

BROOKINGS

Report

Acting leaders: recent practices, consequences, and reforms

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For four decades, until the start of 2019, there had been only one acting secretary of defense for more than a day—William Howard Taft IV at the start of President George H.W. Bush's administration, who served while John Tower's nomination was pending and continued briefly after the Senate voted it down. While other modern presidents have pushed out their defense secretaries—Les Aspin, Donald Rumsfeld, and Chuck Hagel, for example—they managed the transitions to avoid any acting leaders. By contrast, there will be at least three acting secretaries of defense this year.

In his December resignation letter, General James Mattis offered an end date over two months out to “allow sufficient time for a successor to be nominated and confirmed,” but President Trump demanded he leave by the end of the year. Patrick Shanahan, the confirmed deputy secretary, stepped into the acting role. By the time details of family violence surfaced in his nomination vetting process for the permanent job, he had racked up almost six months in the interim position, nearly three times Taft's service.

In June, President Trump named Mark Esper, secretary of the Army, to take Shanahan's place as acting secretary and announced his intention to nominate Esper for the permanent role. Due to the intricacies of the 1998 Federal Vacancies Reform Act (Vacancies Act), as recently interpreted by the Supreme Court, Esper had to leave the acting position on July 15 when the Senate formally received his nomination. Richard Spencer, secretary of the Navy, then became the third acting secretary of defense in 2019.

While President Trump may love his acting leaders, relying so heavily on these officials comes with costs. To start, acting officials avoid the Constitution's appointments process—specifically, the Senate's advice and consent role. After several Republicans warned that they would not confirm Ken Cuccinelli to a top post at the Department of Homeland Security, the White House had the agency's acting secretary create a new position—principal deputy director—for Cuccinelli so that he could then arguably step in as acting director of U.S. Citizenship and Immigration Services under the Vacancies Act without Senate approval.

In addition, while presidents may have more sway over their acting leaders, those leaders often have less pull over the people underneath them—what the head of the Partnership for Public Service has labeled the “substitute teacher” problem. In emergencies, this can have dire consequences. David Lewis has detailed how vacancies in political positions at the Federal Emergency Management Agency, for example, contributed to devastatingly low morale among agency employees and to the agency's inadequate responses to natural disasters.

President Trump's choice of acting officials has also generated litigation. Over Thanksgiving weekend in 2017, fighting broke out over whether the Vacancies Act applies to the Consumer Financial Protection Bureau, and hence whether Mick Mulvaney, the confirmed director of the Office of Management and Budget, or Leandra English, the deputy director of the CFPB, was the proper acting director. Then, in April 2018, veterans sued when President Trump fired the secretary of the Department of Veterans Affairs and named Robert Wilkie, an assistant secretary in the Department of Defense, as the acting secretary—claiming that the Vacancies Act does not apply to firings and that the deputy secretary should step in instead. And in November 2018, multiple litigants alleged that Matthew Whitaker was barred by both the Constitution and the Attorney General Succession Act from serving as acting attorney general after Jeff Sessions resigned because he was not Senate-confirmed. These legal claims lost purchase when successors to the jobs were confirmed, but the questions remain.

In this report, I provide empirical information on the use of acting leaders since the start of President Reagan’s administration, showing what the Trump administration shares with its predecessors and where it has staked out its own practices. In addition, I briefly consider some of the costs, and some of the benefits, of agency stand-ins. Finally, I suggest several potential legislative reforms—to create more accountability and transparency and to ease leadership disruptions—in light of recent events.

Actings in Recent Administrations

There is sadly no comprehensive and accurate public source of information on acting (or even confirmed) officials in recent administrations. Using a range of sources, I created a database of confirmed, recess, and acting cabinet secretaries from the start of President Reagan’s administration to the present (July 19, 2019).[1] Some short-term acting secretaries are hard to find—not appearing on agency lists, for example. Any service (whether confirmed or interim) across two administrations counts as two observations—so Robert Gates counts twice as secretary of defense. In addition, service in multiple capacities (recess, then confirmed, or acting, then confirmed) is treated separately. My overall counts differ somewhat from previously reported tallies by [Philip Bump](#) and [Christina Kinane](#). I also report on the tenures and types of acting secretaries and examine several top positions in the Environmental Protection Agency.

Tallies of Acting Secretaries

From January 20, 1981 to July 19, 2019 (the halfway mark of President Trump’s third year), there have been 168 confirmed and 3 recess-appointed cabinet secretaries. In that same period, presidents relied on 145 acting officials—an astounding 46% of all the top leaders in this period. Table 1 breaks down these leaders by administration. In parentheses in the acting column are the number of acting officials who served at least ten days. Although all recent presidents have used acting officials in their cabinet, President Trump has turned to them far more often and for longer, given that he has served only 30 months.

Table 1: Types of Cabinet Secretaries by Administration

| President | Confirmed | Recess | Acting (at least 10 days) |
|-----------|-----------|--------|---------------------------|
|-----------|-----------|--------|---------------------------|

| | | | |
|-------------------|----|---|---------|
| Reagan | 33 | 1 | 25 (11) |
| Bush 41 (1 term) | 20 | 1 | 20 (16) |
| Clinton | 28 | 1 | 27 (11) |
| Bush 43 | 34 | 0 | 22 (13) |
| Obama | 32 | 0 | 23 (14) |
| Trump (2.5 years) | 21 | 0 | 28 (25) |

Presidents must use some acting secretaries at the start of their administrations (and at the beginning of second terms) while the traditional appointments process churns. The mid-term years usually have few acting secretaries. For instance, in his administration’s second year, President Obama did not rely on a single acting cabinet member. Presidents Reagan and George W. Bush each had one. Presidents Clinton and George H.W. Bush each turned to two. But President Trump had six in his second year (five, if you exclude Rod Rosenstein’s one-day of service (from government records) as acting attorney general before the White House picked Matthew Whitaker). With his third year at the half-way point, the current president has had seven acting secretaries serving at some point—beating out President George H.W. Bush’s entire third year by one. But H.W. Bush is atypical among recent presidents for the third year: President Reagan had three, President George W. Bush had two, and Presidents Clinton and Obama each had one.

Tenures of Acting Secretaries

Although nearly half of all the cabinet secretaries since 1981 have been acting officials, their tenures are typically much shorter. Table 2 breaks down the tenures of the three types of secretaries by administration, rounded to the nearest five-day mark.^[2] In parentheses in the final column is the average tenure, eliminating short-term acting officials of fewer than ten days. Confirmed secretaries, on average, serve much longer than acting secretaries.

**Table 2: Average Tenures of Cabinet Secretaries by Type and Administration
(rounded, 5-days)**

| President | Confirmed | Recess | Acting (<10 days excluded) |
|-----------------------|------------------|---------------|--------------------------------------|
| Reagan | 1130 | 35 | 25 (50) |
| Bush 41 (1 term) | 975 | 40 | 45 (55) |
| Clinton | 1415 | 285 | 35 (80) |
| Bush 43 | 1245 | 0 | 30 (50) |
| Obama | 1335 | 0 | 45 (75) |
| Trump (as of July 19) | 585 | 0 | 50 (55) |

Considering all acting secretaries, President Trump's have stayed longer, on average, than recent administrations. Excluding short-term acting officials, however, their tenure, *on average*, is similar to other administrations. Because there are far more long-term acting secretaries in this administration, *in total*, their tenure is much longer. Specifically, acting secretaries have served 10.2% of the days in this administration. By contrast, interim secretaries were in place for only 2.4% and 1.6% of the days in the administrations of Presidents Obama and George W. Bush, respectively, when the positions were staffed by confirmed or acting officials.

Of the twenty-two acting secretaries who had served at least 100 days (again rounding to the five-day mark), the Departments of Labor and Veterans Affairs lead in long-serving interim leadership, claiming four slots apiece. DHS, which was established only in 2003, has three (two in this administration). President Trump has the highest number on this list—with seven acting secretaries, despite being only half-way done with his third year (Presidents Obama and Clinton come in with four each) and having a Senate controlled by his party.

Types of Acting Secretaries

When President Trump chose Matthew Whitaker, Sessions' chief of staff, to step in as acting attorney general after forcing Sessions out, many commentators pointed out that having a non-confirmed acting head of the Justice Department was highly unusual in the modern era. While Whitaker is the only non-confirmed acting attorney general in my database, such acting heads are not atypical across the cabinet since the latest Vacancies Act took effect.

Under the Vacancies Act, acting officials can come from three pools: (1) first assistants to the vacant position (for a cabinet secretary, the deputy secretary);^[3] (2) Senate-confirmed officials in any agency (how Robert Wilkie served as acting secretary of Veterans Affairs); and (3) agency workers who have served at least 90 days prior to the vacancy and paid at least at the GS-15 level (Whitaker fell into this category).

Agency-specific statutes may constrain the use of the Vacancies Act. For instance, since 2016, Congress has explicitly barred the White House from turning to the Vacancies Act for the head of DHS if there is a confirmed deputy secretary or undersecretary for management. Thus, when President Trump pushed out Kirstjen Nielsen earlier this spring, he had to also fire Claire Grady, the confirmed undersecretary for management, to make way for his preferred choice, Kevin McAleenan, for the acting job.

Table 3 displays the number of acting secretaries by type since the Vacancies Act took effect, broken down by administration. I separate the final pool into two categories: long-time careerists and political officials.^[4]

Table 3: Types of Acting Secretaries by Administration (November 20, 1998–July 19, 2019)

| President | Deputy Secretary | Other PAS | Non-PAS Career | Non-PAS Political |
|------------------|-------------------------|------------------|-----------------------|--------------------------|
| Clinton | 2 | 1 | 0 | 0 |
| Bush 43 | 15 | 6 | 0 | 0 |
| Obama | 10 | 10 | 2 | 1 |

Looking at the start of administrations under the Vacancies Act, the two previous presidents drew from deputy secretaries of their predecessors, despite the party change in the White House. Both President Bush and President Obama asked three such appointees to stay on past their inauguration. By contrast, only one of President Obama’s deputy secretaries continued into this administration as an acting cabinet head—Sally Yates, whom the president quickly fired after she refused to defend the White House’s travel ban.

We do not know if President Trump did not ask others to stay or if the deputy secretaries from the preceding administration refused. The result: this president turned to non-confirmed careerists to lead his cabinet departments in his initial days and months (the White House did not formally submit Sonny Perdue’s nomination for secretary of agriculture, for example, until March 2017).

Finally, non-confirmed political officials like Matthew Whitaker are rare as acting cabinet secretaries. From other research I am conducting, they appear much more common in lower-level positions covered by the Vacancies Act.

A Look Outside the Official Cabinet: The Environmental Protection Agency

The 1998 Vacancies Act covers hundreds more positions than the fifteen cabinet secretaries. The Environmental Protection Agency is rare among federal agencies in publicly posting service dates for all its leaders (confirmed, recess, acting) in three top Senate-confirmed positions—the administrator, deputy administrator, and general counsel.^[5]

Table 4 lists the types of officials in these three positions, since the start of President Reagan’s administration for the administrator and deputy administrator, and since the fall of 1983 for the general counsel (when the Senate-confirmed office of the general counsel was created). For all three positions, there have been more acting than confirmed officials.

Table 4: Types of Officials for Three Top EPA Positions (January 20, 1981-July 19, 2019)

| Position | Confirmed | Recess | Acting | Empty |
|------------------------------------|------------------|---------------|---------------|--------------|
| Administrator | 12 | 0 | 14 | 0 |
| Deputy Administrator | 11 | 2 | 12 | 5 |
| General Counsel (since 1983) | 13 | 1 | 16 | 1 |

There have also been periods in the two lower-level positions when no one held the title, even in an acting capacity. During these “empty” periods, agencies often delegate non-exclusive functions of the position “down” to people below.

Table 5 breaks down the types of acting officials in these three positions, by Senate-confirmed officials, non-confirmed political officials, and non-confirmed senior careerists.

Table 5: Types of Acting Officials (Reagan-present)

| Position | Senate-Confirmed | Non-PAS Political | Non-PAS Career |
|---------------------------------|-------------------------|------------------------------|-----------------------|
| Administrator | 11 | 0 | 3 |
| Deputy Administrator | 5 | 3 | 4 |
| General Counsel (since 1983) | 2 | 4 | 10 |

Most of the careerists who stepped up as interim general counsel were the first assistant to the job, the principal deputy general counsel—which is not a political position. As with acting cabinet secretaries, non-Senate confirmed political officials are less common than senior careerists in important acting roles in the EPA.

Table 6 provides the total days of tenure for confirmed and acting officials in these three positions, broken down by administration, and rounded to the nearest five-day mark.

Table 6: Total Tenures of Positions by Type and Administration (rounded, 5-days)

| President | Administrator | | Deputy Administrator | | General Counsel | |
|----------------------------|---------------|--------|----------------------|--------|-----------------|--------|
| | Confirmed | Acting | Confirmed | Acting | Confirmed | Acting |
| Reagan | 2700 | 220 | 2510 | 160 | 1605 | 320 |
| Bush 41 | 1445 | 15 | 1340 | 100 | 640 | 820 |
| Clinton | 2920 | 0 | 1970 | 1970 | 1185 | 1600 |
| Bush 43 | 2680 | 235 | 2085 | 385 | 1765 | 975 |
| Obama | 2760 | 160 | 1690 | 1220 | 2505 | 415 |
| Trump (through July 19) | 640 | 265 | 465 | 580 | 560 | 350 |

If these three positions are representative of the administrative state, acting officials play a critical role in modern governance. As with cabinet secretaries, until recently, the EPA’s top leader on any given day is overwhelmingly likely to be a confirmed official—though there have been more acting than confirmed administrators since 1981. In the current administration, however, there has been an acting EPA head almost 30% of the time. But just one level down, acting deputy administrators have racked up about a quarter of the days when the job has been staffed with a confirmed or acting leader since the start of President Reagan’s administration (and more than half of the time in this administration). And a level below that, acting general counsels have been working 35% of the time there has been a confirmed or acting official from 1983 to present.

The Desirability of Acting Leaders

Acting officials rarely garner adulation. As noted above, the Partnership for Public Service, a non-partisan entity devoted to effective governance, often compares them to “substitute teachers,” who lack the necessary authority in a classroom (or agency). In [previous work](#), I joined this chorus of naysayers—arguing that acting officials (and vacancies more generally) had “significant consequences for public policy.” Specifically, I contended that vacancies contribute to “agency inaction, confusion among nonpolitical workers, and decreased agency accountability.” In essence, even though they hold the same formal

power as confirmed leaders, acting officials are less able to wield it—because of diminished buy-in from the workers below them, relevant congressional committees, and the wider public.

Changes in acting officials in this administration have generated particular concern. In late June, when President Trump pondered whether to strike Iran for downing a drone, both the outgoing acting secretary of defense (Shanahan) and the incoming acting secretary (Esper) attended a critical White House meeting. In recent months, the leadership ranks throughout the Department of Homeland Security have been shuffled, and shuffled again. In these two primary national security departments, as of July 19, there is currently no confirmed secretary of defense, deputy secretary of defense, secretary of homeland security, deputy secretary of homeland security, and administrator of the Federal Emergency Management Agency, among other important positions. Former secretary of defense, William Cohen, recently called the “leadership vacuum” at the Defense Department “needlessly disruptive.”

Notwithstanding these critiques, the traditional appointments process takes time, increasingly so in recent administrations. As I have demonstrated, over 20% of agency nominations between the start of President Reagan’s administration and the end of President Obama’s administration failed to get confirmed, with most of those returned by the Senate (nearly one-third of Obama’s nominations were returned or withdrawn). For those nominations that the Senate did confirm (sometimes on the second or third nomination), the confirmation process took two months under President Regan but increased to four months under President Obama. Federal agencies have to operate in the meantime. As Nina Mendelson has shown, while interim officials may not push out as many agency actions as confirmed leaders, acting officials make critical policy decisions, including, for example, at the EPA “reinterpret[ing] ... the key Clean Water Act jurisdictional term ‘waters of the United States,’ in response to recent Supreme Court decisions.”

Acting leaders may bring expertise at the cost of political accountability. One criticism of acting officials is that they are unqualified for their posts because they were not properly vetted by the Senate. Yet, acting officials often possess the stability, knowledge, and

management necessary for their posts. For instance, for ambassadorial posts, the State Department's foreign service officers almost certainly know more than political appointees selected as a result of their campaign contributions. For many positions, such as the general counsel of the EPA, first assistants—the default for acting service under the Vacancies Act—are drawn from the senior career ranks.

But even acting leaders plucked from the political corps may lead effectively. Until this last transition, a handful of deputy secretaries stayed into new administrations of a different party until the Senate confirmed the new president's picks. In addition, under divided government, recent administrations have relied on skilled political acting officials to take charge of important functions, old and new.

The conventional dislike of acting officials at all levels of government sits in some tension with repeated calls for cuts in agency positions requiring Senate confirmation.

Commentators and scholars, myself included, who have made these calls want Congress to use its authority under the Appointments Clause to allow the president or the head of the agency to choose lower-level officials instead. Congress, however, resists relinquishing its confirmation power—though it did agree to its elimination for about 160 positions in 2012 under the Presidential Appointment Efficiency and Streamlining Act. In some sense, the frequent use of acting officials—at least in lower-level positions—accomplishes functionally what Congress refuses to do formally. But commentators don't typically think about acting officials in this light.

Potential Legislative Reforms

If we want the federal government to function (since confirmation delays do not appear to be going away anytime soon), acting officials are necessary to fill the gaps of Senate-confirmed leadership. Federal legislation addressing vacancies in Senate-confirmed agency positions dates back to 1792. The terms have shifted over the centuries, with the 1998 Vacancies Act establishing the latest procedures for filling vacancies in these positions. In light of policy and legal concerns, some changes to the Act are warranted to foster more accountability and transparency and to ease some leadership disruptions. I flag four changes here.

First, Congress should resolve some of the arguable ambiguities of the Vacancies Act—specifically, whether it applies to firings (the statute neither bars nor allows firings explicitly), when it can displace agency-specific successions statutes (for instance, at the CFPB and DOJ), and whether first assistants can be named after the vacancy occurs (as was done at U.S. Citizenship and Immigration Services). Litigation has been brought recently over the first two issues (and presumably will soon be brought on the last), but litigation often is not the ideal mechanism to resolve such uncertainty.

Second, while the Vacancies Act clearly details who can serve as an acting official and for how long, those mandates do not vary by the level of the position. For the most important jobs, say an agency head and the next level down, the permitted pool of acting officials should be smaller (and the time limits somewhat shorter). Specifically, the third category under the Act—senior agency workers—should be restricted to senior employees who have served at the agency for a much longer period, such as five years, rather than the current 90-day minimum in the year before the vacancy. With a five-year mandate, any staff members almost certainly will be drawn from the career, and not the political, ranks of the agency, and so will possess critical agency expertise. This reform also would decrease the incentive for presidents to use the Vacancies Act as an end-run around the traditional appointments process, and improve agency governance. For instance, it would have prevented Whitaker from serving as acting head of the Department of Justice but would have allowed Adam Szubin, a long-time careerist, to serve as acting secretary of the treasury at the start of this administration.

Relatedly, the pool of acting leaders should shrink as the length of the vacancy increases for lower-level positions. For instance, while the first nomination is pending, the usual categories—first assistants, other confirmed officials, and senior agency workers—should be able to take on the acting title. But if the first nominee fails to get confirmed, the acting leader should continue serving only if she is the first assistant (before the vacancy occurs) or a senior careerist who has worked in the agency for at least five years. This would give presidents a wider pool of political officials, who presumably are more aligned with White House priorities than careerists, at the start of a vacancy in lower-level jobs, but as the vacancy drags on, presidents would have to rely on deputies or high-level civil servants. To be sure, this reform would shift power to the Senate, who may prefer the policy preferences

of careerists to the president's nominees and hence may drag out the confirmation process even longer. In addition, any acting official (no matter the level) who is allowed to continue serving while nominated should have to step down if her nomination is withdrawn, returned, or voted down.

Third, we need more vetting of acting officials, particularly those who lead agencies for more than a few days. The Vacancies Act mandates (without penalty) agencies to report the name of any acting official under the statute to the GAO. But some agencies delay in notifying the GAO, and some fail to provide the information at all. For any acting official serving more than two weeks, the agency should have to give promptly the name and background information (some modified, less demanding version of what nominees must provide) to the GAO and relevant congressional committees. Except for information normally kept confidential for nominees, the public should have access to these background materials. The Senate confirmation process may provide more accountability, but these new disclosure mandates would create needed transparency and add important constraints to the White House's use of interim leaders.

Finally, while the other proposals restrict the use of acting officials, there is one change that would grant the White House more power and help minimize leadership transitions during the traditional appointments process. Specifically, more nominees should be able to serve in an acting capacity while their nominations are pending. In 2017, the Supreme Court interpreted the Vacancies Act narrowly to allow the nominee to serve simultaneously as the acting official only if she has been confirmed to the first assistant position or has been the first assistant (where the position is not Senate-confirmed) for at least 90 days. Robert Wilkie thus had to step down as acting secretary of the Department of Veterans Affairs when he was nominated to the top job because he had not been the deputy secretary—but rather was Senate-confirmed to a Defense Department job. Esper also had to relinquish his acting title when the Senate formally received his nomination for secretary of defense—generating a third acting secretary since Mattis departed and contributing to the Senate expediting its procedures. Allowing Senate-confirmed officials, like Wilkie and Esper, to continue serving in an acting capacity if they are nominated to the open position would bring practice closer to what existed before the Supreme Court's ruling a few years ago.

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Footnotes

[1] Using data I had previously obtained from the Office of Personnel Management for other research, I had start and end dates of confirmed and recess appointees for 1981 to 2009. Almost all cabinet departments provide information on confirmed officials in the highest job (secretary or attorney general). Combining the OPM and agency-provided information with extensive searches of public material (including congressional documents, litigation materials, and news sources), I determined the start and end dates of all confirmed and recess appointees, within a few days. If someone served across two administrations, she has two observations in the database, one for service in each administration. Using those extensive searches and the gaps in service, I was able to determine start and end dates of interim leaders in these very top jobs, again within a few days. For the 145 interim periods, I was able to locate information on the specific official serving in all but 16 of them. As with confirmed service, if the interim period spanned two presidential administrations (e.g., January 19 to January 23), I broke it into two observations, one in each administration. All 16 missing periods are in the final few days of an administration or the first days of a new administration. All but one of these stints are between one and three days, and the final one is under ten days. I excluded interim periods of under a day (i.e., where the departing secretary left as of midnight, and the incoming secretary started at noon on January 20). The secretary of commerce is the only position in the database to lack a confirmed, recess, or acting secretary at any point—specifically, during President Obama's administration when the Vacancies Act time limits ran out before Penny Pritzker's nomination was submitted. I excluded the empty period at the Commerce Department in 2013 from the tenure measurements and analysis of Table 2. If included, acting secretaries (and the period when no one was in the top job at Commerce) took up 2.7% of the days in President Obama's administration. Two of the current fifteen cabinet departments came into existence after 1981—the Veterans Affairs Department started in 1989 (after being elevated from a stand-alone agency) and the Homeland Security Department commenced operations in 2003. The database includes officials for those agencies from 1989 and 2003, respectively. I am grateful for the excellent research assistance provided by reference law librarians at the University of California, Berkeley, and Stanford University, Nero Dotson, and Natalie Peelish.

[2] I rounded the tenure figures because the start and end dates sometimes conflicted across sources I consulted. I used July 19, 2019 as the end date for acting officials currently serving.

[3] No court has ruled on whether a first assistant named after the vacancy occurs, such as Ken Cuccinelli at U.S. Citizenship and Immigration Services, qualifies under the Vacancies Act. The Office of Legal Counsel initially said no; a few years later, OLC said yes.

[4] Of the acting secretaries since November 20, 1998, I could not determine with certainty the identity of only two: acting secretary of health and human services from January 19 to January 20, 2001 and acting secretary of education from January 20 to January 23, 2001. These two interim periods therefore are not included in Table 4.

[5] I did confirm the EPA's data with other sources and made some small corrections (for instance, when a start date preceded the confirmation date). The agency incorrectly lists Andrew Wheeler's end date as confirmed deputy administrator as July 7, 2018 and Henry Darwin's start date as acting deputy administrator as July 9, 2018. Technically, Wheeler remained deputy administrator until he was confirmed as the agency's administrator on February 28, 2019. Darwin officially became the acting deputy administrator on March 1. As with the cabinet secretary data, I treated service—in any capacity—across two administrations separately. Three additional items to note: First, I assume there was a sixth empty period in the deputy administrator role, from January 20, 1981 to May 19, 1981. The EPA lists nothing for that period; I exclude it from the analysis. Second, there is also a gap between April 3 and April 12, 2018 in the agency data for the deputy administrator. Because Mike Flynn could continue serving under the Vacancies Act until Wheeler was confirmed on April 12, I did not treat the short period as empty. I did not, however, add the time to the tenure of the acting deputy administrators in Table 6. Third, there is one gap in the EPA data for the general counsel—between the departure of Jonathan Cannon on July 4, 1998 and the start of Gary Guzy on November 17, 1998. Both Cannon and Guzy were acting officials. I assume this period was entirely vacant after the enactment of the 1998 Vacancies Act and count it as empty in the analysis.