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Roundtable on Leadership & Administration

Leadership and Accountability

A Conversation with
John Rohr, Professor, Center for Public Administration and Policy, Virginia Polytechnic Institute and State University

and

Bradford Huther, President and CEO of the International Intellectual Property Institute and Retired Member, Senior Executive Service

Center for Public Administration & Policy
Virginia Polytechnic Institute and State University

SUMMARY REPORT

July 2006
Issue for Discussion

In a linear, bureaucratic world, accountability in the public service should be readily defined—assigned to public actors with one level reporting to, and accountable to, the next higher level.

In reality, in a constitutional republic of shared and fragmented power with both government and non-governmental actors, the question of accountability is more complex. Public administrators working in a bureaucratic framework clearly answer directly to their managers/executives and the political agency heads.

But does that answer the question of accountability?

This Roundtable will explore the question of whom leaders in the public service are accountable to and how they acquire their normative foundation for ethics and accountability.

Guest Panelists

The forum was moderated by Colleen Woodard, Visiting Professor, Center for Public Administration and Policy, and featured a renowned panel composed of Professor John Rohr of Virginia Tech’s Center for Public Administration and Policy and Bradford Huther, President and CEO of the International Intellectual Property Institute and retired member of the Senior Executive Service.

John Rohr
Professor, Center for Public Administration and Policy
Virginia Polytechnic Institute & State University

Professor John Rohr’s professional impact is global in its reach. As Louis Fisher, senior constitutional specialist with the Congressional Research Service of the Library of Congress once stated, “For the past three decades, John Rohr has been our national treasure in thinking through the relationships that exist between the U.S. Constitution and the duties of public servants.”

Dr. Rohr joined the CPAP faculty in 1979. Before joining Virginia Tech, he held teaching positions with Governor’s State University, Loyola University, the U.S. Naval Schools Command and the Department of Theology at Georgetown
University. He was also a Fulbright Research Scholar in Paris in 1990.

Dr. Rohr is the author of seven books, most recently, *Civil Servants and Their Constitutions*, published in 2002, and a vast number of articles. He received graduate degrees in philosophy and theology from Loyola and Georgetown Universities respectively, and a Ph.D. in political science from the University of Chicago.

Bradford Huther
*President and CEO, International Intellectual Property Institute*  
*Retired Member, Senior Executive Service*

Bradford Huther is currently the President and CEO of the International Intellectual Property Institute, an organization dedicated to strengthening intellectual property systems.

Prior to joining the institute, Mr. Huther served more than 20 distinguished years in the federal government. His service, focusing on intellectual property issues, included the following positions:

- Special Advisor to the U.S. Department of Commerce, as a distinguished member of the Senior Executive Service
- Associate Commissioner and Chief Financial Officer of the U.S. Patent and Trademark Office
- Deputy Director and Chief Operating Officer of the U.S. Bureau of the Census (1997-1999)

Mr. Huther received a B.A. in business administration from the University of Miami and a master’s degree in public administration from American University where he is currently a *Distinguished Adjunct in Residence* and teaches classes on public management and national administration. He is also a fellow of the National Academy of Public Administration.

Dr. Colleen Woodard
*Roundtable Moderator*  
*CPAP Visiting Professor*

As a visiting professor, Dr. Woodard teaches personnel and budgeting courses for CPAP. She has taught in other universities across the National Capital Region.

She is CEO and Consulting Director of Federal Technology Services, Inc. FTS provides independent consultation in Human Resources Management (HRM) and Training.

Dr. Woodard has 30 years’ experience as an HRM professional in the federal government, including service as the director of HRM for the U.S. Patent and Trademark Office.

In 1995 she pursued a Ph.D. with CPAP and was awarded the degree in 2000.

Her professional work and academic writings reflect an increasing interest in the question of leadership in the public service. Her passion for this issue is driving our efforts to build a Roundtable series around the topic.
**Introduction**

The Roundtable discussion focused on defining accountability and what it means in the realm of public administration and politics. To whom are public administrators accountable? Through what mechanisms are public administrators accountable? And perhaps most notably, how do public leaders today develop the normative foundation for ethical behavior and accountability?

These questions were considered using five different lenses:

1. Administrative discretion;
2. Separation of powers;
3. Dispersed public action;
4. Oversight and accountability; and
5. Accountability throughout the organization.

**Defining Accountability**

In his opening remarks, John Rohr described a recent *New York Times* article about a U.S. Department of Defense official who “governed through administrative discretion” in his day-to-day responsibilities. “He didn’t have to call the attention of his superiors to all of the issues,” said Dr. Rohr, “and he left other things aside. . . . That’s governance when you do things like that.”

He first spoke about the meanings of the words “leadership” and “executive.” The Latin word ‘execor’ is the root word for executive, he said, and it means to follow; this is not what we commonly think of when we consider the word ‘leader’. “Those of you who have served in the Navy will recall the ‘XO’—the Executive Officer on a ship. He’s the second guy who carries out the wishes of the captain.” Another example is the chief executive officer of a corporation, who “is supposed to carry out the will of the board of directors.” The CEO is meant to be subordinate to the board, but in reality, he said, it means something else in recent years. When the word is used today, “we’re not thinking follower.”

The concept of an executive as a leader is “not where the word came from.”

As a result, the use of the word ‘executive’ today is an “anomaly,” said Dr. Rohr. Its use is inconsistent with the word’s etymology, and he encourages us to consider “why did we use an old Latin word for following to describe what we call executives today?”

“Another word game is the word ‘leader’ itself,” said Dr. Rohr. For example, in the Federalist Papers, “the word leader—when it is used—is used pejoratively. . . . They don’t want leaders, thank you, with one notable exception.”

“And when they refer to leadership during the period of the Revolution, and then when the wheels had come off and the regime—even if it was a regime—that was when you needed a leader who would somehow step
forward and impose order on a decaying society, and of course that’s what you got in President Washington, he’s not hailed as a great leader when he becomes president. They don’t need a great leader. If the constitutional system is functioning properly there is no need for leaders.”

If the system is not functioning and you do need a leader, Dr. Rohr said, the real question is “how much leadership do you want?” “Leadership, at least to me, has the connotation of something that is irregular, out of the ordinary. That’s when you need your leader.”

To most, the word “leader” is a warm fuzzy,” said Dr. Rohr. “The Founding Fathers didn’t see it that way. . . . They looked upon it as a touch of demagoguery.”

Bradford Huther began his remarks by noting that he is a fourth-generation civil servant. He also observed that two of the organizations he has worked for—the U.S. Patent and Trademark Office and the U.S. Census Bureau—trace their roots to the U.S. Constitution, and are among the few federal agencies that can do so.

We often look at the executive branch as “a monolithic thing,” said Huther. “That couldn’t be farther from reality.” He noted how different the two agencies are, “politically and apolitically,” even though both agencies are part of the U.S. Department of Commerce.

Huther recalled the resources of the Bureau of the Budget available to guide public servants in the performance of their duties, essentially on matters of accountability, when he began government service as a management intern. “I also remember looking upward, at the career leadership” for insights, he noted.

Huther also commented on what he saw as the growth in accountability tools in order to limit administrative discretion. “I remember in the early [19]60s how there were just a few smatterings of things called internal audits, a little bit of an occasional grilling by the appropriations subcommittee chairman, but practically nothing in the way of the kinds of accountability measures that have evolved over the last 25 or 30 years.” For example, he noted the Chief Financial Officers Act and the Federal Financial Integrity Act.

He reflected on how the attempt to ensure more accountability in recent years has gone to the opposite extreme. The result has been that “the opportunity for administrators to be real professional bureaucrats, in the positive sense of that term, is being substantially hindered. . . . You spend more time as an administrator complying with those things than you do the things that you were appointed to” take care of.

“So I have to start from one premise: that I think the paradigm has shifted radically over the past 40 years, and I don’t
think it necessarily reached the point of equilibrium that it really ought to have, where there is a solid measure of accountability—a general constitutional purpose of accountability—versus the kind of administration discretion that’s really necessary to do the kinds of things the American people would like to see done.”

He also noted how the pressures of performance—“cheaper, better, faster”—can sometimes conflict with accountability measures. Public administrators try to satisfy these pressures while also making it unscathed through a round of upcoming audits, for example. “The tension between those two extremes, I think, is a fundamental shift that we have to try to figure out.”

**Administrative Discretion**

Since the early 1970s there has been a tendency of Congress to cut back on agencies’ administrative discretion, Dr. Rohr noted. For example, during the New Deal, agencies such as the Federal Radio Commission, the Federal Trade Commission and the Securities and Exchange Commission were all established with broad mandates from Congress. These agencies had much administrative discretion.

He explained that the core of the concept of administrative discretion is the involvement of a public administrator in the governing process.” However, Dr. Rohr did caution that all public servants are not constantly performing such acts of governance. Rather, as he quoted Kenneth Davis, “where law ends, discretion begins.” Most administrative tasks, though, are not regulated by law.

Where does accountability begin and where does discretion end? “Accountability really lies in one’s own heart,” said Dr. Rohr. Law is explicit, but discretion “is by definition without an authoritative command.”

“I don’t like the word ‘discretion’ as much as I like the word ‘power’, because I think power is what it’s all about,” Huther said. His experience is that public service is “very cut-throat. You’d better be prepared to get into the trenches and so therefore those who use what authorities that are delegated to them, or in effect, figure out ways to maneuver the authority even without it being formally delegated to them, gives you a competitive edge. And that’s what it’s really all about. You’re competing for scarce resources, you’re competing for scarce attention and priorities.”

Further, the guidance that Congress prepares is very broad, Huther noted. “But the application of those authorities, the ability to influence that policy debate—frankly, to defend the program area that you’re working in—in competition with others who are seeking the same resources that you are, is a benefit of public administration that most don’t fully appreciate.”

Dr. Rohr countered Huther’s point on power vs. discretion by further distinguishing the definitions at play, commenting that every act of power can
Accountability differs depending on where one sits; and it’s also incremental in nature,” Huther pointed out. He spoke about how until the 1980s, because of the PTO’s mention in the U.S. Constitution and “because we had organic legislation,” never went through the Congressional authorization process. As part of the transition to accountability and transparency, “we made a conscious decision that we wanted to be a part of the Congressional authorization process, in part because it would give us a way of communicating our interest in the programs and the priorities and the new directions we were seeking and to get legislation enacted that would give us the administrative discretion to do some things.”

Huther described the situation at the time at the PTO in the early 1980s when “work was piling up at the door uncontrollably” and the agency had only a limited amount of appropriated funds. The agency developed a user fee strategy in order to gain the resources needed to respond to agency demands from the public it serves, and the decision to enter the Congressional authorization process was an essential component of gaining approval for applying the user fee. “We became a very successful user fee organization in part because of the administrative discretion that we were seeking,” he said.

PTO was “given the authority to figure out: How were we going to price the products and services that we were going to perform?” said Huther. In some instances the agency relied on legislation to guide their efforts but in others “we were put on a business-like footing.”

He contrasted this flexibility with that of the U.S. Census Bureau, whose operations are subject to Congressional review every 10 years. Huther stated how there is much Congressional interest in the Census and that as a result there is less administrative discretion used on an ongoing basis.

Huther also reflected on the unsuccessful efforts in the 1980s to make the PTO a government-owned corporation. “There we wanted to say, the accountability really isn’t so much the Congress anymore, it would be a board of directors, the people who are appointed to look over the organization as if it were the rough equivalent of a private enterprise.” Dr. Rohr commented that there was good precedent in the establishment of the Bank of the United States.

The answer to the question of “to whom does an executive report” in terms of accountability, said Huther, really depends on where you sit and the kind of organization you have. “The last thing I’d want is to be given policy guidance by members of an oversight or appropriations committee that has no clue about what’s going on with the agency or really what’s important about it. They’re just not well informed enough to exercise some of the policy direction and [they may] take some of the discretionary authority away. A board of directors I think is far more flexible.”

Dr. Rohr spoke about how Watergate brought the question of ethical behavior
and accountability to the public fore. He noted that following President Nixon’s resignation, Jimmy Carter wisely made ethics and civil service reform two of the cornerstones of his platform in his 1976 campaign for the White House.

However, upon closer scrutiny, Dr. Rohr said, the ethical component of the civil service reform act that was passed in that era was essentially a financial disclosure act. “But what in God’s name does that have to do with Watergate?” he asked. “Watergate didn’t have much to do with money; it was about power. And it’s much easier to legislate about money than it is to legislate about power.” For this reason, said Dr. Rohr, “I think that what Jimmy Carter came up with was the best that he could do after the momentous scandal in the opposition party.”

The problem is, “They aimed at the wrong target. . . . Money was not the problem with Watergate,” said Dr. Rohr. “The real issue there was this abuse of power.” As a result of situations like this, where controls are hard to define, “we tend to solve the easy problems.”

Separation of Powers

How is accountability maintained in an environment where there is a clearly defined separation of powers, as stipulated in the U.S. Constitution?

According to Huther, it depends on how the tools of accountability are used. In the instance of an agency Inspector General audit or a GAO study, for example, he tended to look at those mechanisms “as a way to get free, independent verification and verification services” for the programs he managed. It was a way to obtain valuable “constructive criticism.”

“Where I see the question of ethics versus accountability going in the wrong direction is where their role has shifted to playing more of a cop,” he said. Huther questions what he sees as an over emphasis on identifying unacceptable or improper actions when “in my opinion and experience, the number of good people far outweighs the potential crooks.”

The desire for oversight sometimes was perceived as trampling administrative discretion, Huther noted. “Some of my former colleagues looked at it as being too much of a threat, to the point where it diminished their willingness to do what they were really paid to do, which is to use that discretionary authority to advance the public good.”

The knowledge that “everything you do is going to be reported up the chain and

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John Rohr, Professor, Center for Public Administration and Policy Virginia Polytechnic Institute & State

somebody is going to take a critical look at it” also has a chilling effect on the administrator’s willingness to practice entrepreneurial thinking and also on that administrator’s own professional confidence, said Huther.

Dr. Rohr discussed the impact of oversight on the administrator using the concept of the U.S. president as a “unitary executive” as Hamilton described it in The Federalist Papers. “Unity, vigor and
What kind of power does an individual who is head of an executive branch department have? The answer is executive power, “since the president can’t have all of it.”

John Rohr, Professor
Center for Public Administration and Policy
Virginia Polytechnic Institute & State University

dispatch,” said Dr. Rohr. “That’s what you want in the executive.”

“The management textbooks have interpreted that as meaning unity of command, which is what you’ll find in the corporate world or in the government as well,” he said. That is not what was originally meant by the term; what was intended was “the one-person executive.” Rather than the government managed by a three-person committee as advocated by George Mason and originally considered at the Constitutional Convention in Philadelphia, the delegates thought long and hard about having a one-person executive, especially given their very negative experiences with the British monarchy. The decision was a highly risky one, Dr. Rohr said; “in fact, so much so, that James Madison in his notes says that after the decision was taken—that we’re going to have a one-man presidency—there was a long silence. Nobody had anything to say. That’s the only time he records a silence at the Constitutional Convention among those very talkative gentlemen. But I think they realized this was something momentous they had done, and that they had better get it right.”

“And what Hamilton is arguing for in the unitary executive is not unity of command [but rather] the justification of the one-man rule,” said Dr. Rohr. He then referred to Article I, Section 1 of the U.S. Constitution, which says “all legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of a Senate and a House of Representatives.” This raises the question whether all legislative powers are vested in Congress; the answer to which is “no,” he said—only those that are granted to it.

Referring to Article II, Section 1, “the executive power shall be vested in a President of the United States of America” and comparing it to Section 2, Dr. Rohr stated, it’s apparent that the president is vested with only specific, enumerated powers and not the concept of unity of command. “It suggests that the executive power that he has is less than plenary.” Section 2 also specifies that the president can ask the principal officer of an executive branch department for reports on their respective departmental activities.

Dr. Rohr asked, what kind of power does an individual have who is head of an executive branch department? The answer is executive power, “since the president can’t have all of it.”

Dr. Rohr continued by noting how Section 3 further delineates the president’s supervisory power versus executive power, and that it gives the president the authority to designate officers to carry out tasks. Finally, he emphasizes that Section 4 states that the president is also subject to punishment if he does not adequately carry out his supervisory responsibilities in the executive branch.

Dr. Woodard asked to what degree are agencies free to carry out their missions absent constraints from the executive branch.
Huther discussed how in his experience there was little interference by entities such as the Office of Management and Budget into the day-to-day work he carried out as an undersecretary in the U.S. Patent and Trademark Office. However, he contrasted this experience with his work at the U.S. Census Bureau, where many stakeholders are affected by the outcomes and therefore want to become involved in how the task is carried out.

**Resources on Leadership and Administration**


