Closing Military Bases (Finally)): Solving Collective Dilemmas Through Delegation

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Closing Military Bases (Finally): Solving Collective Dilemmas Through Delegation

In 1988 Congress established the Independent Commission on Base Realignment and Closure and gave it nearly complete authority to determine which domestic military bases would be closed. I analyze both the structure of the base-closing process and the procedural requirements imposed on the commission, and find that two factors explain the extensive delegation of power (which was unusual). First, legislators reduced the costs of any potential adverse commission activity by insisting that the process be nonarbitrary and by restricting the commission’s authority to a narrow jurisdiction. Second, legislators lowered the risk of political retribution by insulating themselves from the commission’s actions, providing a mechanism that allowed them to demonstrate concern for affected constituents and insuring that the public would accept the commission’s decision as legitimate.

In 1988 and again in 1990 Congress established a process designed to close unnecessary military bases, undoing 30 years of opposition to Department of Defense efforts to reduce the number of installations. Legislators created an independent, bipartisan commission (the Independent Commission on Base Realignment and Closure) and gave it nearly complete authority to select bases for closure. The most important element of the process is that Congress retained no effective means of stopping the secretary of defense from shutting down any base the commission wanted to close.1

The full base-closing process operates as follows: first, the military services submit to the secretary of defense a list of bases they wish to close. The secretary, who may add or delete bases from this list, approves the recommendations and forwards them to the Independent Commission. Using the secretary’s list as a starting point, the commission holds hearings, collects information, and determines which bases should be closed. Commissioners can close any of the bases on the list, and may even close bases that are not on the list. At
the end of this process, the commission drafts a final list of recommended closures and submits it to the president. The president, who cannot make any changes to the recommendations, either approves or disapproves the list as a whole. Upon presidential approval, the secretary of defense has automatic authority to close each base on the list unless Congress stops the process by passing a Joint Resolution of Disapproval within 45 days, again considering the list as a whole.

The new procedure has been through three iterations, with stunning results. Over one hundred major bases have been slated for closure or realignment, along with over two hundred smaller facilities (Department of Defense 1994, 133). The final round, which will probably close far more bases than any of the previous cycles, is set to begin in 1995. The success of the Independent Commission stands in contrast to the failure of the previous system, which imposed so many roadblocks and restrictions that the Department of Defense gave up even trying to close any major bases between 1979 and 1985.

The base-closing process offers an opportunity to learn more about how Congress produces collective goods. Legislators are notoriously bad at imposing costs on concentrated groups in order to create diffuse common goods; they much prefer doing the opposite, as both theory and practice have amply demonstrated (Collie 1988). The problem is particularly acute when the affected groups form geographic constituencies, rather than more dispersed economic or social interests. Yet in creating the Independent Commission, Congress established a mechanism that was guaranteed to create concentrated and substantial economic harm, all in the name of efficiency and lower defense spending. Why did members agree to such a process?

The Independent Commission worked because it solved two problems which traditionally impede efforts to produce collective goods: the general failure of individual rationality to produce collectively efficient outcomes, and legislators’ need to insulate themselves from the political consequences of unpopular decisions. Legislators agreed to restrict their own parochial tendencies by delegating authority to the Independent Commission and granting it the power to make and effectively enforce decisions on the group (saying, in effect, “stop us before we vote again”). The commission process also lowered the political risk of base closures by deflecting blame away from members. Individual legislators took no direct action to close any particular base, and constituent wrath was directed at a bureaucratic entity that was dissolved after each round.

Yet left unexplained is why Congress delegated so much authority to the commission. Both existing models of legislative delegation and
congressional practice generally predict that much tighter procedural controls will accompany such large grants of power, especially when legislators retain no effective means of reviewing the final policy. Yet the inability to closely review the final result was central to the success of the commission; the base-closing process would have failed if legislators could easily overturn the list of closures or subtract individual bases from the list. To insure success, members had to give up their review power. The task is thus to define the circumstances under which members will agree to give up their ex post powers.

Legislators will refuse to cede that power unless they are convinced that the benefits of delegation outweigh the potential costs of adverse agency action (Fiorina 1982; Hill and Williams 1993). One way to reduce the political risks of an unreviewable administrative process is to limit the domain of the agent’s authority (McCubbins and Page 1987). Legislators can accomplish this by restricting the agent’s discretionary authority to a single issue dimension. By insuring that the agent’s decisions do not cross issue boundaries, legislators can more effectively use procedural checks to constrain agency discretion. Imposing a narrow jurisdiction also facilitates the task of monitoring the agent, as both decision-making criteria and outcomes are easier to measure and evaluate. This, in turn, can enhance public perception that the process is nonarbitrary and legitimate, thus reducing political risk. As the scope of the agent’s authority broadens, the potential risks to members become higher, and any delegated authority will be offset by greater after-the-fact controls.

The base-closing process met these requirements. The commission’s authority was restricted to a narrow range and the only uncertainty was about how the costs of an agreed-on policy (closing some bases) would be distributed. Within that range the commission retained substantial discretion, but its choices were constrained by the need to apply the common standard of cost effectiveness to each of its decisions. Legislators attempted to insulate the commission from the parochial tendencies of Congress as well as from the influence of the executive branch. Finally, members had ample opportunity to publicly criticize the commission’s final determination, and in the process transform themselves into public advocates for their constituents’ interests.

Another way of lowering political risks is to obscure the connection between legislative action and policy result. The Independent Commission was clearly intended to accomplish this objective, as the timing and procedural mechanisms of the entire process were structured to provide political cover for members whose districts would suffer economic harm. As a result, legislators could take credit for the
collective benefit while no one had to pay the political cost of producing it.

I first review the existing work on legislative delegation and collective decision making, highlighting the characteristics of delegation that facilitate the production of collective goods. I apply this literature to the base-closing legislation, and show how legislators structured the process to minimize the policy and political consequences of the commission’s choices. Finally, I address the question of why the idea has not been successfully applied to other policy areas.

**Collective Decision Making and Delegation**

Military bases are a classic example of a “collective dilemma” (Cox and McCubbins 1993, 86). Individual legislators who rationally pursue their own interests want to protect bases in their districts, even though the collective result of that behavior—a bloated and costly base system—is something none of them prefer. Members fight particularly hard for their bases because a closure can eliminate tens of thousands of jobs and cause severe economic contraction. The conventional wisdom holds that base closures end congressional careers, and few legislators are willing to sacrifice themselves.

Yet by 1988 it was clear to members that the military base structure bordered on the preposterous, and it was increasingly difficult to argue that every base was essential to national security. Some of the more egregious examples of waste were Fort Douglas, an army post established in 1862 to protect Pony Express mail routes and which now sits in the middle of the University of Utah campus, and Fort Sheridan, north of Chicago on Lake Michigan, whose chief feature is one of the best military golf courses in the United States. The defense budget had been declining since fiscal year 1986 and the Department of Defense wanted to close bases to free money for higher priority uses. High budget deficits put a premium on reducing wasteful spending and the costs of retaining obsolete bases became more obvious (Armey and Goldwater 1987; Arnold 1990, 140). Everyone agreed on the need to close bases but members lacked an effective mechanism to aggregate these individual preferences into a collective product.

A broad theoretical literature on legislative decision making suggests that Congress can surmount collective dilemmas by delegating to an agent the power to make choices for the legislature (Congleton and Sweetser 1992; Cox and McCubbins 1993; Kiewiet and McCubbins 1991; McCubbins, Noll, and Weingast 1989; Moe 1984). Effective delegation requires that the agent have either the authority to
alter the incentives of legislators and reward behavior that will produce the collective output, or the ability to impose its policy choice on the legislature or obtain privileged status for its own preferences. If we consider such agents as they exist within Congress, parties are an example of the first type of agency authority and committees an example of the second.

Delegation has another advantage as well, since legislators can use the technique to protect themselves from the wrath of those who must bear the cost of producing the good; in this context, delegation can shift the blame away from legislators and onto the agent (Fiorina 1982). A particularly useful means to delegate is to secure congressional agreement on the collective good to be produced (which will generally be quite popular) and leave it to the agent to decide how the costs should be distributed. Members thus avoid taking any direct action that hurts their constituents. This is an example of policy-making under the "veil of ignorance" (Congleton and Sweetser 1992), or lack of information about the distributive component of a particular policy. As we will see, this is the precise nature of the power granted to the base closure commission.

If Congress delegates to overcome a collective dilemma, granting an agent the power to determine how costs will be distributed has one significant procedural consequence: members must give up their power to closely review the agent’s decision. The argument is simple: if members can alter the agent’s decision once made, they will face the same collective action problems that drove them to delegate authority in the first place, and the collective dilemma is merely shifted to a later stage in the policy process. In the case of base closings, if Congress reserved the right to add or delete bases from the commission’s list, the process would represent no improvement over the existing system, which had resulted in deadlock.

Congress solved this problem by giving up any meaningful power of review over the commission’s list of base closures. Members could not alter the list, but had to vote on it as a package. The Joint Resolution of Disapproval necessary to stop the process required a majority in both the House and Senate, and it was subject to presidential veto. There was no realistic chance that opponents would be able to achieve the two-thirds majority needed to overturn the closures. Once the commission had drawn up its list, the bases were as good as closed.4

Such delegation with limited ex post control presents the definitive principal-agent problem: how can legislators insure that the agent’s choices comport with broader congressional preferences?
Studies of regulatory policy-making have shown that Congress can use procedural controls to limit agency discretion, and even channel decision-making processes to favor certain outcomes. (McCubbins, Noll, and Weingast 1989; McCubbins and Page 1987; Moe 1984). Controlling the base-closing commission, however, would have been especially difficult, as many of the mechanisms that Congress uses to rein in regulatory agencies—control over future appropriations, reliance on the courts to resolve disputes—were absent. Each commission was separately established and all were dissolved at the end of their rounds (though there was some membership continuity from one commission to the next). The entire process had a definite termination date—the 1995 round—and Congress explicitly limited judicial review power over the commission's actions.

In the following section, I analyze the structure of the base-closing process and focus on the procedural requirements that constrained the commission's behavior and lowered the political risks to members. I group the procedures into two categories: controls designed to constrain the commission's discretion, and procedures designed to insure public acceptance of the final decisions and insulate members from political retribution.

**Limiting Agency Discretion:**

**Decision-Making Criteria, Insuring Political Neutrality, and Restricting Jurisdictional Scope**

Congress's rationale for restricting the Defense Department's authority to close bases, and then effectively ending it altogether in 1976, was that protection was needed against politically motivated base-closing decisions. It is easy to view this argument as nothing but a huge rationalization, but the risk of the department's caprice was quite real. As far back as 1961, the Defense Department had lied to members about whether it was considering closing a particular base, withheld information about its decision-making procedures, stonewalled when members asked for data used to make cost-efficiency calculations, failed to give adequate notification, and even resorted to overtly political closure decisions (Kaplan 1986; Twight 1989, 86–90). In his fiscal year 1991 defense budget request, Secretary of Defense Richard Cheney identified 55 bases the department intended to close or draw down. Congressional Democrats protested that the list was blatantly biased in favor of Republicans: of the 35 bases Cheney proposed to close completely, 29 (83%) were in Democratic districts. The Democratic Study Group issued a report charging that 99% of the civilian job
losses were in Democratic districts while 87% of the job gains (a result of realignment) were in Republican districts (Democratic Study Group 1990, 11). Cheney’s plan prompted Congress to reestablish the independent commission process in 1990 (U.S. Congress 1990a, 341–42).

Given the Defense Department’s history of exploiting bases for political purposes—or the congressional perception that it made political decisions—there was no chance that Congress would give up its ex post control if the Department of Defense (or, by extension, the president) got to pick the bases it wanted to close. The process had to contain some procedural controls to insure that the process was politically neutral.

A guarantee of total neutrality is impossible; all administrative procedures and decisions have a political dimension (Cooper and West 1988) and there is no way to completely eliminate discretion from the administrative decision-making process. Yet controls can still serve to limit agency discretion and insure that the agent can be held accountable for its decisions. The first control was a mechanism requiring the commission to justify its decisions using recognizable, if not completely unambiguous, standards regarding the military utility of specific installations, and a requirement that all relevant data be disclosed and subjected to independent review. The second was a set of strict membership controls designed to minimize political influence—especially Defense Department influence—over particular base closures. The third was a strict boundary on the commission’s jurisdiction, which restricted the commissioners’ residual discretion to a narrow policy area.

Limiting Discretion: The Criteria for Evaluating Bases

An ex ante control that constrained the commission’s decision-making discretion was the establishment of explicit criteria the commission had to use when deciding whether to close a base. Such procedural decision-making requirements serve two useful purposes. First, they reduce the possibility of arbitrary activity and provide important information to legislators as they monitor the agent’s behavior (McCubbins and Page 1987, 413). Second, they allow Congress to explicitly favor some outcomes over others, although only the first round contained clear examples of this. These controls were not deterministic—they did not prescribe a particular choice of bases in advance—but they did serve to set limits on the range of acceptable outcomes.

The commission, and the Department of Defense when it submitted lists in rounds two through four, was required to analyze
installations according to their military value, the costs and savings associated with closure, and the economic and environmental impact of the closures. Obviously, these criteria are extremely broad and subject to different interpretations. They also left the commission, the services, and the Defense Department with substantial discretion in how they structured their own analytical process to comply with them.

As the General Accounting Office (GAO) made clear in its evaluations, the standards used to evaluate bases were defensible, but hardly unambiguous. For example, though the GAO agreed that the 1988 commission’s analysis of bases’ military value was sound, it noted diplomatically that “there are differences of opinion on the Commission’s assessment of military value at certain bases” (U.S. Congress 1989, 300). The 1988 commission, for example, closed George Air Force Base, east of Los Angeles, in part because of concerns that congested airspace limited base capacity. Base officials, supported by the Federal Aviation Administration, disputed the commission’s judgement. The air force, however, felt that congestion was a problem (U.S. Congress 1989, 307).

Even though the analyses of individual bases left plenty of room for disagreement and interpretation, the formal criteria served the critical function of creating a written record that could be subjected to independent analysis. Congress commissioned a large number of General Accounting Office investigations of the various analyses, most of which determined that the process was defensible but not perfect (General Accounting Office 1989, 1991a, 1991b, 1991c, 1993a, 1993b). Given such a high level of monitoring, any substantial deviation from the criteria would have been discovered. More importantly, the availability of data on individual bases gave the affected constituencies a chance to review the record themselves and note any disagreements, discrepancies, or miscalculations.

The first round of base closings contained a clear example of how procedures can have substantive (and political) implications. One criteria imposed on the 1988 commission, but dropped thereafter, was a requirement that all costs of any one base closure be recovered within six years. The origin of the requirement was a mystery; it was added to the 1988 bill by the House Armed Services Committee, but nobody outside of the committee—not even the commission itself—knew who had inserted it or why it was there (Office of the Secretary of Defense 1988, 32). The provision meant that the commission could not close any large bases because it was impossible to quickly recover the huge costs of shutting down a major installation (transfer of military personnel, upgrading facilities elsewhere, property disposal, etc.) and the
shutdown itself might take several years. One not entirely surprising consequence was that few members of the House military committees had bases in their districts closed, since they tended to represent areas with large bases. A second consequence of the 1988 provision was that the job losses were small compared to the succeeding rounds.

We may infer that Congress was sincerely trying to overcome the collective dilemma of base closings by its refusal to establish other procedural controls that could have jeopardized the process altogether. During the debate over the 1988 legislation, which established the general structure of the process, members defeated a number of potentially fatal roadblocks: a provision that would have required the commission to consider closing both foreign and domestic bases in a tandem process, and an amendment that would have required the commission to certify that it had closed all unnecessary foreign bases before any domestic base could be closed. Members killed a provision to require continued adherence to the National Environmental Policy Act (NEPA) as well as an amendment to require a socioeconomic impact report on all proposed closures. Moreover, Congress explicitly exempted base closings from the “rulemaking and adjudication requirements” of the Administrative Procedures Act, and noted its intention that the process not be subjected to judicial review (U.S. Congress 1990b, 706).

In the 1990 law, members corrected one problem with the 1988 version that came close to stalling the entire closure effort. The 1988 legislation provided for automatic authorization of the necessary funding, though the money would still have to be appropriated through normal channels. The need to appropriate money for the closures gave opponents a second chance to stop the process by blocking the necessary funds. In August 1989 Congress passed the fiscal year 1990 Military Construction Appropriations with the necessary money to carry out the 1988 closings, but only after a protracted struggle (Mills 1989a, 1989b). The problem was rectified in the 1990 base-closing law by authorizing and appropriating the money up front.

Limiting Political Influence:
Membership Controls and Independent Review

Congress took great care to insure that the commission would be removed from the politics—a code word for logrolling, compromise, and cross-pressures—that characterized previous relations between Congress and the Department of Defense on base-closing issues. Congress exerted tight control over the process of selecting commission members and staff to balance partisan and agency influences, required
the Defense Department to make available to Congress all of the information it provided to the commission, and allowed the commission to ignore the service recommendations altogether when picking bases for closure.

In the 2d through 4th rounds, membership controls were tight. Though the president appointed the eight commissioners, his choices were subject to Senate confirmation. The legislation also required the president to consult with House and Senate party leaders in order to achieve a 4-4 partisan balance. The makeup of the commission clearly reflected congressional concerns about independence from the Department of Defense, as each of the three commissions were chaired by an ex-member of Congress: Former Senator Abraham Ribicoff (D.-CT) and former Representative Jack Edwards (R.-AL) co-chaired the first round, and Representative Jim Courter (R.-NJ) chaired the second and third. Courter was expected to show particular sympathy for the congressional viewpoint, as he was one of the most vocal opponents of the first commission’s decision to close Fort Dix, a major army installation in New Jersey.

Legislators also worked to keep the commission’s professional staff independent. Noting the number of Defense Department officials on the staff of the first commission, Representative John E. Porter (R.-IL) was concerned that their presence might “overwhelm” the commissioners and turn the process into “a Department of Defense judgement and not one of an independent commission” (Congressional Record 1988). In the first round (1988) Congress specified that no more than one-half of the professional staff could have held department positions in the prior year. In the second round (1991) Congress mandated that no more than one-third of the total commission staff could be detailed from the Defense Department. For the third round (1993) these restrictions became even tougher in an effort to “further strengthen the independence of the staff” (U.S. Congress 1991, 637). In addition to the overall one-third limit, no more than one-fifth of the commission’s professional staff could be Defense Department employees, no department employee could serve as lead analyst on any commission research, and no department employee who had previously worked on base-closing issues within the department could serve on the staff.

Membership controls are useful because they can predispose an agent to pay attention to informal checks, even in the absence of formal requirements and statutory direction. They are also risky, because they depend critically on mutual and voluntary accommodation by both legislators and administrators; in most cases, administrators abide by them for political reasons, not legal ones (Fisher 1991, 99–103). Yet
informal controls appeared to work well in the base-closing process, as all of the commissions acted strategically by incorporating general and informal congressional preferences regarding the final outcome.

The commission appeared to pay close attention to signals sent by House and Senate leaders. Commissioners chose to abide by the guidelines for selecting bases for closure in the first round, and noted their adherence in the commission report, even though those guidelines lacked statutory authority. The best example was the six-year payback rule, which the commissioners thought was both a bad idea and not legally binding (Office of the Secretary of Defense 1988, 32). Even so, they adhered to it because “it was clearly an expectation of the Congress and the Secretary of Defense that the payback criterion would be generally applied” (U.S. Congress 1989, 507).

Deference is not costless, however, because it can clash with the goal of independence. In 1993 Secretary of Defense Les Aspin removed two bases from the list of closures the services submitted to him, both in Northern California. His rationale was a desire to limit the economic harm to California, which was already suffering from cutbacks in defense spending, but Republicans were quick to charge that Aspin was making the process more palatable to congressional Democrats (Palmer 1993a).

The influence of the executive branch (either the Department of Defense or the president) over the commission’s work was limited by the requirement that they, too, had to approve or reject the recommendations as a whole, although the secretary of defense could change the list of closures the services submitted to the commission, as noted above. This eliminated the possibility that the president could use bases on the list as bargaining chips by, for example, offering to remove a base from the final list in return for a member’s support for an important piece of legislation. The all-or-nothing executive branch review eliminated all ex post military influence as well.

Another control designed to insure a degree of independence was a requirement that Congress have access to all data the services provided to the commission. The commission had to rely on data about specific bases submitted by the Department of Defense, which raised the possibility that the services might attempt to influence the process by providing biased data. This was not a matter of interservice rivalry because each branch’s installations were compared only to other bases in the same branch. Even so, the task of analyzing the data was difficult, as each service used different methodologies to measure the value of their respective installations. In the 2d through 4th rounds, the secretary of defense was obligated to turn over to the House and Senate
Armed Services Committees all of the information provided to the commission. This, along with the mandated review by the General Accounting Office, insured an independent assessment of the department's methods and conclusions.

Finally, Congress gave the commission the authority to add or remove installations to the list of bases submitted by the services for possible closure. This lessened the odds that a service might stonewall and refuse to identify bases for closure, try to protect an installation in a key district or state, or attempt to close a base for political reasons. In the 3d round, the commission used this power to more than double the number of proposed closures, adding 43 bases to the list of 31 submitted by the services (three of which it ultimately closed). More importantly, the commission refused to close five bases on the service list (Palmer 1993a, 1993b).

Narrowing the Issue Space: Restricting the Commission's Scope

Even with all of the procedural controls the commission retained substantial power, which increases the potential costs of abuse. McCubbins and Page have suggested that the scope of regulatory agency authority and procedural constraints are, in general, inversely related (1987, 419). The base-closing process confirms this principle: legislators counteracted the substantial discretion left to the commission by constraining the domain of its authority and limiting its ability to make judgments and trade-offs that crossed any issue boundaries. The result is that legislators faced uncertainty only about what the distributional element of the base closures would look like and avoided the risk that the commission would make policy with broader impact or force.

The main, and obvious, restriction was that the commission had the authority only to close military bases. And, in evaluating the bases, the commission was limited to the criteria set out above. The commission had no authority to make any decisions about broader military policy, defense spending, or force levels; the authority was restricted to comparing the value of a base against other bases with the same function and within the same service. Commissioners could not make any prior decisions about service missions or military strategy when considering whether a base could be closed. They could not, for example, decide among themselves that the navy needed fewer aircraft carrier battle groups, and therefore choose to close navy bases and shipyards. The 1988 commission noted that it adhered to the currently
approved force structure plans in evaluating the need for bases, even though by 1988 those plans were considered wildly unrealistic (Office of the Secretary of Defense 1988, 10). In the 1990 revisions, Congress barred the commission from looking at any public works facilities or projects not under direct Department of Defense control, a restriction designed to protect Army Corps of Engineers facilities.

**Limiting the Potential Political Harm**

There was no question that the commissions’ final decisions would be very unpopular among the constituencies who would pay the costs. Such unhappiness among constituents is dangerous for the incumbents representing them. Since no one could be certain as to how the costs would be distributed, and since members would be unlikely to approve a process that might put their careers at risk, the base-closing process contained provisions designed to limit potential political harm to any member. Members protected themselves by first, making it difficult for voters to blame their representatives for any local base shutdown (obscuring the causal chain); second, establishing a mechanism that allowed the affected representatives and senators to act as advocates for their constituents, rather than as the bearers of bad news; and finally, designing the process so that the public would accept it as legitimate and fair.

*Obscuring the Causal Chain*

The entire base-closing process was structured so that no individual member could be directly blamed for a closure in his or her district or state. To use Arnold’s terms, the causal chain (1990, 13) was sufficiently obscured so that constituents could not connect the policy result (a closed base) to any action by their elected representatives.

The base-closing process obscured the causal chain in several ways. First, by delegating responsibility for making the actual decision to a nonlegislative entity, members could credibly claim that they had not taken any direct action that affected the constituents. This fits with Fiornia’s (1982) “shift the blame” model of delegation, or Weaver’s (1988) concept of “automatic government.” Moreover, the cost of a local base closure was to some degree offset by the political benefit of cutting government waste. The decision process was split into two phases: approval of the popular collective benefit of cost efficiency and cutting spending (establishing the commission), followed by the determination of how the costs would be distributed. Arnold termed this
separation "a strategic breakthrough . . . a method that allowed legislators to vote for the general benefit of military efficiency without ever having to support a plan that directly imposed large and traceable geographic costs on their constituents" (1990, 140–41).

Second, the timing of the process was explicitly designed to minimize political harm. In the 1988 round, Congress ordered the commission to submit its recommendations to the secretary of defense by December 31, 1988, before the new Congress had even convened. The secretary had to make his final decision by January 15, 1989, and the final congressional override attempt failed in April, 21 months before the 1990 election. This, and the requirement that no closures be implemented prior to 1990, provided opportunities for extensive planning before the closures took effect, and gave constituents plenty of time to forget the votes on the initial legislation. The 1990 revisions mandated that the next three rounds take place in 1991, 1993, and 1995, and required the president to send the commission's recommendations to Congress by July 15 each year. This insured a minimum of one year between final congressional action and the following election.

Third, after 1990 there was no way to trace votes on even the initial authorizing legislation. The 2d through 4th rounds were authorized in 1990 as an amendment to the fiscal year 1991 defense budget authorization, and no record of member preferences or actions existed because there was no roll-call vote. Several years, an election, and one round of redistricting elapsed between the authorization and the next round of closures, making it utterly impossible for constituents to sort through who had supported what.

Affected Members as Advocates

Legislators, by insisting on at least one opportunity to vote on the final list of closures, created a mechanism that allowed members from affected districts to portray themselves as protectors of local interests. On the three occasions that Congress has considered a resolution of disapproval of a commission list (one for each round), affected members had ample opportunity to criticize the commission and vote against the recommendations, even though they could not stop the closures. In committee hearings and floor debates, members affected by closures were visible and active in their opposition (General Accounting Office 1991d, 1993b; Mills 1989a). This, paradoxically, allowed the affected members to become advocates rather than bearers of bad news, and they worked to protect their districts even though their efforts were certain to fail (Palmer 1991).
Senator Arlen Specter (R.-PA) challenged the legality of the base-closing process after the 1991 round targeted the Philadelphia Naval Shipyard. By arguing the case himself before the Supreme Court, he obtained valuable position-taking and advertising credit even though his effort failed; in May 1994 the Supreme Court unanimously held that the president’s final decision to accept the 1991 list was not reviewable by the courts (Idelson and Towell 1994, 1404). Success, however, is less important than making the effort, as Phil Gramm made clear during a 1985 debate over base closures: “I come up here and say, ‘God have mercy. Don’t close this base in Texas. We can get attacked from the South. The Russians are going to attack Texas. We need this base.’ Then I can go out and lie in the street and the bulldozers are coming and I have a trusty aid there just as it gets there to drag me out of the way. All the people . . . will say ‘You know, Phil Gramm got whipped, but it was like the Alamo. He was with us until the last second.’” (cited in Twight 1989, 92).

*Insuring Public Acceptance of the Result*

Delegating decision-making authority to an agent can insulate members from the consequences of unpopular policies. There is a corresponding risk, however, that legitimacy might be sacrificed in the process. If participation and representation are largely absent from an administrative process, or if the affected groups view administrative decisions as unfair or arbitrary, the public may be less likely to view the outcome as acceptable. In the regulatory realm, Congress resolves the problem by structuring the procedural aspects of administrative decision making to insure a degree of openness, public input, and judicial review. The literature on regulatory policy is full of references to the Administrative Procedures Act of 1946, which set out the procedures that administrative agencies must follow when promulgating regulations, such as publication of preliminary regulations, public hearings on those regulations prior to any final decisions, and judicial review of the resulting acts.

The 1988 base-closing law did not adhere to these guidelines, as the public did not participate in the process of defining the decision-making criteria, the commission met in secret, and even members of Congress had difficulty obtaining information about how the commission determined that a particular base should be closed. When legislators reestablished the commission in 1990, they corrected these flaws because they knew future rounds of base closings would cause far more economic dislocation than the 1988 round. The end of the cold war
meant that military spending and personnel levels were certain to drop, which would create additional pressure to close more large installations. The six-year payback provision was dropped in 1990 and job losses rose in each successive round. In 1988 the closures eliminated about 28 thousand jobs. In 1991, nearly four times as many jobs were lost (over 100 thousand), and the 1993 closures will cut about 132 thousand jobs. Job losses from the 1995 round are expected to be huge.

Since future base closings would have more impact, Congress modified the process to correspond more closely to the regulatory requirements common in other agencies. The major revisions opened up the process to include broader public participation and made the commission’s deliberations and decisions public. Unlike 1988, where the evaluation criteria were broad and lacked unambiguous statutory force, the Defense Department now had to publish in the Federal Register the proposed criteria that would be used in selecting bases for closure and solicit public comment. As noted above, the 1990 law required full disclosure of all information the Defense Department provided to the commission. The commission had to announce which bases it was considering for closure and at least one commissioner had to visit each base on the list and hear testimony from local officials and groups. All meetings, discussions, and votes had to take place in open meetings unless classified information was involved. These changes had little substantive impact but they were designed to insure the legitimacy of the process, something members knew was important. As the conference report for the fiscal 1992 and 1993 Defense Authorization Act noted, full and prompt disclosure was “a key element to public support for the base closure process” (U.S. Congress 1991, 637).

These combined efforts to minimize the political costs of the base closings were successful, as few members appear to have suffered. Only one member—Stan Parris (R.-VA)—whose district experienced a job loss from the 1988 round was defeated in next election, and he voted to approve the final list of closures. The same pattern held in 1992. According to Roll Call, “not one of the four incumbent Senators or 43 House Members who lost re-election [in 1992] did so because of the 1991–1992 round of base closings” (Cook 1993, 6).

**Conclusion:**

**Applicability of the Independent Commission Process to Other Policy Areas**

The base-closing process worked because there were both prior legislative consensus and public support in favor of eliminating
wasteful installations. The process put plenty of political distance between members and any decision to close a local base, and provided ample opportunities for members to perform constituency service and appear as advocates for their districts or states. Given this array of incentives, members were willing to delegate to the commission sufficient authority to make the necessary choices and to give up their own power to review the commission’s decisions.

The success of the base-closing process stands in sharp contrast to the failure of other applications of the delegation-limited review model designed to produce collective benefits. Congress tried to handle the 1988 pay raise issue this way, allowing a commission to make a salary recommendation that would automatically become law unless rejected by a joint resolution. In this case, however, public outrage led to a last minute vote killing the raise. “So much,” wrote Louis Fisher, “for clever delegation and deft parliamentary maneuvers” (1991, 90). Attempts to use analogous procedures for general spending reductions, such as the automatic sequestration provisions of Gramm-Rudman-Hollings, have failed because members insisted on escape clauses and accounting rules that rendered the enforcement mechanisms toothless (Franklin 1993, 37–38).

What determines whether this delegation-limited review model will work? The base-closing process demonstrates that the delegation-limited review process is viable only when the agent’s authority can be restricted to a narrow jurisdiction, and when there is prior agreement about the policy goals and instruments. The key feature of the model is the restricted ability to review the agent’s choices. On broad policies, or where there is still controversy about what the instrument should be, Congress will simply refuse to delegate enough authority to the agent to make the process work. The political consequences of adverse agency actions are too high.

The model is thus most appropriate for making distributive choices within a one-dimensional policy domain, that is, when the decisions do not cross from one issue area into another. The base-closing process was effective because members knew that the commission could only choose which bases to close, and individual bases were compared only against other bases; commissioners could not alter military strategy, cancel weapons contracts, or unilaterally lower defense spending. The independent commission idea would thus be well-suited to, say, deciding which of the Department of Agriculture’s field offices should be closed, as Senator Patrick Leahy (D.-VT) proposed in 1992 (Palmer 1992).

When questions cross jurisdictional boundaries or involve
making trade-offs among incompatible goals, legislators will insist on stronger review powers or other ex post controls that allow the affected parties to challenge or revise administrative actions. Members will insist on more control because of the higher potential costs of allowing an administrative agent to make trade-offs among dissimilar issues. This explains the failure of the attempt to delegate deficit reduction authority to an external authority (in the case of Gramm-Rudman-Hollings, the authority was the automatic sequestration rule that took effect if the deficit exceeded specified targets). Budget policy, by definition, requires trade-offs across multiple issues: programs compete against each other for funding and decision makers have to compare cuts across issue areas (say, agricultural subsidies versus defense contracts). Not only would it be impossible to agree on a common criterion of value (Which is more cost effective, milk price supports or the B-2 bomber?), it would be difficult to forge any useful consensus about what the policy output should be. No legislator will give up the power to review agency decisions in this situation, as the political risks are too great.

The base-closing process, then, cannot be replicated across all issue domains, a result consistent with the reluctance in the institutional structure of the United States to grant unaccountable authority to administrative agents. Even so, it does provide a model for the production of collective goods along specific policy dimensions, providing legislators can agree on a clear goal, identify an appropriate and limited instrument, and define the criteria that will guide administrative decision making. In these cases, legislators are more likely to delegate the necessary degree of discretion to an agent and allow the agent’s decision to be binding.

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NOTES

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1. The first round of base closings was authorized in 1988 by the Base Closure and Realignment Act (Public Law 100–526). The 2d through 4th rounds were established by the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510), which was attached to the fiscal year 1991 Defense Authorization Act. The legal requirements for base closings are set out in 10 U.S.C.S. §2687.

2. Arnold (1990) notes that Congress has implemented economic, tax, and energy policies that produced collective benefits at the expense of narrow interests, but in these cases, geographic interests figured into member calculations only indirectly,
and the groups themselves were regional (the Northeast against the oil-producing states in energy policy, for example) rather than localized.

3. The president's authority to negotiate trade agreements under so-called fast-track procedures involves a similar form of delegated power and limited review. Yet in this case, Congress plays much more of a consultative role in the process of negotiating agreements, and both houses must approve agreements before they take effect (Koh 1986).

4. None of the resolutions of disapproval came anywhere close to succeeding. The first two attempts to overturn the 1988 and 1991 lists failed in the House by votes of 43–381 and 60–364, respectively. The 1993 attempt lost in the Senate, 12–83.

5. In 1976, Congress enacted legislation that required the Department of Defense to adhere to the National Environmental Policy Act (NEPA) (42 U.S.C.S. §§ 4321 et. seq) when closing major bases. This obscure provision, which was little noticed at the time, meant that the department had to prepare an Environmental Impact Statement (EIS) for each proposed closure. The EIS process was lengthy and subject to judicial review, and opponents of any one closure could tie the issue up for years in the courts (Arney 1988, 70–75). The NEPA requirement, and other legislative provisions that prohibited the Defense Department from even studying whether a base should be closed, stopped major closures between 1976 and 1988 (Twight 1989).

6. In the end, NEPA applied to the actual steps taken to close a base but not to the initial decision to close it. This subtle difference eliminates any incentive to use the process to stall action; once NEPA is applicable, the decision to close a base has statutory force, and the act may not be used to overturn the decision. The secretary of defense must prepare an environmental impact statement only to insure that the actions taken to close a base—disposal of toxic materials, environmental restoration, etc.—comply with the appropriate laws.

7. Congress also objected in spring 1994 when civilian Defense Department officials floated the prospect of delaying the 1995 round of closings until after the election, or splitting it into two separate rounds. The House defeated a proposal to move the 1995 round to 1997 by a 362–68 vote (Idelson and Towell 1994, 1404).

8. These controls were less important in 1988 because the commission had already been established when Congress delegated authority to it. In this case, members could judge for themselves whether the members were likely to be fair and objective.

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