation among agencies' work environments, the more potential there is for conflict in their interagency relations.

**Ways to Conceptualize**

Subjective assessment of actors

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<th>VARIABLES</th>
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<tr>
<td>E. Point-of-View or Mind-set</td>
<td>1. Skills</td>
<td>1. General survey of background (education, technical skills and training, socio-economic status) of agency actors and a focused survey of actors directly involved with the conflict</td>
<td>1. If agencies don't talk the same language and have basically dissimilar approaches to problems: a) There are fundamental communication problems in interagency relations; b) It is difficult to create incentives to maximize outcomes; c) There is more conflict and less collaboration between agencies.</td>
<td>1. Media (weekly news magazines)</td>
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<td>2. Training</td>
<td>2. Percentage of generalists v. scientific types</td>
<td>2. If 2 or more agencies with different mind-sets are involved in regulating a particular private sector area and none have a business-oriented point-of-view, each agency will seek to impose its own point-of-view and create its own power base. Result: the private sector's interests are ignored. To insure input in agency decision-making, the private sector must learn to speak the agency's language.</td>
<td>2. Business publications</td>
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<td>3. Mean Bureaucratic Level</td>
<td>3. Agency publications (especially recruitment publications)</td>
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<td>3. Congressional hearings</td>
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<td>VARIABLES</td>
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<td>F. Members’ Identification with the Agency</td>
<td>1. Career objectives of people hired</td>
<td>1. Average length of employment of agency actors in past and present</td>
<td>1. Conflict resolution is more difficult when dealing with careerists due to their “group-think” mentality which creates inflexible interactions with other agencies.</td>
<td>Symptoms of “group-think” mentality.</td>
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<td></td>
<td>2. Transients v. careerists</td>
<td>2. Turn-over rate</td>
<td>2. Non-careerists and those more concerned with their reputation outside the agency than inside it are more flexible and innovative in interagency relations.</td>
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<td>3. General survey of background of agency actors</td>
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<td>VARIABLES</td>
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<td>G. Goal Consensus (or Compatibility)</td>
<td>Conditions legislation seeks to remedy or affect</td>
<td>1. Agency’s statement of purpose (legal mandate and agency publications) (See Jurisdictional Boundaries)</td>
<td>1. a) If incentives to optimize results are greater than disenchanting incentives, agencies with compatible goals (but probably different perspectives) will work to maximize outcomes. b) If incentives and disincentives are equal, the outcome of the interaction depends on the personalities of the leaders. c) If disincentives are greater than incentives, interagency conflict persists.</td>
<td>1. Examine directives from various branches of government to see whether reward systems (incentives) exist to assure optimum results.</td>
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<td>2. Clientele</td>
<td>2. If compatible goals are improper in relation to allocated policy roles, agencies collude to assure a power base for each agency. (See Power Principles)</td>
<td>2. Take a representative sample of critical inter-agency decisions and see which agencies’ views prevail most often.</td>
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<td>3. Congressional hearings</td>
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<td>4. Historical survey of agency’s goals</td>
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<td>VARIABLES</td>
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<td>H. Deflection of Goals</td>
<td>1. Initial goals are added to after the program gets underway 2. Primary goal is too difficult to attain</td>
<td>1. Congressional hearings</td>
<td>3. In a situation of an unclear mandate in which many agencies are involved, the stronger agencies are likely to be successful in asserting their peculiar understanding of the mandate.</td>
<td>1. Compare agencies' goals to concrete activities</td>
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<td></td>
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<td>2. Clientele—does it remain the same or change?</td>
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<td>2. Survey budget requests</td>
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<td>3. Appointment of top agency personnel</td>
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<td>3. Survey client protests of conflicting and overlapping regulations</td>
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<td>4. Historical survey of agency goals—how much do they remain constant?</td>
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<td>5. Comparison of espoused agency to mandated goals</td>
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### Variables

**I. Agency Representation in the Interaction**

1. Agencies are status-conscious. An agency actor's status and authority within the agency will reflect the importance and prestige of the interagency assignment.


### Antecedents

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<thead>
<tr>
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<th>Ways to Conceptualize or Measure</th>
<th>Consequences</th>
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<tbody>
<tr>
<td></td>
<td>1. Actors' status in the agency network.</td>
<td>An actor from agency A who is given a top role in interacting with agency B will be regarded as a credible representative only if his status in agency A is the same as the status of the actor from agency B.</td>
</tr>
<tr>
<td></td>
<td>2. a) Committee voting system: 1) Majority decisions control; 2) Unanimity required; 3) Plurality required. b) Level of interaction—Are the representatives cabinet secretaries, staff officers, low-level bureaucrats?</td>
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<td>Ways to Conceptualize</td>
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<td></td>
<td>1. Where does the interaction take place?</td>
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<td>2. Is the interaction formal or informal?</td>
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<td>3. Is the interaction private or public?</td>
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<td>4. Is the interaction publicly known and established or &quot;secret&quot;?</td>
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