In Defence of Political Staff

Ian Brodie

The work of political staffers in Canadian politics is often maligned. This article argues that aides, or 'exempt staff', do essential work in Ottawa and other capitals. Far from being shadowy forces operating outside the law, political aides are in fact closely regulated and contribute to the democratic accountability of governments. Improving the quality of political staff will require better attention to their training and more stable career paths over longer periods of time.

Ministers in the Government of Canada have political aides or political staffers. They are employees whose salaries and benefits are paid from government revenues, but who, are not part of the regular public service. They are hired and fired by the minister, or the prime minister, and are permitted to be explicitly political. In the federal government they are called "exempt staff" in recognition that they are exempt from the provisions of the *Public Service Employment Act*. They are not recruited by competitive processes. They have none of the guarantees given to public servants and they are free from the strictures of strict non-partisanship.

They are not quite the same as the parliamentary aides that members of Parliament hire to staff their offices on Parliament Hill and in their constituencies. MPs manage enormous workloads from their constituents back home and the regular business of the House of Commons. Parliament gives them a budget to hire two or three people to help and I have never met anyone who begrudges MPs their parliamentary aides. In fact, parliamentary aides are some of the hardest working people in Canada and every day they help thousands of Canadians with the CPP or OAS payments, immigration files or passport applications.

Ministers have long had the power to hire political aides to help with their ministerial and cabinet work, and to do that without following the rules governing the public service itself. Thus, these days in the federal government, most ministers are charged with a department of public servants headed by a deputy minister and they are responsible for the work of hundreds or even thousands of public servants in that department. They also have a group of political aides, headed by a chief of staff, usually numbering less than a dozen. Other than in the Prime Minister's Office, a ministerial chief of staff has the pay of an assistant deputy minister or a senior director general. This arrangement was established at the outset of Mr. Mulroney's government, although political aides existed long before 1984. Although the size of each office and the pay rate for chiefs of staff have changed over the years, the overall arrangement has been constant.

The Prime Minister's Office, where I worked, is a special case. These days, as when I left, the PMO has about 80 political staffers on the payroll. The titles of the senior staff change over time, but the roles hardly ever do. The largest branch of PMO is Tour, or Operations, which handles the onerous job of moving the PM around. Then there is Correspondence, which handles the political letters and e-mails sent to the prime minister. Speechwriting, the Press Office, Appointments and Policy – these are all venerable branches of PMO. Since 2006, the PMO has had a separate Issues Management and Strategic Planning branch.

What is the justification for ministers having political aides paid out of tax revenues? Why should not political staff be paid out of the funds of the political party in power? Quite simply, it is because the government has long recognized that ministers require something more than the expert, but non-partisan, advice of the public service to meet the demands on them. To make wise policy decisions, ministers need "a combination of sound technical and political advice"[1] The Privy

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Council Office and the prime minister provide the following guidance to ministers. A minister's office is:

> "[T]o provide ministers ... with advisers and assistants who are not departmental public servants, who share their political commitment, and who can complement the professional, expert and non-partisan advance and support of the public service. Consequently, they contribute a particular expertise or point of view that the public service *cannot provide*."[2] (emphasis added)

Thus, political staff are able to draft speeches, press releases and other documents that conform to the overall political direction of the government. They keep their ministers in touch with the government caucus, their opposition critics and outside groups or experts that help serve the government's political agenda. They also provide advice to the minister about pending policy matters or cabinet or parliamentary business that must be managed in accordance with the government's political environment. These are all functions that cannot and should not be assigned to non-partisan public servants. Political aides cannot do partisan work, and so must resign or take a leave of absence from the public payroll when they work on election campaigns or party events.

Providing this support to ministers is important enough that it is rightly financed from tax revenue. It cannot be dependent on the ups and downs of party fundraising, nor should such an important support for ministers be provided entirely by lightly regulated private contributions from private donors, which is the alternative to the public payroll.

There are very few systematic studies of political aides in Canada. It seems likely that the average political aide is quite young. When I was chief of staff, the average age of a political aide was probably 30, maybe younger. I would guess that not many have much professional or work experience outside of politics, but I could be wrong. Many, but not all, get started by working on local political campaigns. Some start as parliamentary aides in the Ottawa office of a backbench MP, others start in the government caucus services office or party headquarters and a number are hired into ministerial offices right out of university. Since a minister's office is pretty small, the presence of just one or two recent grads inevitably gives the place a very young feel, but I convey this portrait of the political aide anecdotally. We need some continuing, systematic research on political aides.

The rest of the scholarly literature is largely an indictment of the role of the political aide. The most recent study is Paul Thomas' report for the Oliphant Commission. He was commissioned to look into how the PMO and the Privy Council office handle the massive volume of mail sent to the prime minister. The issue was germane to the mandate of the commission. Since this part of the commission's work reviewed matters which I oversaw, I will not comment further on that aspect of his work, except to say I was never contacted by the commission, its counsel or anyone else connected with the undertaking.

Thomas went far beyond this remit to comment on the state of relations between political aides and public servants in the federal government generally, and his comments were uniformly negative.[3] He writes, for example, about political staffers who are "relatively junior, do not understand the constitutional foundations of the political system, lack deep knowledge of the machinery of government, and do not have the training or expertise to judge the importance and sensitivity of communications" He also worries that "the expansion of the role of political staffs [might be] a sign that governments do not fully trust the willingness or the capacity of the bureaucracy to implement new policy directions" "[T]he concern about political staff," he writes, "is that they are potentially too zealous in their loyalty to the prime minister of their minister, and too inclined to see governing as a permanent campaign in which protecting the boss is the number one priority." He writes quite casually about attempts to "manipulate information" to lessen the chances of embarrassing the prime minister by covering up problems. There is, he says, a problem of the "undue influence of prime ministerial advisers."

His report was not, I would submit, balanced or even systematically executed. It is not clear how he selected the sources he consulted, and there is a distinct shortage of data or facts reported. The Prime Minister's Office filed an official response. It was prepared after I left the Office and I was not involved in preparing it, but I agree with it entirely. It describes Thomas' report as a "heavily flawed document that contains numerous errors" and refers to its "unsubstantiated claims" and lack of "authoritative sources".[4] Tom Flanagan, the noted political scientist, my former teacher and once Mr. Harper's chief of staff as opposition leader, also thought the Thomas report needed more balance.[5] I would not rely on either of them as a source on political staff, and I regret that such an important inquiry lent its name to the effort.

Another recent academic study was also prepared for a commission of inquiry, by Liane E. Benoit, for the Gomery Commission. This study is more balanced than Thomas' and comes to some useful conclusions. Indeed, we drew on the study in devising the Harper

government's first legislative initiative, the *Federal Accountability Act*, and yet even Benoit's study leans to a negative view of political staff. It refers to political staffers as "statutory orphans", and reports that "Of the many footfalls heard echoing through Ottawa's corridors of power, those that often hit hardest but bear the least scrutiny belong to an elite group of young, ambitious and politically loyal operatives," namely the exempt staff. Benoit continues:

> This group of ministerial advisors can, and often do, exert a substantial degree of influence on the development, and in some cases, administration, of public policy in Canada… These powers can and are, on occasion, open to abuse. Though unelected, uneducated in the theory and operation of the machinery of government and regularly devoid of professional qualifications relevant to the ministries with which they are involved, these individuals, by virtue of their political relationship with the party in power and/or the minister they serve, are well placed to influence both the bounce and bobble of bureaucratic-political interface and the pace and progress of public policy in Canada.[6]

Benoit surveys several scandals involving political aides, and these are serious matters. There is no doubt that some of the episodes unearthed by the Gomery Commission show appalling and inexcusable behaviour by political staffers and bureaucrats alike. That is partly why the Harper government passed the *Federal Accountability Act*, to make essentially all political aides subject to the *Conflict of Interest Act*, to prevent them from going on to lobby the federal government for five years after they leave, and to repeal the right of political aides to bypass the competitions of the Public Service Commission and move directly into public service positions. The federal government has come a long way since the days of the sponsorship scandal. The regulation and scrutiny of political aides has increased markedly since 2006.

The Regulatory Environment of Political Aides

In my view, the most difficult indictment to answer is that political aides are not clearly accountable for their actions. Benoit and others argue that the constitutional status of the political aide is ambiguous. They are not ministers, who are accountable to Parliament, nor are they regular public servants governed by the *Public Service Employment Act* and other pieces of legislation. Benoit, then, concludes they operate in a sort of grey zone. Thomas goes farther and argues that political aides are basically unregulated.

As the PMO response to Thomas' report notes, this is just flat out wrong. Political staff were made subject to the *Conflict of Interest Act* by the Harper government's *Federal Accountability Act*. The Treasury Board also has a set of Policies and Guidelines for Ministers' Offices. PCO has issued guidance to ministers that includes expectations about how political staffers will interact with public servants. And, of course, political staff are subject to post-employment restrictions in the *Conflict of Interest Act* and the *Lobbying Act*.

The major cause for concern about the regulation of political aides is in protecting the public service from undue pressure from political aides. More precisely, the worry is that political aides might interfere in matters that are in the exclusive purview of the public service - staffing matters, spending decisions or determinations of what information to release under the *Access to Information Act*. The Gomery Commission confronted several questions about political interference in public service hiring and spending. More recently, the Harper government came under fire when a political aide seems to have instructed officials on what to release and what not to release under Access to Information.

In instances of blatant overreaching on staffing, spending or access to information questions, the position of the public service is already protected by clear, powerful legislation. The *Public Service Employment Act* and the *Financial Administration Act* set out clear rules governing the hiring and appointing of public servants, and the responsibility of deputy ministers for spending decisions. Both acts were intended to insulate public servants from political pressure of all kinds – not just from political aides but from ministers as well. The *Access to Information Act* is similarly clear that decisions about what information to release and what information to withhold are entirely reserved to deputy ministers and whomever they delegate authority to under the Act. The Act does not grant any authority to ministers or their political aides. They regulate and sharply limit the authority of political aides.

There will be times when a political aide will, either inadvertently or on purpose, try to influence decisions that are properly left to public servants. In such instances, deputy ministers have clear legislative authorities. They are not only allowed, but indeed required, to stand up for their public servants and the institution of the public service generally. This may require a blunt conversation with the minister. Since deputy ministers are appointed by the prime minister on the advice of the clerk of the privy council, a deputy that faces a minister who disregards these well-established laws must take up the matter to the clerk. If the clerk cannot resolve the matter, then he or she can raise the matter with the prime minister. Since the legislative basis of the public service is well established, I cannot imagine a prime minister would

remain unresponsive to such entreaties from the clerk. The Gomery Commission rightly looked into the role of the deputy minister of Public Works and Government Services in the sponsorship scandal.

Even in areas that are not regulated by statute or Treasury Board guidelines, ministers are entirely and personally responsible for the conduct of their political staffers. This is crystal clear in the PCO guidance to ministers, *Accountable Government*. I do not think PCO's guidance means a minister must resign every time one of his or her political aides makes a serious mistake. The doctrine of ministerial responsibility has never required a minister to resign over anything but the most serious lapses or oversights. But since ministers are personally responsible for the conduct of their political aides, aides therefore have no job security of any kind, and the price of a serious mistake is often immediate dismissal. Very few political aides, once fired, are later hired back. I am simply not aware of any public service that metes out discipline so quickly for similar mistakes.

Nor is making a serious error on the job the only way political aides can suddenly be unemployed. Aides lose their jobs one month after their minister ceases to be a minister. When a minister suddenly resigns or loses an election, or if an entire government is voted out of office, aides get a few months of severance or separation pay, and may have great trouble returning to political work. A senior aide whose minister is suddenly out of cabinet may have to accept a more junior post with another minister. Most political staff deeply envy the long term job security offered to regular public servants.

Now, it is true that this kind of accountability is pretty rough. It depends entirely on the willingness of ministers and, ultimately, the prime minister to sanction bad behaviour that falls short of breaking the law. As we saw in the sponsorship scandal, this rough accountability does not stop things from getting out of control, but if ministers take a lackadaisical or even overly tolerant approach to accountability for their political aides, the ultimate sanction comes at the ballot box. The accountability of political aides is sometimes rough, but the electoral accountability of governments is much rougher.

Improving Political Staff

Flanagan writes that "Exempt staff are human beings, and like all human beings they may make mistakes; they work in a human institution, which like all human institutions, is imperfect."[7] In this way, political aides are like public servants. You cannot impugn the work of political staff by saying they sometimes make mistakes or overreach. That would be criticizing political staff for being human.

Humans can improve their skills and knowledge with appropriate training and any organization can improve its ethical performance with careful attention. Ministers' offices area high pressure environments and, as I have noted, there are not that many political aides in Ottawa. They are under pressure to keep costs down, and in such an environment it is hard to set aside the time or resources for necessary tasks like training and supervising ethical development.

Carleton University, at the behest of Preston Manning, has launched a graduate degree program in the political management program as a formal, year-long program of courses. Some of the faculty in the program have experience as political aides and one full-time faculty member has what I would consider substantial senior experience as a political aide. There is more work experience among the part-time instructors. The first cohort of students is just finishing the program and I hope they will all find good jobs when they graduate. I applaud Carleton and Mr. Manning for their efforts to create the program. Academic training will help improve the quality of ministerial political staffers.

Focused, applied, on-the-job training is also required, and is now being done by the Prime Minister's Office. I wish, frankly, I had spent more time on this sort of work in the first two years of the Harper government. Training diverts resources from other government efforts, but failure to train leaves staff with informal, uneven ideas of how they are expected to do their jobs. I gather that this training includes the formal ground rules governing political staff and protecting public servants.

Some observers argue that the federal government needs a formal code of conduct for political staffers. One study commissioned by the OECD's governance and management program recommends that the roles of public servants and political aides be set out clearly in legislation, backed up with codes of conduct.[8] I agree that setting clear expectations for political staff is easier when those expectations draw from prior experiences. An unduly formal code of conduct for political aides, beyond the guidance PCO already provides to ministers, might do more harm than good if it were to detract from the absolute accountability of ministers for their political aides. If a code of conduct implied that bad behaviour by political staffers can be defended if it fits within a strict reading of a legalistic text, then that code would impede rather than assist in their accountability. Political aides serve at the will of the minister involved, they have no particular job

security and their lack of job security is the essential corollary to their constitutional role. Any code of conduct would have to be drafted around that central premise.

Benoit's study suggests that all political staff be, in effect, certified before starting work by means of a short course run by the Treasury Board Secretariat. The idea of a mandatory course for political staff is helpful. However, I would submit that the course will only be effective if it is run by other political staff, and not by public servants. Forcing a new political aide to listen to veteran public servants explain their legal protections and powers might help protect the status of the public service generally, and any certification course should give political aides a full understanding of that status. But training for political staff is more likely to be effective if it is largely conducted by people with political staff experience. Since political staffs change with the change of government, there will be limits to how far such training or such codes of conduct can be institutionalized. The very value of political staffers is that they are not normal public servants and institutionalizing their role might help prevent some of the downside of having political staff, but it will also deprive us of some of the advantages of political staff in a democratic system of government.

Moreover, all the training in the world will only go so far in improving the quality of political staff unless we can improve the attractiveness of political staff work as a career path. We do well at recruiting young, capable, energetic and publicly spirited Canadians to political staff. We also, I think, do a good job of winnowing out innately talented staffers and promoting them to positions of responsibility. But along the way, we lose too many political aides to other careers. When an aide is fired, there is often no route back onto the career path. The hours are long, and the demands are high. And there is, I think, a view among political staffers that the longer one stays in Ottawa or elsewhere, the harder it is to make the transition to a private sector career. Moreover, because the job of political aide has no job security it is difficult to recruit mid-career and late-career people from other walks of life to work in ministers' offices. If mature judgment seems in short supply in ministers' offices, these might be the reasons. My biggest staffing challenge as chief of staff was to find really deeply experienced staff.

It is true that the *Federal Accountability Act* has made this a bit more difficult since lobbying is no longer a potential exit path for political staffers. Most political aides must now wait five years after they leave before they can lobby the federal government. That puts a burden on many former staffers. It is, however, in my view well justified and I am glad to see the recent parliamentary review of the *Lobbyist Act* reaffirm that view.

I do wonder, though, if Canada's corporate sector values the executive-level skills and experience that even very young political staffers get. Again, we do not have dependable studies, but I do not recall many political aides leaving ministers' offices for comparable jobs in the private sector. In my experience, political aides have to start again at or near the bottom of the corporate ladder. Maybe if political staff work were more valued in other sectors of Canadian society, it would also be easier to recruit mid- and late-career individuals to government service.

Some Personal Conclusions on Democracy, Bureaucracy and Political Staffers

I only had one formal introduction to public policy before I became Prime Minister Harper's chief of staff, and that was from watching the superbly crafted BBC documentary, *Yes Minister*. It looked at life inside the very top of a little known part of the British government called the Department of Administrative Services. It focused almost entirely on the working relationship between the minister, Right Honourable Jim Hacker and his permanent secretary, Sir Humphrey Appleby. When I first saw the show, I thought it was one of those great British comedies. But soon after Mr. Harper was sworn in as prime minister, I was telling a joke about the show in a group of public servants and one veteran deputy minister was quite upset. He told me that the show was not at all funny, and let me know that in Ottawa, *Yes, Minister* is seen as a documentary, which made me admire the show even more.

Hacker was a very well-meaning man. He became the minister with a dual democratic mandate: first, he was elected to Parliament, and then he was named by the prime minister to serve in Cabinet and preside over the department. Along the way, he acquired many fine ideas he would like to implement in his department.

But when it came to running the department, Sir Humphrey always seemed to hold the upper hand in his dealings with the minister. There were several reasons for this. First of all, Hacker was new to government and Sir Humphrey was a veteran civil servant. Sir Humphrey knew his way around government. Secondly, Hacker did not really know anything about his department, whereas Sir Humphrey knew a great deal, and even when he did not know something about the department he controlled the flow of information to the minister. Thirdly, Sir Humphrey, not the minister, controlled the future career paths of the public servants

working in the department. So everyone on staff had a direct interest in pleasing the permanent secretary rather than the minister. Fourthly, Sir Humphrey was very close to the cabinet secretary, the prime minister's top civil servant, so he had his own channel to the prime minister and most days it functioned better than Hacker's. And finally, of course, Sir Humphrey took a first at Cambridge, whereas poor Hacker finished with a third from the London School of Economics.

Now, the minister did have one assistant to help him do his job, and that was his private secretary, Bernard Woolley. Bernard was wise to the wily ways of Sir Humphrey. He understood the odd habits and traditions of the civil service and he was terribly sympathetic to Hacker's more altruistic efforts on behalf of the British people and the public interest. Bernard was a considerable asset to his minister, but when push comes to shove, in a true conflict of wills between the minister and the permanent secretary, Bernard was also a civil servant and Sir Humphrey was quick to remind Bernard that he, Sir Humphrey, prepared Bernard's annual performance evaluation for civil service progression. So while Bernard was a considerable asset to his minister, there were limits to his value.

You have to have a certain sympathy for the minister's plight. He was in an almost impossible position. Dispatched by his prime minister to oversee a department he knew nothing about, only to find he was outnumbered, outmaneuvered and regularly outsmarted by the loyal civil servants for whom he answered to Parliament. The viewer was led to wonder, and this is surely the lesson the producers wished to convey, whether the civil servants are working for the minister or is it actually the other way around?

Yet Hacker is the one with the democratic mandate. That presumably should matter in a country that calls itself democratic. It is true that if Hacker were smarter, he would probably be able to even the odds and ensure his democratic mandate wins the day more often. But in a democracy, the most skilled citizens are not always elected to Parliament and the best and brightest do not always end up on the government benches. As Sir John A. Macdonald is reported to have said, in response to criticism of the quality of his Cabinet, if you want a better Cabinet, send me better wood. In our parliamentary system, the prime minister selects his ministers from among those elected to the government caucus and even the very best of those members faces a very difficult job when they become ministers.

I have no doubt that the Department of Administrative Services would be better *administered* if left solely to the prerogative of Sir Humphrey and his staff. In fact, the British and Canadian governments alike would probably be better *administered* if career public servants were left to run them unburdened by ministers at all. After all, public servants are recruited on something akin to the merit principle. They are trained experts and promoted on merit. There is great appeal in the bureaucratic ideal. But even if all career officials were philosopher kings, government by bureaucrats is not terribly democratic and we know not all bureaucrats are philosopher kings, even the ones with a good first from Cambridge.

My conclusion is that *Yes, Minister* would have looked a bit different, and quite a lot less alarming for democrats, if Hacker had had some good political aides. I say aides in the plural as it is no use having just one.

I do think it is fair to criticize the show for giving the viewer a pretty narrow view of government and of public servants. They are not typically, in my experience, venal and status-driven protectors of the status quo. Public servants are often frustrated by bureaucracy and the difficulty of getting things done. They are often very demanding taxpayers themselves and usually hate waste more than other taxpayers because they have first-hand experience seeing it at work.

Satire works by exaggerating and isolating certain aspects of a situation. *Yes, Minister* was a great show but it portrayed only a partial picture of public policy at work. If we can admit that there is a lot more to the public service than Sir Humphrey Appleby, then perhaps we could also admit that the view of political staff as super partisans is also only a partial picture.

These issues are not unique to Canada. Are there ways we can improve the quality of our corps of political aides? No question! Are some political aides venal, cruel and maybe too easily tempted? No doubt, just as some public servants are. Government is a human enterprise and James Madison was undoubtedly correct that if humans were all angels, it would be easier to design a system of government.

But political staffers, at their best, are as essential to government as are public servants at their best. A.W. (Al) Johnson, Thomas (Tommy) Shoyama and Donald D. Tansley, were distinguished Canadians and distinguished public servants but so too were Jim Coutts, Derek Burney, Hugh Segal and Eddie Goldenberg.

Notes

1 Mark Schacter, "Cabinet decision-making in Canada: Lessons and Practices", Institute on Governance, 1999 p. 27.

2 Canada, Privy Council Office, *Accountable Government: A Guide for Ministers and Ministers of State*, 2011, Annex E.3.

3 Commission of Inquiry into Certain Allegations Respecting Business and Financial Dealings Between Karlheinz Schreiber and the Right Honourable Brian Mulroney. "Who is Getting the Message? Communications at the Centre of Government," by Paul G. Thomas. In *Public Policy Issues and the Oliphant Commission: Independent Research Studies.* Ottawa: Public Works and Government Services Canada, Ottawa, 2010, see pp 84, 90, 106.

4 *Response of the Prime Minister's Office to "Who is getting the message? Communcations at the Centre of Government."* Office of the Prime Minister, Ottawa, 2009.

5 Tom Flanagan, *Comments on the Topic of Exempt Staff Relating to Dr. Paul G. Thomas Draft Report "*Who is Getting the Message? Communications at the Centre of Government.*"* Calgary, 2009.

6 See Commission of Inquiry into the Sponsorship Program and Advertising Activities. "Ministerial Staff: The Life and Times of Parliament's Statutory Orphans," by Liane E. Benoit. In *Restoring Accountability: Research Studies Volume 1: Parliament, Ministers and Deputy Ministers.* Ottawa: Public Works and Government Services Canada, Ottawa, 2005.

7 Tom Flanagan, *op. cit*.

8 See OECD. "Political Advisors and Civil Servants in European Countries." *Sigma Papers*, No. 38. OECD Publishing, Paris, 2007.