

# Interest-Driven Oversight and the Failure of Congressional Control of the Bureaucracy

by

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To my parents, Jim and Sharon Anderson

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# ABSTRACT

Interest-Driven Oversight and the Failure of Congressional Control of the  
Bureaucracy

by

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Chair: Richard Hall

This dissertation presents an examination of congressional oversight of administrative agencies. In order to exert control and ensure that legislative mandates are faithfully carried out, Congress needs its members to act as overseers of the bureaucracy. I characterize congressional control of agencies as an institutional public good and argue that the chamber faces a collective action problem in providing it. The problem for the chamber is that it relies on the voluntary efforts of individual members to help advance collective goals, creating incentives for those members to shirk their oversight responsibilities. Despite these incentives, existing studies show that the chamber regularly performs oversight, suggesting that concerns about congressional control may be overstated. The explanation for oversight provided in this dissertation suggests that such conclusions would be hasty.

I depart from most literature on congressional control by focusing on the choices made by individual members, attempting to more clearly specify the individual-level incentives that lead (or do not lead) to oversight. First, I provide new evidence from individual-level behavior that members regularly make the choice to involve

themselves in oversight of agencies. Next, I propose an explanation for oversight. Instead of advancing chamber goals, I argue that members use oversight to advance the policy goals of organized interests, receiving electoral support in exchange. What appears to be active oversight is actually members selectively applying pressure to agencies in an effort to ensure that policy benefits go to key interest groups. The following two chapters take up the task of testing that explanation, looking at how the oversight agenda is set within committees and which members actively choose to engage in oversight.

By highlighting a disconnect between the needs of Congress as an institution and the incentives faced by individual members of Congress, this dissertation calls into question the ability of Congress to collectively defend against Executive Branch encroachment.

## CHAPTER I

### Introduction

*“Quite as important as legislation is vigilant oversight of administration”*

- Woodrow Wilson, *Congressional Government*, 1885

*“When the incentive isn’t there, you are simply not going to get oversight.”*

- Richard Fenno, *Testimony at Hearings of the Bolling Committee*, 1973

Delegation of policymaking authority to agencies involves a fundamental trade-off between administrative efficiency and political control. A rich literature is devoted to understanding how congressionally designed rules and procedures can aid the chamber in achieving control of administration. Rules and procedures, however, are not self-executing. Congress depends on the voluntary effort of its members to monitor agencies, enforce congressional mandates, and if necessary, alter the terms of delegation set out in statute. What, if anything, drives members to perform this institutional maintenance is the focus of this dissertation.

## 1.1 Oversight and Political Control

In 1946, Harry Truman signed into law the Legislative Reorganization Act, an attempt to fix a committee system that was overly complex and lacked clear jurisdictional boundaries. Among the reasons for this re-organization was the fact that the internal organization of Congress was ill-equipped to go toe-to-toe with an Executive Branch that was steadily gaining in power and administrative responsibility. While Congress continued to be responsible for passing laws and appropriating funds, the rapid expansion of the federal government into policy areas in which it had previously been uninvolved brought with it a reliance on unelected actors within the Executive Branch to make important choices about how policies would be implemented. As part of the LRA, Congress directed its newly reorganized committees and subcommittees to engage in “continuous watchfulness” of the implementation of laws by agencies in their jurisdiction. The primary designers of that bill noted that “without effective legislative oversight of the activities of the vast executive branch, the line of democracy wears thin,”<sup>1</sup> suggesting that rigorous oversight of administration was necessary to avoid a complete concentration of power in the Executive Branch.

The Madisonian solution to problems of encroachment is simply to create institutional procedures by which one branch can assert authority over the other. Given the authority to check the actions of another branch, it was thought that each would act to protect their constitutionally defined authority against the advances of the other branches. Congress clearly has such powers, being in control of both the statutes from which agencies derive authority and the budgets from which agencies get the funds necessary to implement policies. Further, members of Congress value their authority. Scher (1963) describes members of Congress speaking of a need to maintain congressional prerogatives and ensure that agency interpretation of statutes is in line with what the chamber intended. The question that has plagued Congress for the past 70

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<sup>1</sup>Quoted in Galloway (1951, p. 59)

years is whether it is up to the task of exerting control, a substantial undertaking that observers have regularly charged is beyond the chamber's grasp. If members of Congress have both the means and the motivation to protect against ambitious agencies, why has Congress struggled to exert meaningful control over agencies?

The focus on oversight both in the LRA and beyond reflects what many see as the major issue factor that undercuts Congress' ability to exert control: poor information about agency activities. The LRA's call to "continuous watchfulness" is an acknowledgment of the fact that Congress is ill-equipped to monitor all but a small fraction of agency activities. This was true in 1946 and is even more true today, as the scope of regulatory, distributive, and redistributive policies primarily implemented by Executive Branch agencies has only increased. Making matters worse, bureaucrats face pressure from the President and career and policy-minded bureaucrats have strong incentives to conceal information and actively mislead Congress about their actions. Absent the ability to observe and evaluate the actions of federal agencies, congressional threats to invoke their *ex post* mechanisms of control ring hollow. If Congress was able to effectively monitor agencies, it was thought that the chamber could use its checks over the Executive Branch to ensure that the policies implemented by agencies reflected the demands of the chamber.

While oversight aimed at helping the chamber gather information and protect legislative prerogatives is in the interest of the chamber, it is not necessarily in the interest of the individuals who serve in that chamber to perform this service. Control of administration is problematic because it requires the effort of individual members to provide. In effect, the chamber delegates the responsibility to monitor the Executive Branch and enforce acts of Congress to its members, but lacks any formal means to ensure that this activity takes place. Oversight requires high costs in terms of member time and staff, both of which can be put toward other uses, and returns little in the way of electoral benefits. Oversight is classic "work horse" behavior in

which individuals act on behalf of the chamber because it is the right thing to do. Unfortunately, that makes it exactly the kind of activity that Mayhew (1974) says that legislators will avoid.

Congressional control of the bureaucracy is an institutional public good, enjoyed by all members even when they take no part in making sure that control is maintained. Control over agencies is a broad term that can encompass a number of related but distinct goals. Dodd and Schott (1979, p. 156) identify five such goals, all of which reformers of the 1970's believed to be attainable if Congress actively performed its oversight function. These goals include agency adherence to legislative intent, ensuring that policies were having their intended effect, preventing waste and fraud, and ensuring that relationships between agencies and their clientele groups did not become overly cozy. Every member benefits when they know that their legislation will be faithfully implemented or they learn whether or not a bill passed by the chamber is solving the problem it was intended to solve, but taking the costly actions to provide these goods does not provide the individual member with any kind of selective benefit. This kind of situation where individuals in an organization are expected to act in the collective interest despite having to bear individual costs are exactly the situations in which incentives to free-ride arise (Olson, 1965). Why should any one member use their own time and staff to advance the goals of the chamber when they could wait for their colleagues to do it?

By the late 1970's, a strong consensus had emerged around the idea that agency decisions occurred largely independent of Congress. Dodd and Schott (1979, p.2) summarize this position well, describing the federal bureaucracy as a "prodigal child," that had "taken on a life of its own and ... matured to a point where its muscle and brawn can be turned against its creator." According to this view, there was simply no way in which Congress could match wits with the large and highly technical agencies it had created, making oversight and congressional control something of a

pipe dream. As such, it became something of a stylized fact that oversight was a “neglected function” of the chamber, a collective responsibility that the individuals within the chamber systematically failed to carry out (Bibby, 1968).

## 1.2 The Institutional Foundations of Political Control

Around the time of Fenno’s testimony quoted at the beginning of the chapter, the tone of scholarship on the relationship between Congress and the bureaucracy began to change markedly. Scholars re-emphasized the ability of Congress to leverage its institutional powers to create incentives for agency responsiveness. Early empirical work in this domain convincingly showed that whatever Congress’ deficiencies in oversight, agencies did seem to make decisions with key members of Congress in mind (Ferejohn, 1974; Arnold, 1979). Why this would happen in the face of a dysfunctional monitoring system was unclear, but early works in what came to be known as the “congressional dominance” literature suggested that Congress’ *ex post* powers must have been credible enough to induce *ex ante* responsiveness. If this was the case, and agencies were highly responsive to the chamber, it was thought that control could be maintained even in the presence of low levels of oversight, and that what appeared to be neglected oversight was actually an indication that Congress was pleased with agency performance (Weingast and Moran, 1983).

This initial wave of congressional dominance papers provided the basis for an institutional explanation for congressional control, but still had to wrestle with the problem that threats to use *ex post* sanctions require active monitoring. Changing statutes or engineering a major change to budgets is a costly endeavor for members of Congress which they are unlikely to undertake absent information regarding a strong need for change and a clear legislative fix to the problem. As such, the chamber is unlikely to respond with any of its major punishment mechanisms absent an effective means of detection. If the principal cannot monitor their agent and collect information

about the agent's actions, there is no credible threat of punishment.

Building on the findings of bureaucratic responsiveness, scholars began to emphasize Congress' *ex ante* powers in tandem with its ability to punish *ex post*. In a series of influential articles, McCubbins, Noll, and Weingast articulated the theory of control via administrative procedures, focusing on the procedures that bureaucrats must follow when they attempt to change status quo policies (McCubbins, Noll and Weingast, 1987, 1989). Whereas the literature on *ex post* controls focused on the tools available to punish agencies conditional on a violation being detected, the administrative procedures literature focused on the ability of *ex ante* tools to aid in detection. By putting in place procedures such as notice-and-comment, reporting requirements, or requirements that key interest groups be consulted in the process of rulemaking, it was argued that Congress could "stack the deck" in favor of its preferred outcomes, all without having to engage in rigorous oversight. Instead, the time and effort needed for oversight could be saved for the out-of-equilibrium cases where agencies ran afoul of the preferences of key congressional informants (McCubbins and Schwartz, 1984).

Discussion of *ex ante* controls soon expanded to questions of statutory design, acknowledging the ability of laws to limit the feasible range of actions of agencies. Ultimately, decisions to delegate are made by Congress and, if the chamber controls little of what happens after delegation, it can simply choose not to delegate or add restrictions on what agencies can do. For example, Epstein and O'Halloran (1999) find that when control of government is divided (meaning congressional-executive preferences diverge), Congress chooses to delegate less. Likewise, Huber and Shipan (2002) show that legislatures with higher capacity to design specific legislation are less inclined to delegate their power.

### 1.2.1 Is Oversight Necessary?

The past 50 years have seen oversight go from Congress' one and only hope for achieving control to an afterthought. By choosing the right levels of delegation and correctly specifying administrative procedures, it is thought that oversight is largely incidental to congressional control. While administrative procedures assist in ensuring bureaucratic responsiveness, to conclude that they obviate the need for oversight would be premature.

First, while administrative procedures are often portrayed as a way to put adherence to congressional goals on auto-pilot, the very procedures intended to constrain bureaucrats are administered by those same bureaucrats. Potter (2014) is the first to note this crucial limitation on the power of administrative procedures, noting that just as administrative procedures were a strategic innovation by Congress to constrain agencies, bureaucrats have themselves innovated to structure the process of rulemaking to their own liking. Bureaucrats have the ability to make highly consequential procedural decisions to help shield their decisions from scrutiny, a check on administrative procedures that may imply that the effect of those procedures has been overstated.

Even in a world where administrative procedures are implemented faithfully, oversight is a necessary part ensuring that the chamber's mandates are carried out. Delegation begins with Congress passing a law that sets out terms for what an agency is to accomplish, how they will accomplish it, and what resources they will have at their disposal. Congress chooses to delegate to achieve a specific policy goal, but makes these choices (budget, statutory authority, administrative procedures) with imperfect information about the mapping between the terms they dictate to the agency, and the ultimate policy outcomes that will occur. This problem of incomplete information is similar to that examined in Krehbiel (1992), but with the added element that policy outcomes are also a function of choices made by agencies.

After policies are implemented, Congress needs to detect whether or not the terms of delegation set out in statute have resulted in the intended outcomes. This stage, where Congress attempts to detect problems, has been the primary focus of the literature on congressional control, and is where administrative procedures are most effective. Administrative procedures aid in detection by structuring the information available to the chamber through requirements on what groups must be consulted by agencies and the set of information that agencies must make public before proceeding with a major regulatory action. Empowering groups to engage in “fire-alarm” oversight allows for Congress to be confident that any violation of legislative intent with potential electoral ramifications is brought to their attention.

Detection, however, is only the first step for the chamber. Upon learning of an alleged violation, the chamber faces a choice about how (or whether) to use their legislative power to address that problem. The chamber finds itself back where it started, needing to make a set of choices about delegation that they hope will better accomplish their goals. Again, the chamber requires information about what measures to take so as to produce better outcomes. Unfortunately for Congress, fixing agency policies is not a simple process. The mapping between intended outcomes and actual policies can be distorted for a number of reasons, each of which suggests a different congressional response. Policies may be ineffective because ideologically minded bureaucrats disagreed with the aims of the policy, because the bureaucrats charged with implementing policy were lazy and wasteful, or it may simply be the case that the policy was poorly designed. Some of these problems would necessitate narrowing the bounds of statutory authority or reducing budgets, but some problems require exactly the opposite.

The fundamental point in this discussion is that when it comes time to do something about violations of legislative intent (intentional or unintentional), the chamber requires information about what the bureaucracy did, why they did it, and how things

would be different if the chamber were to alter the terms of delegation. They need to know which agencies, bureaus, or offices can or cannot be trusted to carry out Congress' objectives. It is oversight, either taking place preemptively or in response to a problem, that provides provides these crucial pieces of information and, by creating the conditions that make informed collective choice possible, make threats to alter statutes credible. So while oversight may not be the most efficient way to detect problems in the first place, it is an important part of congressional decisions about how to remedy problems once they have been detected.

### **1.3 The Puzzle of Oversight**

While the chamber needs the labor of its members to help control the bureaucracy, no one member has any specific responsibility to provide that labor. Loose jurisdictional rules have evolved over time, but having the ability to perform oversight is different from actually choosing to do it. Oversight is the product of individual decisions about allocation of effort and our best understanding of how members make those decisions suggest that oversight should be ignored.

And yet, oversight is a routine part of congressional activity. Despite the concerns and stylized facts, individual members regularly choose to partake in the oversight of federal agencies, doing so over a range of policy areas and agencies. Chapter 2 goes into more depth on how much oversight is performed and how different committees organize oversight activity, but suffice it to say that the type and amount of oversight that we observe is inconsistent with the kinds of Olsonian free-rider incentives outlined above. If it is the case that either members willingly act to protect the chamber's legislative prerogative or that a mysterious set of congressional institutions provide sufficient incentives to do so, the normative problems underlying delegation are substantially reduced.

One potential explanation would be that the oversight we observe is merely the

kind of fire-alarm oversight described by McCubbins and Schwartz (1984), aimed less at providing public goods for the chamber than ensuring that powerful interests receive policy benefits. That seems not to be the case, however, as the accumulated empirical evidence demonstrates that fire-alarm oversight is a small part of oversight activity (Aberbach, 1990; Balla and Deering, 2013). Most oversight is simply not aimed at putting out fires. Oversight is often speculative, positive in tone, and highly technical, all things that reformers have long demanded and that make little sense in the classical principal-agent framework.

## 1.4 Overview of the Argument

If members of Congress are choosing to contribute to chamber-wide efforts at monitoring agencies and ensuring that agency actions align with congressional intent, we might conclude that the prospects for political control are substantially rosier than is often believed. The evidence collected previously and presented here in Chapter 2 shows that oversight is routine, occurring across a wide variety of contexts and with degrees of participation similar to non-oversight hearings. If, as Aberbach (1990) argues, oversight is not simply a reaction to previously identified problems but a wide (if overly complex and uncoordinated) effort to engage in substantive monitoring, our evaluation of Congress' ability to act in its own collective interest should improve.

The purpose of this dissertation is to evaluate whether such conclusions are tenable. Instead of assuming that observed patterns in oversight are the product of members selflessly contributing to the good of the chamber, I attempt to explain those patterns in a framework that is consistent with our beliefs about the sources from which legislators derive their utility.

My argument for oversight activity relies on electoral incentives, arguing that oversight in the forms we observe can have substantial electoral benefits for members. Unfortunately for the chamber, those benefits come from outside of the chamber, not

within. Members, I argue, perform oversight of agencies in order to attract electoral support from the interest groups affected by the policy decisions of those agencies. Thus, their priorities when conducting oversight are not to advance the goals of the chamber, but to advance the goals of key interest groups. This leads oversight to be highly selective, with active oversight of agencies dominated by a handful of members who are both highly intense and likely to be unrepresentative of the chamber. While the argument that members want to direct policy benefits to powerful supporters is not new, I suggest that oversight, even in the puzzling forms we observe, plays a key role in ensuring agency responsiveness to the demands of individual members and, by extension, to the groups they represent.

I argue that instead of oversight serving as an attempt to monitor and publicly reveal information about agency performance, that oversight should be thought of as a means of signaling by members both to agencies and interest groups. By engaging in costly oversight, members can signal to agencies that they are concerned with agency policies and that decisions made by the agency will have consequences down the line. In cases where agencies believe those threats to be credible, they will respond and tailor policy so as to minimize costs (or maximize benefits) from the member. Interest groups provide the crucial link between oversight and re-election, as their desire to be represented by members who have the power to deter harmful decisions by an agency leads them to offer electoral support in exchange for the member's costly signaling. Insofar as the interests incentivizing oversight are unrepresentative of the chamber's preferences broadly speaking, oversight may serve as a mechanism by which agency policies are made *less* representative of the chamber.

## **1.5 Outline of the Dissertation**

Due to the fact that the study of oversight has largely fallen out of favor in the past three decades, we have little in the way of simple empirical facts about the conduct

of oversight. Chapter 2 sets out to remedy this lack of knowledge, introducing a new source of data and investigating some potential ways in which oversight might be said to be neglected. I use the texts of hearings to train a set of machine learning algorithms to automatically code hearings, finding that oversight is a major part of congressional activity, but one that varies within and across units. In addition, I attempt to provide evidence that the puzzle of individual oversight activity is actually a puzzle, providing the first quantitative attempt to examine patterns of member participation in oversight. While I do find some evidence that oversight hearings are less well-attended than non-oversight hearings, the rate of participation in oversight hearings is far too high to support the stylized fact of widely neglected oversight.

Having established that oversight does occur, chapter 3 turns to the issue of explaining why. I argue that regular oversight activity need not imply that members of Congress actively work to provide public goods for the chamber. The theory emphasizes that members do have selective incentives to engage in oversight, but that those benefits come from outside Congress, not from within it. Members are driven to perform oversight to advance the policy goals of key interest groups and obtain electoral resources from those groups. What appears to be congressional oversight is intended to serve the constituency demands of individual members, resulting in oversight of a given agency being dominated by the members representing high-demanding interest groups affected by that agency's policies.

Chapters 4 and 5 set out to test two implications from the theory. First, I examine the process by which agencies come to be salient targets of oversight for committees, a subject that is central to the study of oversight but has received little empirical attention due to limitations in previously available data. I argue that we should think of committee and subcommittee chairs as key agenda setters in the oversight process who can use their scheduling power to emphasize agencies that are high constituency priorities, finding evidence that committee agendas change in response

to the demands of the committee or subcommittee chair.

Chapter 5 sets out to test what I take to be the key implication of the theory - that oversight of a given agency will be attended to primarily by members representing politically active organized interests affected by that agency. I test this proposition using a case study of oversight of the agencies tasked with regulating the financial services sector, finding that oversight of these agencies is attended to by a highly unrepresentative subset of the chamber. The members who attend to oversight of these agencies are extreme relative to both the chamber and the Committee on Financial Services, suggesting that the patterns are not simply a function of sorting onto committees. This result highlights the importance of focusing not only on whether oversight is being performed, but who is performing that oversight.

I conclude the dissertation with a discussion of the implications of this theory and findings for the ability of Congress to collectively protect itself against bureaucratic drift, and evaluate various proposals for reforming oversight. Most attempts to reform oversight are aimed at encouraging more oversight by making it easy for members to do. The findings here suggest that the problem may not be finding members willing to perform oversight, but incentivizing oversight for members whose interests are better aligned with the chamber.

## CHAPTER II

### Congress' Neglected Function?

Oversight is critical if Congress is to maintain control over policymaking, but members face weak incentives to perform oversight. This has led decades of scholars to presume that oversight is neglected, with foundational literatures in political science aiming primarily to explain how congressional control of agencies can be maintained in the absence of oversight. Members, it is argued, simply are not capable of keeping track of all of the things that the bureaucracy does, and even if they could they lack the expertise necessary to design policies better than those to whom policymaking authority was delegated. As the bureaucracy has grown in size, power, and technical complexity, the mismatch in the bureaucracy's ability to make policies and the chamber's ability to oversee them has only become more pronounced, creating even greater incentives to abandon efforts to monitor agencies. It would seem, then, that the chamber is ill-equipped to protect its legislative prerogative.

In response to increasingly pessimistic evaluations of Congress' performance, the congressional dominance literature emerged and emphasized the powers that Congress has to affect the utility of bureaucrats, as well as institutions designed to make threats to use those powers more credible. Agreeing that oversight was unlikely to turn up a great deal of valuable information, scholars in this literature emphasized institutional solutions intended to act as substitutes for oversight. These *ex ante* controls make

the prospects for political control of the bureaucracy substantially rosier as they can reduce the costs of monitoring and restrict the levels of flexibility enjoyed by bureaucrats. According to this literature, Congress' power comes from the ability to set levels of discretion within a law and to select administrative procedures, the rules the bureaucracy must follow as they attempt to alter the status quo (McCubbins and Schwartz, 1984; McCubbins, Noll and Weingast, 1987, 1989; Bawn, 1995; Epstein and O'Halloran, 1999). These mechanisms, combined with a series of findings that federal agencies do appear responsive to the demands of Congress, suggest that Congress has been able to use its institutional powers to affect the decisions of bureaucrats and that a lack of formal oversight may not be equivalent to Congress abdicating its oversight responsibilities (Arnold, 1979; Weingast and Moran, 1983; Shipan, 2004).

While the past three decades have largely focused on explaining how both political control and a lack of oversight can coexist in equilibrium, what evidence we do have suggests that oversight is not neglected to the degree that many believe. It may be true that the levels of oversight we observe are insufficient to the task of controlling the bureaucracy, but they are not trivial. Aberbach (1990) shows that each Congress features hundreds of non-legislative hearings and that the number of non-legislative hearings rose along with the size and scope of bureaucratic power in the 1960's and 1970's. Expanding his analysis through the 1990's, Aberbach (2002) finds that while the increase in oversight hearings slowed through the 1980's and 1990's, the decline in Congress' legislative productivity led to oversight hearings increasing as a proportion of all hearings. The same patterns hold in McGrath (2013), who uses a key word search to identify oversight hearings in the post World War 2 period and finds that modern congresses conduct between 400 and 800 days of oversight hearings in each two-year session.

The accumulated evidence suggests that the stylized facts are incomplete, if not totally wrong. The purpose of this chapter is to provide a further examination of

the stylized fact of neglected oversight, examining different ways in which oversight might be neglected and evaluating whether those find any support in the data. The disconnect between perception and reality may be less about whether oversight occurs, but how, where, and on what topics it is performed. It may be the case that previous studies have overstated the amount of oversight, that oversight is concentrated in a small number of committees, or that generally poorly attended and avoided by members. In the following section I introduce a method to identify oversight hearings using a set of supervised learning algorithms and the texts of over 12,000 hearings. I use this data to subject each of the above explanations to data, finding them wanting. Oversight is regularly performed across all committees, involves a range of agencies, and, most importantly, is not ignored by members.

## 2.1 Data

To begin to investigate how oversight is conducted I turn to the Government Printing Office’s (GPO) Federal Digital System (FDSYS). The FDSYS is a collection of government data that includes the texts of congressional bills, the Congressional Record, the Code of Federal Regulations, and various Presidential documents. For my purposes the most important part of FDSYS is the collection of congressional hearings, which contains the full text transcripts of a large and growing number of hearings. Included in these texts are pieces of information such as which members were present, which non-congressional actors were called to testify, which members made floor speeches, and generally what was said by each actor in the hearing.

Hearings are what most people think of when they consider oversight and the oversight conducted through congressional hearings is the source of most of our stylized facts regarding how (and how much) oversight is conducted. Empirical investigations have also relied primarily on hearings to measure oversight, generally focusing only on broad information about hearing topics, or going into detail on a very small number

of hearings in a specific policy area (Aberbach, 1990; Hall and Miler, 2008; Minta, 2011). However, by exploiting new technologies and advances in computing power, we can extract useful and extremely detailed information from hearing texts without having to take the time to hand code all of the information provided in the transcripts. This data offers a means by which we can learn about how members choose to engage in oversight and the conduct of oversight more broadly without incurring the substantial costs associated with hand-processing a large number of documents.

While hearings are the most frequently analyzed form of oversight, they are only one way in which members of Congress oversee the bureaucracy. In the absence of hearings (or as a substitute for hearings), members can contact bureaucrats directly to ask questions or offer recommendations. In addition, a member wanting to learn about the activities of a specific agency or department can enlist the Congressional Research Service to summarize information about a program in a way that makes program specifics easier for members to comprehend.

The fact that hearings are not exclusive among forms of oversight may be a problem both for the claims of this chapter (that oversight is not neglected), and the claims going forward (that oversight is driven by constituency demands). Given my data, I cannot say whether or not alternative (and potentially more effective and therefore normatively desirable) forms of oversight are neglected in a meaningful sense. Anecdotal evidence suggests that contact between congressional staff and agencies is common (Arnold, 1979; Aberbach, 1990), and casual conversation with congressional staffers suggests much the same, but there is simply no publicly available data that allows researchers the ability to observe things like direct contact by members to agencies. All I can show here is that one particularly prominent form of oversight is seen to regularly.

Whether ignoring different forms of oversight is a problem for evaluating the effect of constituency demands depends on the degree to which one believes that those

pressures would effect one kind of oversight and not another. For example, perhaps members who contact agencies directly differ in some way from the kinds of members who take part in oversight hearings. Lacking data on alternative forms of oversight, I cannot test whether this is the case, but there is little reason to suspect that the patterns uncovered through hearings should differ substantially from alternative forms of oversight. The members who want to signal a high degree of intensity through hearings should be the same members who want to signal intensity through alternative avenues. Patterns observed in the chapters to come should be discounted insofar as the reader believes that these non-observable forms of oversight would produce a more representative group of overseers.

Alternative measures could potentially derived from reports by government research agencies like the Congressional Research Service or Government Accountability Office, but in both cases reports cannot be linked back to an individual member. Instead, reports are addressed to a committee or committee leadership, making these a potentially good measure of committee oversight activity but unusable for individuals. Contacts from members to bureaucrats about specific programs would be an appealing way to measure oversight activity, but these records can be obtained only through a Freedom of Information Act request that bureaucrats as well as members of Congress would prefer to keep from being revealed publicly<sup>1</sup>.

The GPO collection of hearings goes back as far as 1993 and is regularly updated to include new hearings, usually within a few months of being held. FDSYS contains 12,665 House hearings and 7,605 Senate hearings, though I focus here on the House. For the House, the data contains hearings held by 25 different standing (Agriculture, Transportation, etc...) and ad hoc (Congressional-Executive Commission on China, Select Committee on Energy Independence and Global Warming) committees. In

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<sup>1</sup>As an example, the cost to obtain a set of applications for the TIGER grant program along with copies of member emails in support of the applications was estimated by a Department of Transportation to be \$65,000.

addition to the texts of the hearings, each hearing carries an accompanying page of .xml code containing the name of the hearing, the committee or subcommittee holding the hearing, the date, and the identities of all witnesses called in to testify at the hearing.

### **2.1.1 Coding**

In order to investigate how oversight is conducted it is important to be able to identify oversight hearings, which is more difficult than it may initially seem. Most hearings are either focused on design of new legislation or review of existing programs, though there are hearings that do not fit neatly into either. Some are both legislative and oversight. Many involve reviews of general problems involving agencies, but are looking to agencies more for suggestion than scrutiny. The purpose of this section is to make the case for the operationalization of oversight used in the dissertation and to make the case for why using supervised learning methods can aid researchers in the process of classification.

A basic condition for a definition of oversight is that it involves actions by members of Congress, acting collectively or on their own, to review (either pre-emptively or as a reaction to) agency decisions. This could involve review of the implementation or effectiveness of an existing program or it could be examining what an agency has announced that they will do in the future. The breadth of this definition allows for Agriculture Committee hearings on proposed groundwater regulations to count as oversight, just the same as Financial Services Committee hearings on the observed effects of rules promulgated under Dodd-Frank. It could be investigating an agency's performance in a natural disaster or financial crisis. It could also be an attempt to learn not about the effect of decisions, but simply what decisions were made that led to some outcome. In any of these cases, members of Congress are interacting with agencies in response to a decision or a set of decisions made by the agency.

Ogul (1976) employs a definition that is in some ways broader than standard definitions, but adds a condition that the oversight actions of Congress involve “an impact, intended or not, on bureaucratic behavior.” While Ogul’s definition allows for a range of behaviors that are not normally considered oversight, the requirement of an observable effect is troubling. Whether any oversight activities have an effect on Congress is an open question and, in terms of member’s motives, it is not clear that they must see an effect for oversight to be important. For the purposes of this dissertation, Aberbach’s (1990) definition of oversight as “congressional review of the actions of federal departments, agencies, and commissions and of the programs and policies they administer,” is sufficient. It requires no assumed effect and captures a range of activities from hearings to formal investigations to direct contact with agencies.

In terms of measuring oversight, there are three primary strategies used in the literature. The first, implemented by Aberbach (1990) is to simply hand code each hearing as being primarily devoted to oversight or not. This generally involves reading a summary of the hearing and making a judgment call about the probability that the observed hearing is intended to perform an oversight function. The drawback to this method is that it is extremely time consuming, requiring substantial outlays of time and research assistants to apply codes and verify that the codes are being applied uniformly. Even if one goes to the trouble of organizing such an effort, it is still the case that many of the cases are judgment calls and subject to reasonable disagreement. One strategy for getting around hand coding large number of hearings is to choose a specific case that the researcher knows to be oversight and analyze only those hearings (Hall and Miler, 2008). The advantage of this approach is that it allows one to go more in depth on the hearings chosen, measuring features of the specific hearing transcripts. The drawback is that conclusions drawn involve a specific case either bound by time, subject, or both, making it difficult to apply the conclusions

to other policy areas.

Finally, McGrath (2013) uses a key-word search, looking through hearing summaries for specific words like “oversight” or “review.” This allows for efficient classification and for analysis of a wide variety of topics, but requires an extremely high level of confidence that the words chosen actually capture the underlying concept. McGrath (2013) uses the following set of words to identify oversight hearings: “oversight, review, report, budget request, control, impact, information, investigation, request, explanation, president, administration, contract, consultation, or examination.” If any of the words in the list shows up in the hearing summary, the hearing is coded as oversight. This strategy falls into a category of text analysis described by Grimmer and Stewart (2013) as “dictionary” methods, which entail pre-selecting a group of words to search for, with various strategies for weighting and setting thresholds for how codes will be assigned. The strategy employed by McGrath is a dictionary method at its most basic, where one appearance of any of the words means that the hearing is classified as oversight.

The problem with this approach is that if any of the words are regularly used outside of an oversight context, hearings that are not actually oversight will receive the wrong code. While many of these words may appear innocuous, each is commonly used in settings that we would not traditionally think of as oversight. Even the word “oversight” is commonly used in Congress to discuss oversight of businesses or markets without reference to any specific agency<sup>2</sup>. Simply put, there is no easy way to employ this kind of simple dictionary method while also adequately protecting against type 1 errors.

My strategy attempts to build on strategies that take advantage of text information and can be applied to a wide set of contexts, but to do so without assuming to

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<sup>2</sup>As an example, see the 2009 hearing by the Committee on Energy and Commerce titled “Oversight of Cemeteries and Other Funeral Services: Who’s in Charge?,” available at <http://www.gpo.gov/fdsys/pkg/CHRG-111hrg74092/html/CHRG-111hrg74092.htm>

know the text patterns that signify oversight. To code the hearings I use a set of supervised learning algorithms designed to take a set of texts and use patterns in the text to uncover an implicit coding scheme that can be applied to other documents. These methods require the researcher to hand-code a subset of documents to train the classifier, which then runs on the remaining documents. For example, if it turns out that words like “oversight” or “review” are common in hearings being classified as oversight while “markup” or “legislation” are not, the algorithms will look for those words in the unclassified documents and assign a code based on their frequency. This differs from dictionary methods in that it does use key words to determine codes, but those key words are determined by the algorithm and not the coder. This allows for key words to be in the document, but for the document to be coded either way based on what else appears in the text. If the word oversight comes up in a hearing that is otherwise about the funeral industry or oversight practiced at the state level, these methods allow for the prominence of other words to override the information provided by the appearance of that word.

Automated coding methods are less efficient than simple dictionary methods, but are substantially more efficient than hand-coding, making the results easier to replicate. The GPO’s data currently contains approximately 20,000 hearings, with new and old hearings being added daily. Some hearings make their purpose immediately apparent, specifying in the title that they are legislative or in response to a specific rule or regulation. Others require a substantial amount of work, with no guarantee that the primary purpose of the hearing is easily categorized even after digging deep into the proceedings. These cases require a non-trivial amount of time and it would be difficult to implement a program of standardization across coders. Given the difficult coding decisions involved in classifying the hearings, coding the complete collection of hearings along with new hearings as they are added would be a substantial undertaking. The supervised learning algorithms, however, require only a fraction of

the hearings to be coded in order to train the classifiers, making the entire process feasible without resorting to a team of undergraduate coders.

The second improvement coming from use of supervised learning methods is one of transparency. As alluded to above, the data are full of close cases, requiring what are ultimately judgment calls by the coder. As such, replication of the coding should be actively encouraged and made as easy as possible for future scholars. While the classification algorithms are statistically complex and computationally intensive, the work required by humans is fairly minimal. In order to reproduce the codes exactly the individual would have to hand code only a small percentage of the total corpus, making it feasible for interested parties to replicate and potentially critique the process and results.

To carry out the automated coding I use a set of five algorithms<sup>3</sup> implemented in the RTextTools package in R (Jurka et al., 2012). The procedure begins by splitting each document into words and applying a set of data cleaning procedures to remove common “stop words” such as “and,” “it,” or “the,” remove punctuation, and reduce words to their stems so that words with the same roots are not classified differently based on tense. Having broken down each document into a collection of terms, the next step is to create a term-document matrix, a quantitative representation of a linguistic corpus in which each row in the matrix corresponds to a document (in this case a hearing), and each column being a word that appears in the corpus. Unless otherwise specified, the term-document matrix contains every word that shows up in any document in the corpus. As is standard, I applied a filter to remove any words that appeared in less than one percent of the documents, which substantially reduces computational costs while removing only highly uncommon words. Finally, to control for document length I applied a weighting scheme to change the matrix entries from word counts to the word count divided by the total number of words in the document.

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<sup>3</sup>The algorithms: Support vector machine, GLMNET, Maximum Entropy, Boosting, and Random Forests

Each algorithm uses a different weighting and assignment scheme, but in general the algorithms identify the words that best distinguish between the the two types of documents and use those words to assign each hearing a code as well as a measure of uncertainty about that code. I assign hearings a code by averaging the probability given by each algorithm, putting more weight on the algorithm's decision when it reports a higher level of certainty. This means that if two algorithms were to disagree but one said that the hearing was an oversight hearing with probability .99 and the other said that the hearing was not an oversight hearing with probability .55 the hearing will be coded as an oversight hearing as the combination of the two averages to a prediction of oversight with a probability of .77. Use of multiple algorithms increases computational costs, but has been shown to improve accuracy in other applications and makes the coding less tied to document-specific idiosyncrasies interacting with the specifics of any one of the machine learning algorithms (Jurka et al., 2013).

To begin the analysis of broad patterns in oversight, I reduced the sample to a subset of standing committees, each of which has primary oversight jurisdiction over one or more agencies<sup>4</sup>. Some important committees such as Ways & Means and Appropriations are responsible for legislation that affects budgets and programs implemented by the bureaucracy, but are excluded because they are not expected to conduct the same kind of programmatic oversight. Doing so reduced the total sample of hearings being coded to 4901.

To train the classifier, 950 hearings were coded into one of two categories: oversight or non-oversight. I coded hearings as oversight if their primary purpose was to review the operation of an existing program, the performance of an agency in a specific situation, the implementation of a law, or a proposed action by the bureaucracy (such as a proposed rule that had not yet been finalized). In some cases, the aims

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<sup>4</sup>Committees included: Agriculture, Armed Services, Financial Services, Education and the Workplace, Energy and Commerce, Natural Resources, Public Works and Transportation, and Small Business.

of these oversight hearings was a specific action or proposed action. An example of this would be the Department of Agriculture’s hearing “Hearing to Review the U.S. Forest Service’s Proposed Groundwater Directive,” in which a forthcoming rule handed down by the Forest Service pertaining to the management of groundwater and “non-navigable streams” in national parks was reviewed for its potential effect on livestock and crops <sup>5</sup>. In other cases, like the Financial Service Committee’s hearing titled “Oversight of the U.S. Securities and Exchange Commission,” there was no specific objective, but a range of topics relevant to the agency’s operations<sup>6</sup>. Most, but not all, oversight hearings also featured an agency representative as one of the witnesses, though there are several examples of committees holding hearings to learn about the effectiveness of a program or regulation and inviting only witnesses from the private sector or interest groups. Non-oversight hearings were primarily legislative in nature, including attempts to solicit ideas for future legislation from bureaucrats and industry representatives, discuss pending legislation, or mark up legislation that is in the process of being amended and brought to the floor. Here, I classify hearings as being only oversight or non-oversight, putting aside the variation in other types of hearings<sup>7</sup>.

Evaluating the accuracy of the automated coding requires comparing the results to some benchmark, which is usually the set of codes assigned manually. Such testing is important for establishing that some underlying dimension exists that is differentiable by the text in the document, as well as being able to fully evaluate whether the gains in efficiency from supervised learning outweigh any losses in accuracy. If the supervised learning codes are effectively no better than random then it may be the case that the text is not a useful guide for coding the documents. 800 of the 950 hand-coded documents were randomly selected to be the training set with the remaining 150

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<sup>5</sup><http://www.gpo.gov/fdsys/pkg/CHRG-113hhr89799/html/CHRG-113hhr89799.htm>

<sup>6</sup><http://www.gpo.gov/fdsys/pkg/CHRG-112hhr75091/html/CHRG-112hhr75091.htm>

<sup>7</sup>Adding additional categories for hearing such as budgetary hearings or legislative hearings caused a decrease in the accuracy of the classifiers.

being assigned codes using the information gained from the training set<sup>8</sup>. Next, I split the documents so that the text for a hearing consisted of the title of the hearing and the first 200 lines of the text document, which greatly improved computational efficiency when compared to using the entire document. An average hearing contained 3,927 lines of text while the longest had 121568 lines. Using the entirety of the texts substantially increases the time required for coding and render some of the more computationally intensive algorithms effectively unusable. One potential solution would be to use a higher standard of word frequency for keeping words in the term-document matrix, but given the lack of substantive difference I report the results with only the first 200 lines here.

The text-prediction methods produced codes that were somewhat disappointing, agreeing with my own codes only 74% of the time. This is well below optimal and in the future I plan to address this shortcoming by augmenting the text with additional hearing covariates which will hopefully produce better prediction rates. As a robustness check, I carried out all of the analyses below with the subset of hearings for which the combined confidence of the algorithms was above .8, finding no substantive differences in the results.

Of the 950 hearings that were coded manually I counted 366, or 38.5 percent, as being primarily concerned with oversight of a department or agency. Among the hearings that were coded using the supervised learning method, 35.3 percent were classified as oversight. That difference is neither statistically or substantively important. Combining the two, I estimate that approximately 35.7 percent of the Congressional hearing agenda is dedicated to oversight of federal agencies. There is no standard for what constitutes “enough” oversight, but from this data we can see

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<sup>8</sup>In previous drafts of this chapter I reported only using the first 200 lines of each hearing because doing so was both more computationally efficient and had higher rates of agreement with my own codes. While the computational efficiency argument holds true, the finding that the first 200 lines were more accurate turned out to be a function of a data processing error on my part where I did not weight the term document matrix by the length of the document. Once this was addressed, it made no substantive difference whether the entire document or the first 200 words were used.

that oversight makes up over 1/3 of congressional hearing activity, hardly a trivial amount and certainly not enough to support the contention that Congress ignores its oversight responsibilities.

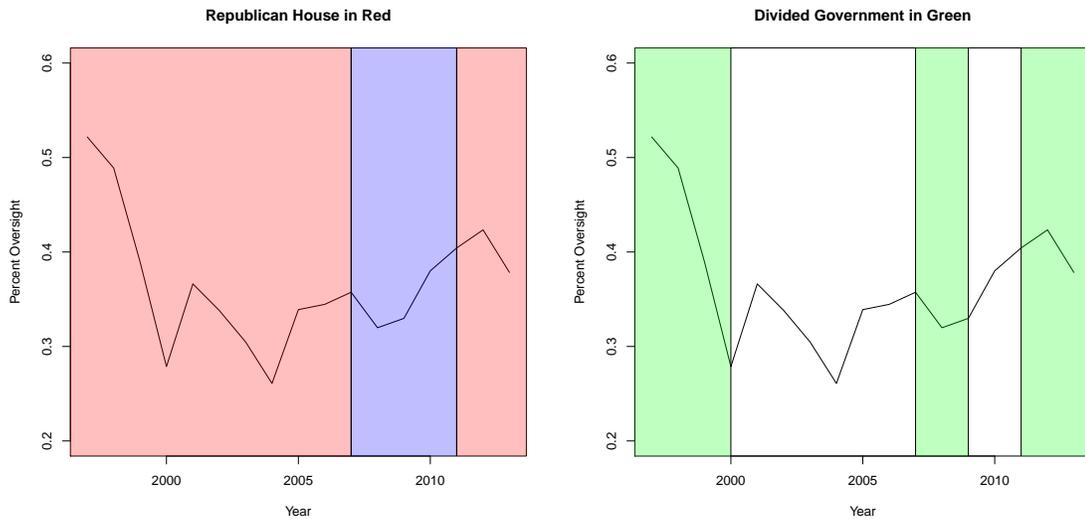
## 2.2 Patterns in Oversight

I turn now to describing some basic patterns found in the data. My primary aim here is not to provide explanations for patterns in oversight, but to show some ways in which oversight differs across time and across units, which could potentially be explained as part of a general theory of oversight. Figure 1 shows trends in oversight over time. Year is on the x-axis and goes from 1997 to 2013, while the y-axis is the number of oversight hearings in a given year divided by the total number of hearings held that year. While hearings begin in 1993, the number of committees reporting hearings at that stage is too small to have faith in the results produced by aggregating across committees. Starting in 1997, most of the committees in the sample have complete enough records on the GPO site that I feel confident in their inclusion. The two graphs show the same time-series, but use background shading to graphically highlight different patterns that have been proposed as influences on the oversight agenda.

Clear from the figures is that oversight peaks early in the time series in the later years of the Clinton administration, reaches a nadir in the middle of the Bush administration, and rises again during Barack Obama's first term. The figure on the left shades years where Republicans control the House in red and years where Democrats control the House in blue. The intuition behind this relationship is that Republicans may have an ideological predisposition toward oversight as it involves auditing ongoing government programs. Instead of overseeing existing programs, one might expect Democrats to focus on the legislative process to create new programs or use hearings to highlight issues in markets that government should address. If, however, such a

relationship exists it cannot be distinguished statistically and is not substantively important. Oversight averaged 37.2 percent of the hearing agenda during Republican controlled Congresses and 34.7 percent of the agenda during Democratic Houses ( $p = .327$ ).

Figure 2.1: Patterns in Oversight Over Time

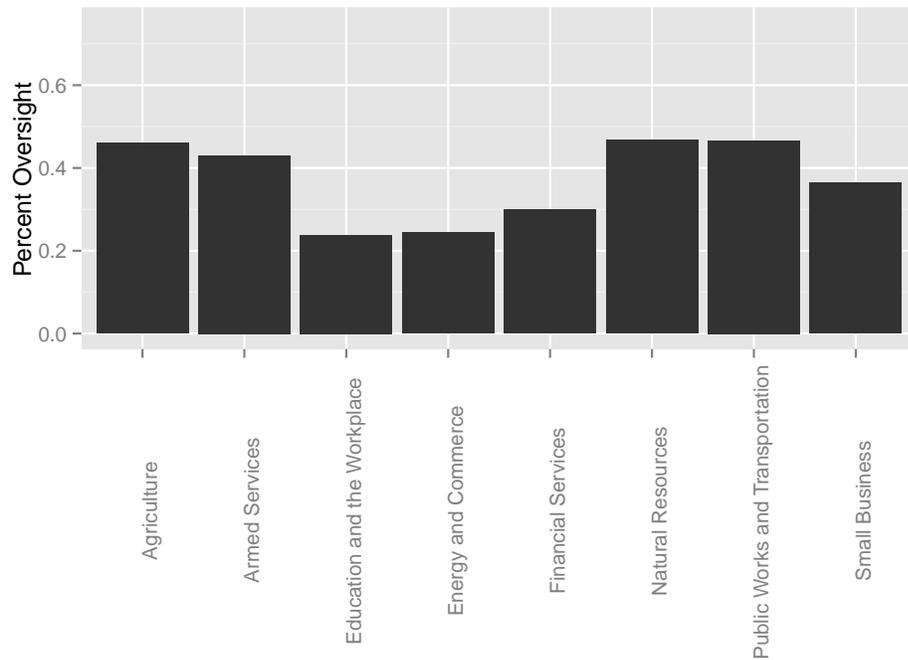


The graph on the right includes shading for years in which there was divided control of government. It has been argued that, through their controls over committee chairs who themselves have control over committee’s hearing agendas, parties will attempt to manipulate oversight for partisan gain (Mayhew, 1991; Kriner and Schwartz, 2008; Parker and Dull, 2009). This would involve low levels of oversight when co-partisan presidents inhabit the White House and higher levels when the opposition party is in power. Looking at the second graph, the highest oversight years are years in which Republicans control the House, but are also years in which control of the House and Presidency are divided, meaning that any small differences are as likely to be a function of divided government as a general tendency for Republicans to carry out oversight. Indeed, it does seem to be the case that more oversight takes place under divided government (39.6%) than unified government(33.3%), and the

difference is statistically significant ( $p=.049$ ) despite the small sample.

The sample here is ultimately too small to distinguish between the various mechanisms that would explain the differences in oversight observed under divided government and the role of divided government in oversight, though that is a topic that has received too little attention in the literature. It may also simply be the case that the later years of the Clinton administration are an outlier and that the results are all driven by one context-specific event. Either way, while some have argued that the majority in the House ramps up its investigatory activities under divided government, the results here seem to demonstrate that any such differences are likely to be small, raising the question of how and when parties matter in the conduct of oversight. It is worth noting, however, that oversight activity does vary substantially over time and never becomes less than twenty-six percent of the Congressional agenda. Oversight may not occur enough to satisfy some, but is a non-trivial part of the Congressional agenda regardless of which party controls Congress and the Executive Branch.

Figure 2.2: Differences in Oversight Across Committees

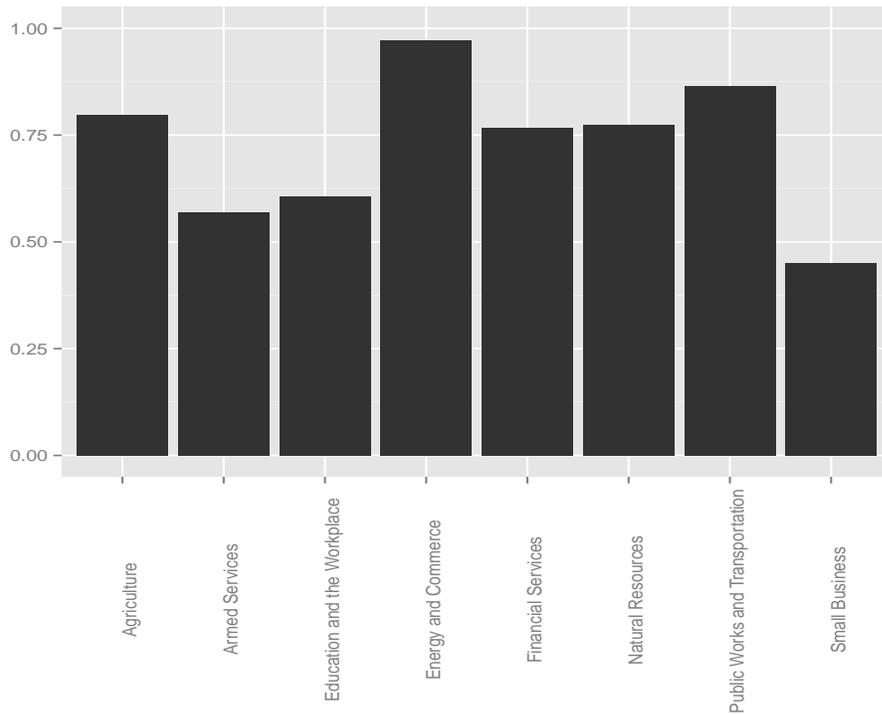


The literature in political science has largely ceded the point that oversight is ignored and outside observers seem to agree. From the previous figure, however, we see that this is not true. One potential reason for this disconnect between perception and reality could come down to variance in the degree to which different committees are active in oversight. The question of variance could inform perception as it could be that some committees routinely fail to perform oversight or some agencies are largely ignored.

Figure 2.2 shows the percent of hearings coded as oversight in each of the eight committees, demonstrating substantial variance across committees in the sample, but also that each committee dedicated a non-trivial percentage of their hearing activity to oversight. The committees dedicating the largest portion of their hearings to oversight are Natural Resources which focuses primarily on the Department of the Interior and the Environmental Protection Agency, Agriculture which focuses largely on the Department of Agriculture, the Commodity Futures Trading Corporation, and the EPA, and the Armed Services Committee which covers the Department of Defense. For each of those committees, oversight made up between 40 and 45 percent of hearing activity. Oversight was least prominent on the agendas of the Public Works and Education and the Workforce committees, with each dedicating approximately 20-25% of their hearings to oversight. Oversight may be insufficient and unevenly distributed across oversight units, but it does not appear that committees abdicate their oversight responsibilities entirely.

Having established that oversight does occur and is prevalent across units, I turn to briefly to a question of procedure, which is whether oversight is primarily carried out in full committees or subcommittees. Subcommittees are a key point of power in the classic “iron triangle” view of oversight and can serve a role in hiding oversight from public view. According to this view, subcommittees occupy one corner of the triangle and allow for small, unrepresentative subsets of the chamber to negotiate

Figure 2.3: Percent of Oversight Conducted in Subcommittee



with bureaucrats and interest groups to bias policy outcomes in favor of the members on the subcommittee. Oversight being carried out largely at the subcommittee level would provide some support for the iron triangle view and could contribute to the impression that oversight is being ignored. Of course, the same finding would be consistent with a world in which oversight is delegated to narrow subcommittees that have expertise in a small subset of policies or a world where party members specialize and gather information at the behest of leadership.

It does seem to be the case that most oversight is carried out in subcommittees, with 73.8 percent of oversight hearings being held by congressional subcommittees. Oversight hearings are not unique, however, as 70.8 percent of non-oversight hearings in the sample were held in subcommittee. Figure 2.3 shows the differences in venues across the same eight committees, revealing some stark differences in how different committees go about conducting oversight. While the Committee on Energy and

Commerce conducts nearly all (97.2%) of its oversight in subcommittees, the Committee on Small Business holds only 45% of its oversight hearings in subcommittee.

### **2.3 Individual Members and Oversight**

Next, I address the main question of the chapter, which is whether it is actually the case that members avoid oversight. Scholars have suggested that oversight carries little in the way of political benefits, leading members to neglect this activity. Yet, the broad patterns demonstrated here and elsewhere (Aberbach, 1990) suggest that oversight is a regular part of the congressional agenda. Of course, holding oversight hearings need not mean that they are having their intended effect. Committee chairs may choose to hold oversight hearings, but that says nothing about the degree to which members are active in this domain. If it is actually the case that members are unwilling to perform Congress' oversight function, we should expect to see that members are less inclined to attend and participate in hearings where oversight is the primary purpose. Finding that it is not neglected would provide evidence that members are engaging in a behavior that theory suggests they should not, creating a research puzzle. That is exactly what I find here.

Testing whether oversight is neglected requires a measure of member activity that captures the degree to which members are taking costly actions. I focus here on participation, which occurs in a variety of ways. As the most basic level, the member makes a choice about whether or not to attend the hearing. Given how valuable time is to members (Hall, 1996), such a decision is not trivial. Even if the member attends and says nothing they have the opportunity to shape the information revealed in the hearing and they signal to agency observers that they have some level of interest in the topic. If the member wants to invest more heavily in the hearing's proceedings they may bring staff members with them to assist and record the proceedings which carries many of the same opportunity costs as the member's

time. If members want to increase their level of activity they can choose to make an opening statement at a hearing communicating their thoughts on the subject of the hearing. Members also have the opportunity to directly engage with hearing witnesses by asking questions and conversing during the hearing. These communications are sometimes trivial and aimed more at scoring political points, but members often come prepared with highly technical questions and engage with bureaucrats on topics that are surprisingly complex in light of the belief that members are generalists while bureaucrats are highly specialized.

I focus on attendance instead of more nuanced measures of participation primarily because my strategy depends on a comparison between oversight and non-oversight hearings. Because I use this comparison, it needs to be the case that the types of participation measured are actually comparable across those two groups. It is certainly the case that attendance is comparable, as it is necessary for any further oversight activity to take place. It is unclear, however, that levels of more active varieties of participation are comparable across the two types of hearings. Participation in oversight hearings generally involves a floor speech and/or active participation in the five minutes each member receives for question and answer session with witnesses. Legislative hearings are less constrained, often taking place over multiple days and offering several opportunities for speeches, debate on amendments, and additional floor time ceded to members by co-partisans. Instead of assuming that levels of participation should look similar in oversight and non-oversight hearings, I simply compare the number of members attending oversight hearings to the number attending non-oversight hearings to get a first look at whether oversight is neglected when compared to different costly congressional activities.

To measure the differences in participation, I collected information on the members present at each hearing<sup>9</sup>. Each hearing text begins with a list of members present,

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<sup>9</sup>This information on which members are present also provides crucial information for a later chapter in which I use the list of members present to identify which members actively participated

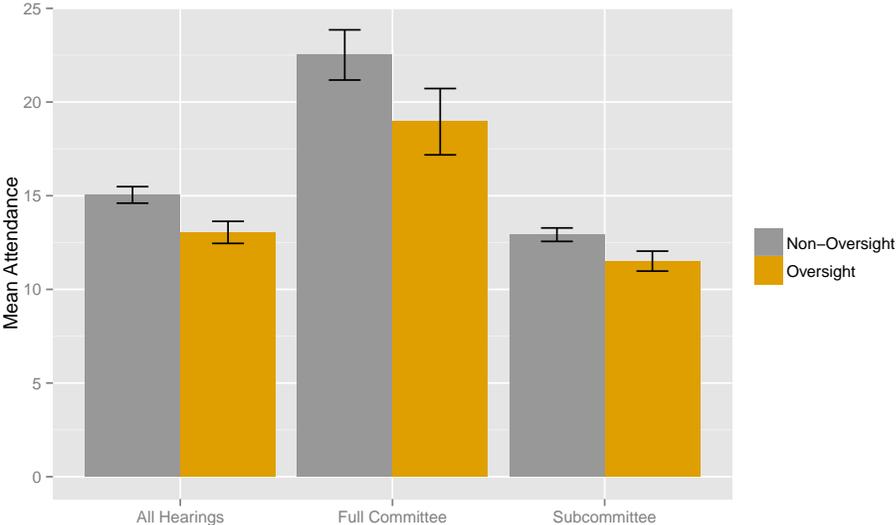
providing their last names but little else to identify them. If the last name was unique to one member, identifying the member present was simple. When more than one member has the same last name, I used patterns in the format of the hearing text to narrow down the identity of members. The first pattern is that the members present section is split into members who are on the committee holding the hearing and those who are not. In the case where the member sits on the committee holding the hearing I cross-referenced the member's last name with Stewart and Woon's database of committee membership going back to the 103rd Congress (Stewart III and Woon, 2011). If the attending member was the only member of the committee with that last name, they were identified as that member. This means that if I observe a member with the last name "Lucas" attending a hearing in the House Committee on Financial Services and receive no indication that the member was coming from outside of the committee, I assume it was Frank D. Lucas of Oklahoma, who has served on the committee since entering the House, as opposed to Ken Lucas of Kentucky who has never served on Financial Services. If the member's last name could not be uniquely identified on the committee, I turned to the text of the hearing and manually identified which member was present. In some cases individuals with the same last name are also identified by their state, meaning that one might see a member identified as "Lucas of Kentucky," making identification easy. When that marker was not available I identified the member by looking for clues in the text such as a reference to the member's state, district, or party in the text itself. In the 4,902 hearings, I was able to identify all but a handful of members, most of which were either George or Gary Miller who could not be distinguished by name, party, or state, and could sometimes not be identified using contextual clues.

Looking at attendance, it does appear that oversight hearings are slightly less appealing to members than non-oversight hearings. Figure 2.4 shows the number of  

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at hearings.

Figure 2.4: Hearing Attendance in Full Committee and Subcommittee

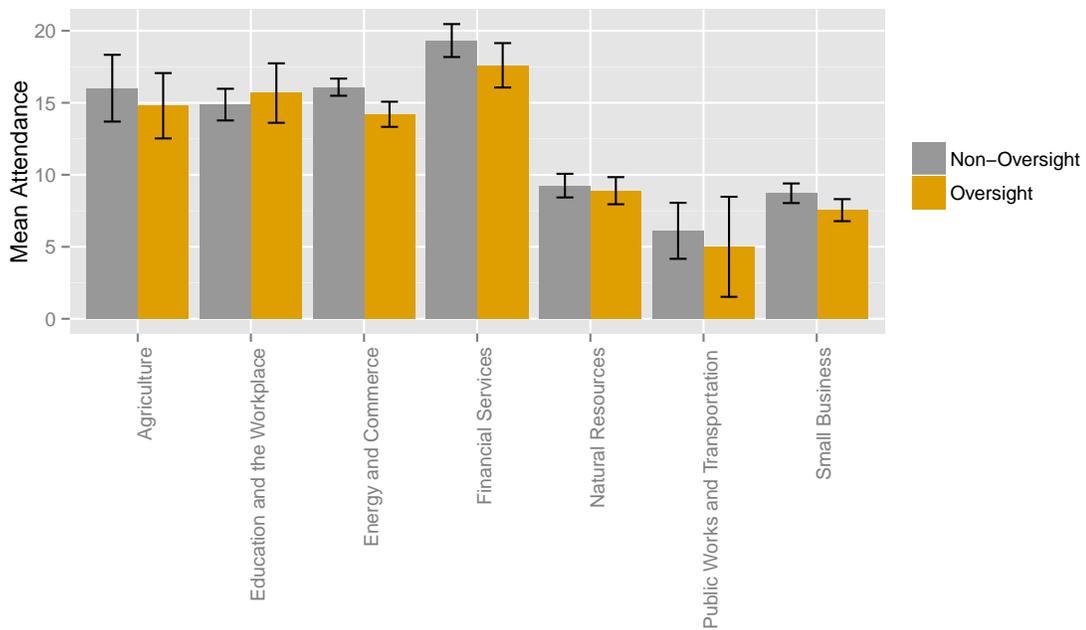


members attending hearings, with the second and third sets of columns splitting hearings into hearings held in full committees or subcommittees. The clearest takeaway from the figure is that oversight hearings are less well-attended than non-oversight hearings regardless of the venue, but that the difference is substantively quite small. The average oversight hearing in the sample was attended by 13.04 members while the average non-oversight hearing is attended by 15.04, a difference that is statistically significant. This difference is not simply a function of the fact that oversight is so frequently done in subcommittees, as the differences between oversight and non-oversight full committee hearings are statistically significant, as is the difference in subcommittee hearings.

What would qualify as neglect of oversight is unclear and requires one to adopt their own standard of what “enough” oversight would be. If it is the case that both oversight and legislative hearings are well-attended, but oversight hearings are less well attended, it does not follow that oversight is being neglected. It appears that members are less inclined to attend oversight hearings, but in each case those differences are small. The difference is most pronounced in full committee hearings where non-

oversight hearings are attended by an average of 3.5 additional members, but it is still the case that full committee oversight hearings have an average attendance of 18.95, which seems like a significant number given fears of abdication. The difference is again significant in hearings held in subcommittee, the difference is a relatively minor 1.4 members. This evidence suggests that electoral incentives may make oversight less appealing than alternative uses of time, but it is clear that a non-trivial number of members make the choice to participate in this form of oversight.

Figure 2.5: Attendance in Oversight Hearings Across Committees



As Figure 2.5 shows, the fact that oversight hearings are less well attended belies the fact that oversight hearings are quite well attended in some committees, even when compared to non-oversight hearings. The only committee in which the difference in attendance is statistically significant is the House Committee on Energy and Commerce, but even that difference is substantively small. It seems as though differences in hearing attendance are driven more by which committee is holding the hearing than the subject of that hearing. Most importantly, Figure 2.5 demonstrates

that not only is oversight on the agenda across a host of committees, but those hearings are approximately as well attended as non-oversight hearings, making it even harder to sustain the contention that oversight is neglected in a meaningful way.

## 2.4 Discussion

The purpose of this chapter was not to answer questions about oversight, but to demonstrate that there are important questions about oversight needing to be addressed. The lack of oversight in Congress is widely decried and has come to be accepted as a stylized fact. These observations may not be empirically sound, but they have a strong theoretical foundation behind them. The fact remains that oversight helps provide a public good for the chamber, requires high costs in terms of time and staff effort, and is unlikely to be electorally useful when it comes time for the member to make their case to the average voter. In short, oversight is classic “work horse” behavior.

Using a new source of data in the GPO collection of hearing texts, I subjected the claim that oversight is neglected to a handful of tests, attempting to address various reasons that there is a perception of insufficient oversight. The results suggest that a critical re-evaluation of the literature on oversight (and by extension the literature on delegation) is needed. Oversight is an important part of congressional activity. It comprises between 25 and 40 percent of hearing activity in a given year, occurs in all committees but some a large degree more than others, involves a wide variety of agencies even within committees, and is no more poorly attended than any other type of congressional hearing.

Why we observe these patterns is less clear. Has Congress simply found a way to incentivize oversight? Over the past 50 years the chamber has instituted a set of reforms aimed at clarifying committee jurisdiction and offering supplements to oversight in the form of research agencies, which may have given Congress the boost

needed to ensure active oversight. In the coming chapters I advance and test a theory of oversight that suggests that active oversight not a function of members acting in defense of legislative intent, but to advance the distributive needs of the organized interests that support members' campaigns. If we accept that Congress defending its legislative prerogative is normatively desirable, understanding what oversight is intended to accomplish is crucial for evaluating the degree to which the chamber's needs are being met.

## CHAPTER III

# Signaling Agencies, Signaling Interests: A Theory of Oversight

Chapter 1 outlined the problem faced by Congress in maintaining ongoing control over agencies. The chamber needs oversight in some form to protect its institutional authority, but lacks the capacity to perform regular and vigilant oversight. The past 30 years of scholarship have argued that Congress has designed a set of procedures that allows the chamber to maintain control while engaging in oversight selectively, challenging agency policies when they stray from what the chamber wants. This story, however, glosses over a basic collective action problem in which the incentives of individual members do not align with the best interests of the chamber. Congress wants to protect its authority, but members face strong incentives to free ride and shirk their oversight duties. The previous chapter shows that, nonetheless, members often choose not to free ride. Oversight is a regular part of congressional activity, suggesting that Congress has managed to solve the collective action problem.

Appearances to the contrary, this chapter argues that it has not. Individual members do engage in oversight to signal discontent or agreement with an agency, but do it because of incentives coming from outside the chamber, not within it. I argue here that oversight is a response to electoral incentives provided by interest groups. The longstanding stories for congressional attention to agencies are either distributive,

with members acting so as to ensure a steady flow of pork-barrel benefits back to their district (Ferejohn, 1974; Arnold, 1979), or based on detecting and remedying disagreement between the agency and member (McCubbins and Schwartz, 1984). I argue here that neither is sufficient to explain observed patterns in oversight. Members do perform oversight on behalf of organized interests, but the demands of those groups need not be distributive, nor must the group necessarily have a geographic presence in the constituency. Likewise, members use oversight not to uncover bureaucratic malfeasance, but to signal their willingness to follow through with sanctions on behalf of the affected interests.

The interest-driven signaling theory outlined here is based on simple assumptions that are well-supported empirically and produces a set of implications that both line up better with existing findings in the literature and provide clear predictions about legislator, agency, and interest group behavior. This theory has implications for the likely effectiveness of oversight in defending the chamber's institutional authority and calls into question long-held assumptions about what fixes need to be made to incentivize rigorous oversight.

### **3.1 Why a new theory of oversight? Police Patrols Revisited**

Oversight is generally thought of as a means by which Congress gathers information that can be used to remedy violations of legislative intent. Congress passes a law delegating authority to an agency, but is unaware of how that policy is being implemented. If agencies know that Congress is not paying attention, they are free to implement policies that differ from what Congress originally intended, work at sub-optimal levels of efficiency, or both. If Congress can effectively monitor the agency, such problems are less pressing. Agencies, knowing that they are being watched by the chamber from which they derive authority to act, will curb their behavior so as to ensure that they evade punishment. If Congress can be confident that agencies are

responsive, they can delegate with a higher degree of confidence, potentially allowing the chamber to work at higher levels of efficiency.

While Congress requires oversight, it depends on individual members to carry out the task. There is no central organization forcing members to perform oversight. Oversight happens when individual members, sometimes acting collectively in committees and sometimes completely on their own, make a choice to engage in this behavior. Why they would choose to do this, however, is unclear. The ultimate goal of oversight in the principal-agent framework is to provide a public good. The chamber/committee/individual wants to know whether the agency has advanced the goals of the chamber and to, if necessary, bring the actions of the agency back in line with congressional preferences. All members benefit when this task is performed, but they cannot be denied the benefits of oversight if they choose not to contribute to the public good.

In a little cited pair of papers, Ferejohn and Shipan (1989) and Cameron and Rosendorff (1993) provide a logic for oversight that differs substantially from the conventional wisdom. For these authors, oversight need be a means of detection, but a means of communicating information to agencies about about the overseeing committee's level of resoluteness. Agencies in this story are unaware of whether threats from the oversight committee are credible. When oversight is sufficiently costly the agency knows that they are dealing with the type of committee willing to pay the costs associated with altering statutory authority, leading the agency to be responsive to the committee. The general idea that oversight signals information to agencies is core to the explanation provided below, but these theories cannot resolve the problem of collective action. To borrow from Shepsle (1992), committees are a "they" not an "it." Committees do not perform oversight; individuals within committees perform oversight and those individuals have the same incentives to pass the costs of oversight onto their colleagues. Why would a member choose to signal

on behalf of the committee when they can let their colleagues do it?

Solutions to collective action problems generally entail a selective benefit that individuals can only enjoy if they have contributed to producing the public good. While neither Ferejohn (1974) nor Arnold (1979) address oversight directly, their works provide a logic based on selective benefits by which members could be incentivized to perform oversight. Bureaucrats are charged with making a number of choices about the allocation of distributive goods that potentially afford members valuable opportunities for credit-claiming. Ferejohn and Arnold focus on the decisions faced by bureaucrats, but one can derive a logic for oversight based on the idea that want to ensure favorable distributions of federal funds. If active performance of oversight makes the provision of those distributive goods more likely, members may choose not to free-ride. The problem faced by a strictly distributive theory, however, is that this behavior is widespread, occurring regularly in committees that do not traffic in pork-barrel goods. Oversight is not occurring only on public works or military installations, but complex regulatory policies and broad public goods programs (Minta, 2011). Oversight of distributive programs is likely to be popular among members, but a theory of oversight should be able to contend with the reality that a great deal of oversight is not explicitly distributive.

McCubbins and Schwartz (1984) provide the most widely accepted explanation for oversight in the principal-agent framework where opportunities to claim credit provide the selective benefits needed for members to engage in oversight. In that theory, members of Congress face a problem wherein they want to ensure that policies implemented by bureaucrats are in line with their own preferences, but also want to avoid paying the costs associated with oversight. The solution is to empower constituents to provide information about instances in which an agency takes actions that are inconsistent with the preferences of those constituents, and in turn the members representing those constituents. Members, then, perform oversight to correct

failures by agencies in exchange for electoral benefits. This ensures that members do not waste their time looking for problems where none exist, helping them efficiently allocate their legislative resources. Grateful for the help, those constituents then take costly actions to return that member to office.

The notion of fire-alarms and police-patrols has an appealing parsimony and provides a theory of oversight that specifies a selective benefit, is pitched at the individual level, and can explain non-distributive oversight. This is an important contribution that is particularly impressive given that their piece is aimed more at development of a concept than providing a full-blown theory. They identify the importance of electoral rewards and recognize the need for oversight to focus on the incentives of individuals instead of collective actors, and the paper is rightly considered a classic in the field. At the level of development provided by the paper, however, there are a number of questions to be answered about the theory, the degree to which their predictions are borne out empirically, and whether the electoral mechanism in their story is well-specified enough to generate clear and testable implications about the behavior of individual members and interest groups. The paper has been extremely important, but very little attempt to evaluate, critique, and expand upon the concept as it was originally proposed.

McCubbins and Schwartz suggest that a system of fire-alarms is a win-win for members and constituents alike. Members get to claim credit with a minimum of effort and constituents have their problems with agencies dealt with. At the theoretical level, however, it is unclear that this arrangement would efficiently serve the needs of constituents and members. At its core, fire-alarms rely on “credit” as a selective benefit and credit can be assigned only if members take costly actions to fix problems for a group. This requires that members perform an action on behalf of the constituent that is both costly and visible, allowing the constituent to discern the connection between their legislator’s actions and a favored outcome. Absent a problem with the

actions of an agency, the member has no means by which to gain electorally. Members can claim that their actions were responsible for a lack of problems with an agency, but without tangible actions and fixed problems such claims are likely to ring hollow.

Fixing bureaucratic problems as they occur, however, is costly for both members and interest groups. Members, of course, must allocate resources to intervening with the bureaucracy, all of which carry an opportunity cost. The member may hold and/or attend hearings, introduce bills to alter statutory authority, attempt to delay rules and regulations, or any number of additional acts to help the aggrieved constituent, but these require foregoing other electorally beneficial activities. The problem from a credit claiming perspective is that absent a fire-alarm, members have no credible claim to have served the constituent. It is easy for the member to argue that they warded off problems for the group, but absent some visible action by the member such claims are impossible to evaluate. If members could be spared the cost of *ex post* remedies and still receive credit for producing favored outcomes, they would clearly be made better off.

Likewise, fire-alarm oversight imposes costs on the individuals or groups who pull the alarms and is likely to be of questionable effectiveness in solving major problems for constituents. In terms of costs, *ex post* response requires effort by those sounding the fire-alarms as well as those responding to them. Aggrieved constituents and groups often assist with paying that cost, helping members with much of the research and expertise needed to produce the preferred outcome (Hall and Miler, 2008). Perhaps the larger problem for constituents, however, is that while Congress does have tools to respond to acts of bureaucracy, agencies are at a clear advantage by virtue of moving first and the difficulties faced by Congress in actually using the tools at their disposal (Potter, 2014). McCubbins and Schwartz do not contend with the transaction costs associated with solving the problems that caused fire-alarms to be sounded in the first place, but those costs are real and severely undermine the ability of the chamber

to act *ex post* and provide the kind of service that fire-alarms rely upon. A system of fire-alarms may work well for low-level problems like missing social security checks or small grants at the discretion of agencies, but larger problems that ultimately require changes to statute or budgets are extremely difficult to deal with once policy has been put into place by an agency.

Further complicating a theory based on fire-alarms and credit-claiming is that, at various times, Congress has taken actions to help institutionalize bureaucratic responsiveness with the intention of warding off problems before they appear. In their highly influential series of articles, McCubbins, Noll and Weingast (1987, 1989) argue that control is achieved not through oversight and *ex post* remedies, but through a set of administrative procedures like notice-and-comment or reporting requirements that create incentives for forward-looking agencies to hew to congressional preferences. Because bureaucrats fear the consequences made possible by administrative procedures, they simply choose not to run afoul of legislative preferences in the first place.

Members of Congress, however, need violations to create opportunities to claim credit. Fiorina (1977, 1989) argues that members can have a great deal of electoral success by responding to constituent problems with the bureaucracy, leading Congress to embrace a large and unruly bureaucracy that brings in a constant stream of problems to be solved. A similar logic comes out of the fire-alarms and police-patrols discussion, wherein members should actually want to see violations of legislative intent as it provides them a low cost way to serve constituents. Administrative procedures that incentivize adherence to congressional preferences *ex ante* can stem the flow of problems to be solved and, by extension, credit claiming opportunities. These procedures are, of course, the product of collective choice, meaning that the outcomes they produce should align with the members who created them. Why members would choose to incentivize *ex ante* compliance when they benefit primarily from *ex post*

corrections is unclear.

Perhaps most importantly, the fire-alarm theory is not well supported empirically. The one clear implication of the fire-alarms and police-patrols framework is that oversight should be overwhelmingly fire-alarm in nature. McCubbins and Schwartz (1984, p. 171) go out of their way to say that they “do not contend that the most effective oversight policy is likely to contain no police-patrol features,” but do state that “fire-alarm techniques are likely to predominate.” Despite the protests of McCubbins and Schwartz, it is difficult to understand why police-patrol oversight should ever happen. Members have no incentives to go out searching for problems because they are better served waiting for the problems to arrive at their door.

While few studies have attempted to quantify the degree to which Congress engages in one kind of oversight versus another, the evidence we do have suggests not only that police-patrol oversight is not neglected, but that it is substantially more common than fire-alarm oversight. Aberbach (1990, 2002) finds that the number of hearings devoted to police-patrol oversight rivals the amount used for fire-alarm purposes, suggesting that McCubbins and Schwartz understate congressional preferences for this type of oversight. Further, Aberbach argues that the rate of police-patrol oversight has increased over time, which seems puzzling in light of an increasingly complex and difficult-to-monitor administrative state. More recently, Balla and Deering (2013) find that police-patrol oversight makes up approximately 75 to 90 percent of oversight hearings in both the House and Senate. While both of these studies consider only hearings which are an important but limited form of oversight, they are sufficient to reject the idea that oversight is dominated by fire-alarms and suggest that a great deal of the oversight we observe cannot be adequately explained by existing theory.

Finally, it is not clear that McCubbins and Schwartz have an individual level story that generates predictions about who will perform oversight and on what topics. Their story is certainly about the incentives faced by members, but there is no

attempt to differentiate between different groups and members. In a situation where a group makes the choice to sound a fire-alarm, to whom will they direct that alarm? Which members will and will not respond to a fire-alarm sounded by a given group? The fire-alarm framework is useful in identifying the role of constituents and credit claiming in the oversight process, but does not produce clear testable answers to these fundamental questions that bear on the likely effectiveness of this form of oversight.

### **3.2 Signaling Agencies, Signaling Donors**

In this section I present a simple theory of why we see members perform oversight that hinges on the ability of oversight to signal information to both bureaucrats and interest groups., The discussion of bureaucratic behavior is heavily indebted to the classic works of Ferejohn (1974) and Arnold (1979), who argue that members want distributive goods for credit-claiming purposes and that those goods are more likely to provided if the member poses a threat to the agency. My argument is more general. I argue here that members are not driven by a desire for pork-barrel projects necessarily, but want to further policy goals of interest groups from whom they derive support and that sending costly signals helps accomplish that. Member goals will occasionally be distributive in nature, but need not be.

Likewise, the signaling aspect of the theory builds on a small and under-cited set of works that have looked at oversight as a means to ward off violations as opposed to detecting violations of congressional preferences ex post (Ferejohn and Shipan, 1989; Cameron and Rosendorff, 1993). According to signaling theories of oversight, committees perform oversight to let agencies know that the committee is resolute and will impose sanctions for unfavorable decisions. These theories, however, lack the ability to explain away the collective action problem outlined earlier because they treat committees as unitary actors. I argue that, like the committees in Cameron and Rosendorff, individual members use oversight to signal the direction and intensity of

their preferences, which in turn provides information about their willingness to impose costs on or provide benefits to the agency. Interest groups want allied representatives to signal a willingness to pay costs to affect the utility of the agency, and will provide selective incentives in the form of electoral support (contributions, endorsements, canvassing, etc) to members who perform oversight. Combining the two literatures creates a different set of predictions than can be derived from either on their own, resolving both the collective action problem inherent in defending legislative intent and explaining observed patterns in oversight behavior.

### **3.2.1 Assumption 1: Members of Congress Want Electoral Resources**

Members want to be re-elected and they do so by forming a coalition of support that helps them win in both the primary and general election. This coalition includes voters who provide votes and interest groups who provide some votes but primarily affect re-election prospects by providing members with goods that can be turned into votes (Denzau and Munger, 1986). Likewise, groups who are unhappy with the performance of their incumbent can allocate these resources to challengers. Members gather the support of groups by taking actions that help advance the policy goals of those groups.

There are two primary classes of goods that interest groups can offer to members. The first is electoral support, broadly defined. Interest groups can make endorsements, canvass for a candidate or on the opposite end of the spectrum, do those same things for a potential primary or general election challenger. These mechanisms largely depend on the group in question having a presence within the member's district. Endorsements and canvassing are primarily aimed at providing information that voters will use in their decision, but the effectiveness of that attempted persuasion will depend on the degree to which voters believe the group to share their interests. A group lacking a district presence is likely to be unable to cultivate the kind of

trust necessary to effectively marshal these resources. Outside groups are welcome to endorse or try to recruit a candidate, but absent some connection to voters in the district it will be difficult for groups outside of the member's geographic constituency to credibly threaten to use these mechanisms.

The second option for groups is financial support, which is available to groups both inside the constituency and out. Interest groups are free to form political action committees -and most do- and donate to candidates directly, promoting the electoral well-being of supportive members. Increasingly, groups need not operate directly through their political action committees, choosing instead to exploit campaign finance loopholes to give to organizations who engage primarily in electioneering activities like issue advertising or ads vague enough so as to not directly endorse one candidate, but give the distinct impression that one candidate is better than the other. These means of providing electoral support are substantially less geographically restricted by geography and are largely available to any group wanting to provide them.

### **3.2.2 Assumption 2: Interest groups reward members for their policy support**

Interest groups tend to have a small set of policies in which they are particularly active. The AARP feels strongly about retirement benefits for the elderly but has no particular position on telecommunications regulations. Likewise, AT&T cares a great deal about telecommunications regulations but not at all about retirement benefits for the elderly. Groups care about policy outputs in those areas and use the tools at their disposal to ensure that their policy goals are met. They cannot themselves make policy, so they are at the mercy of the agencies and members of Congress who shape policy outcomes. The consequence of this assumption is that interest groups want to ensure that members of Congress who help advance shared goals are returned to the chamber while those who fail to deliver benefits or actively oppose the group's

policy objectives are removed from office

That interest groups offer support to members who are better able to produce policy outcomes is well established in the legislative domain. Interest groups target members of the majority party (Grier and Munger, 1993; Rudolph, 1999) members on committees of interest (Grier and Munger, 1986; Munger, 1989), and generally members who are more productive than their colleagues (Box-Steffensmeier and Grant, 1999; Hall and Miler, 2008). Simply put, interest groups not only want to support ideologically aligned members, but those who are better at producing outcomes desired by the group. The corollary of this is that members should want to ensure that they are the types of members who can provide the kinds of benefits that incline interest groups toward supporting them.

Most of the work on legislator effectiveness focuses on legislation, but the same logic should hold for the bureaucracy. Since the new deal, the fates of interest groups have increasingly become intertwined with the decisions of bureaucrats at the federal level, to the point where a member could do very well to represent interests within their district by focusing primarily on the actions of agencies as opposed to introducing and seeing through new legislation. The federal bureaucracy has a range of powers, making most key decisions regarding the distribution of federal funds, the standards applied in regulatory policy, and to a lesser extent important redistributive policies. One estimate of the size of the bureaucracy puts the percent of U.S. “laws” made agencies at approximately 90 percent (Warren, 2004), with those decisions coming from dozens of highly specialized agencies. Across a host of sectors, the well-being of interest groups depends on favorable choices being made by the bureaucrats in charge of determining the allocation of benefits and costs. Members who can influence the decisions of bureaucrats and ensure that a group’s policy preferences are advanced are extremely valuable.

### **3.2.3 Assumption 3: Bureaucrats respond to pressure from members of Congress**

Bureaucrats generally enter public service with some set of beliefs and preferences about what policy should look like in a given area and want the autonomy and budget necessary to achieve those policy goals. Bureaucrats take into account the pursuit of their own policy goals but need to curb that pursuit if they fear that actors who control budgets, autonomy, and statutory authority will be displeased.

Inducements of bureaucratic behavior by Congress can be split into two groups based on whether they require collective action or whether they can be employed by individuals. The literature on congressional control of the bureaucracy has focused decidedly on the former, with threats to budget and statutory authority being most commonly cited. If Congress feels that an agency has stepped out of line, it can respond by clarifying and narrowing the range of actions that an agency might take, or it can alter the levels of resources available to carry out agency priorities (Huber and Shipan, 2002). Likewise, if Congress is happy with the tasks an agency has performed it can respond by delegating new authority or increasing budgets and programs to be implemented by the agency. By either offering benefits or threatening sanctions, it is thought that forward-thinking bureaucrats will take these inducements into account (Weingast and Moran, 1983).

The statutory responses available to Congress are collective in the sense that they require coordinated action within committees, within and across chambers of Congress, and across the Legislative and Executive branches. If any number of actors in the process from bill proposal to presidential signature oppose changes to statute, those changes will not take place. While likely to be the most effective way to change agency behavior upon passage, the fact that proposals for changes in statute must make it through the legislative process also makes their use less credible. Absent a completely unified government with little majority party defection, or a rare instance

of widespread consensus about what should be done with an agency, these kinds of policy changes are unlikely to take effect. So while bureaucrats may face harsh penalties if such a statutory change does pass, the probability of such an event happening will be so remote under most circumstances that bureaucrats have little reason to respond to these collective measures.

The second class of congressional actions, which I will refer to as “individual inducements,” are those that require little to no coordination across members or branches to implement. While these lack the power of statutory means, their relative ease of use may make them an even more effective inducement. Perhaps the most credible threat members can make is not to reduce statutory authority, but to reduce the effective amount of autonomy with which agencies act by attempting to delay or increase scrutiny of an agency’s decisions. Members can hold or attend hearings, order investigations or time-consuming analyses of proposed policies, hold hearings on separate topics, or any number of other nuisances that draw attention to what an agency is doing. Secrecy is one way in which the bureaucracy maintains a bargaining advantage over the Legislative Branch, with agencies embracing and even acting to enhance their informational advantages over members (Weber, 1947). Agencies actively pursue autonomy from Congressional overseers both for ease of carrying out their missions, and to increase their own ability to make important policy decisions (Carpenter, 2001). If members can individually threaten to make life more difficult for agencies, those individuals may be able to induce responsiveness. Oversight may accomplish this goal directly, as holding public hearings and issuing subpoenas to key bureaucrats is something agencies would presumably rather avoid, but the important point is simply that, even in the absence of a credible threat to invoke the chamber’s *ex post* means of punishment, individual members can credibly threaten to act in ways that affect agencies.

These non-statutory threats are important because they offer a mechanism for

influence that does not require collective choice. If a member wants to change statute they must navigate a byzantine legislative process beset by veto points. If the member wants to take actions that publicize issues that the agency would rather remain secret, they are largely unconstrained in their ability to do so. Thus, while Cameron and Rosendorff (1993) focus on the signal oversight provides about a committee's willingness to pursue statutory changes, the more relevant signal may pertain to the member's willingness to pursue these kinds of individual inducements.

Discussions of congressional influence often invoke the language of sanctions with agencies looking to catch and punish bureaucratic malfeasance. However, members' influence on the bureaucracy need not be limited entirely to punishment. Members can also choose to take actions that increase bureaucratic autonomy, going to bat for the agency when it is threatened or attempting to focus congressional attention on topics that are more favorable to agencies and allow them to build constituencies. Members can hold favorable hearings, rally undecided colleagues, or simply publicly advocate for the agency's position. If they have agenda power (in the case of committee chairs), they can keep certain topics or programs off of the congressional agenda entirely. Arnold (1979) argues that these considerations are an important part of bureaucratic decision-making, with agencies providing services with the understanding that key members of Congress will defend their autonomy if need be. Again, an important part of this kind of response to agency policies is that they can be effective even in the absence of a collective decision. It is up to individual members to dole out these benefits, meaning that agencies should find it worth their while to consider the preferences of members who can offer positive or negative inducements.

Bureaucrats, however, are unlikely to be equally responsive to each member. Simply put, some members are better at producing policy outcomes than others. Having a privileged institutional position is one prominent pathway to influence. In his classic work on public works grants, Ferejohn (1974) shows that the Army Corps of Engi-

neers was more likely to locate projects in the district of members on the relevant committee or Appropriations subcommittee. Likewise, Arnold (1979) shows that the allocation of military bases, water and sewer projects, and model cities grants are skewed toward institutionally powerful members. It is also the case that members of the majority party (Levitt and Snyder, 1997) and members sharing a partisan affiliation with the President (Bertelli and Grose, 2009; Berry, Burden and Howell, 2010). The logic behind this influence is that threats from some members are more credible than others. If the threat is statutory in nature, agencies need to be sure that the individuals with the largest influence on the legislative agenda (committees and the majority party) are happy with what the agency is doing.

The literature on legislator effectiveness has focused on members occupying key positions because the legislative agenda is so closely guarded, but the fact that most threats to the bureaucracy are not statutory in nature allows a wider range of members the opportunity to impose costs on or provide benefits to agencies. Legislators from the minority party or outside the committee of jurisdiction have little hope to advance legislative proposals, but do have the opportunity to be active in oversight. While committee and subcommittee chairs make the ultimate decisions about the topics of hearings, they are generally quite open to the suggestions of members, meaning that members on the committee of jurisdiction generally have as much opportunity as they like to impose non-legislative costs (Aberbach, 1990).

Members not on the primary committee of jurisdiction are not locked out, however. First, individuals can (and frequently do) attend hearings of committees on which they do not sit. Second, committee jurisdictions are malleable and it requires only a tenuous claim to some authority in order for a second committee to claim “turf” and oversee an agency not normally thought to be in their purview (Talbert, Jones and Baumgartner, 1995; King, 1997). Further, members have alternative means (direct contact, reports on agency activities, etc) by which they can perform oversight where

committee offers no constraint. Any member is able to make themselves an active threat to agencies, and I argue below that oversight can provide a signal of the degree to which the member is a threat.

### 3.3 Why Oversee?

With the assumptions in place we can begin to work through the logic of the theory. When a member chooses to oversee an agency it provides information to the agency about the degree to which the member is satisfied with the agency's performance and the degree to which the member has the motivation and ability to take actions that could harm the agency or provide critical support when the agency finds its autonomy threatened. Because oversight signals a willingness to impose costs and can induce bureaucratic responsiveness, interest groups will want to be represented by members who have engaged who have sent a credible signal to agencies relevant to the group's interests. Agencies are responsive insofar as they believe the signal sent by the member to be credible. Politically active interest groups lend credibility to the member's message because their presence lets the agency know that the member's electoral fate is tied to following through to ensure that the group's policy demands are met.

Working backward through the logic of the theory, we begin with members who face a decision about whether to impose costs on an agency. This will occur only when the member disagrees with the policy set by the agency, though it may also be the case that when agencies enact favorable policies the member will promise some source of future benefits a la Arnold (1979)<sup>1</sup>. Imposing costs can take the form of intensive hearings, delaying rules and regulations, attempting to mount a statutory challenge to an agency, or any number of activities that inconvenience the agency and may result in policy change. The decision faced by the member at this stage is

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<sup>1</sup>For purposes of exposition, I will focus on costs imposed by members.

whether to impose costs on the agency, and that decision will depend on the degree to which their electoral fate depends on taking these actions. If support from key interest groups depend on the member's willingness to intervene with a given agency, that member will attempt to intervene. If the electoral rewards are insufficient, the member will simply choose to use their resources on another activity.

Interest groups would want to reward members for performing oversight for at least two reasons. First, members paying costs at this stage is a further signal of policy agreement and commitment that is valuable to the group going forward. Perhaps a member cannot force the group's preferred policy to be enacted now, but *ex post* attempts to sanction provide information to the agency about the consequences of their decisions going forward. Second, there is a chance that imposing costs at this stage may lead to policy change. If a regulation or distributive decision is delayed it may be reconsidered entirely, which could lead to the policy changing toward one more favored by the group. If a member acts to impose the kinds of costs that lead to policy change, they are a valuable asset to the interest group, leading the group to want to ensure that member's re-election. Groups and members would prefer to avoid this, however, as it requires both to pay additional costs. In addition, challenges to agency policy may end in no change to the status quo. If a member intervenes too late in the rulemaking process, they may be unable to do anything about disfavored policies that have already been set into motion. If that is the case, the member and the interest group have incurred additional costs for no additional policy gain.

The decision faced by the agency is where to set policy, which is based on a calculation including its own preferences, the preferences of the member, and the likelihood that the member would act to impose costs on the agency in the next stage. When their own policy preferences are aligned with the member there is no conflict as the member has no reason to follow through with sanctions. The tension comes when the agency wants to create a policy that is not sufficiently reflective of

the member's preferences. The agency can choose its own preferred policy location or shift policy content so as to make the member indifferent about following through with sanctions. The agency has to make a decision about whether the degree to which they value policy is outweighed by any costs imposed by the member in the future. Agency beliefs about costs will depend not only on the size of the costs, but the probability that they will actually be imposed. If the agency believes that they are dealing with a type that will not follow through, the probability that any costs are realized is low and the agency is free to implement their preferred policy. When the agency believes that threats from the member are credible, their decisions may be impacted by the member's preferences.

The fundamental argument here is that performing oversight is a mechanism by which members can signal that type. Oversight provides a signal along at least two dimensions. The first is that oversight signals the direction of the member's preferences. Hearings offer members the opportunity to communicate with bureaucrats directly to inform them of the degree to which their actions are suitable. Political scientists and journalists have focused on situations in which Congress uses these opportunities to scold bureaucrats, though the opposite regularly happens. One of Aberbach's (1990) most striking findings is that oversight is overwhelmingly performed by the biggest advocates of programs and tends to be positive in tone, serving to "boost" programs more than signal displeasure. Thus, members use the oversight process to communicate all kinds of preferences to agencies, giving the agency information about what congressional support and opposition would look like.

As discussed above, preferences on their own are not enough for influence. If the agency knows that members are unhappy but that they do not care enough to expend the effort to impose costs ex post, it will be difficult for those members to influence the agency. The second and perhaps more important signal carried by oversight is one of intensity. Members may have preferences and expertise in an area, but to impose costs

they must also have a willingness to pay the costs associated with sending a signal and taking additional actions *ex post*. Allocating time and staff to overseeing an agency is exactly that kind of costly signal. The very fact that the member participates in an oversight hearing, orders a CRS report, or contacts an agency directly suggests that the member is invested in what the agency is doing. If members are unwilling to use any of the means at their disposal to communicate their preferences to agencies, the agency can be fairly confident that the member poses relatively little threat going forward. By performing oversight members can signal to agencies that they are the type whose preferences need to be taken into account by the agency going forward.

That brings us back to the decision faced by the member. The member faces a choice about whether they want to pay the cost to signal an agency, which they will choose to do only if they receive sufficient electoral benefits to outweigh the costs. The problem of selective incentives is solved by the presence of interest groups willing to use their resources to provide electoral support sufficient to compensate for the costs incurred by the member. As long as the electoral goods provided by interest groups are large enough to compensate for the costs of oversight, members will oversee. The more that interest groups are willing to offer for oversight, the more emphasis members will be willing to place on it relative to other activities.

From assumption 2 and the subsequent discussion, we know that interest groups care about a subset of policies made by a subset of agencies, and want to be represented by members who are able to ensure favorable outcomes from those agencies. This means that groups want representatives to whom the agency is responsive. Thus, they want members who both agree with their positions and who pose a credible threat to the agency. These members, by their very presence in the legislature, provide an active threat to agencies. This will lead agencies to account for the preferences of that member, which are presumably aligned with the groups in the member's constituency. Not only do interest groups want to be represented by this kind of member, they want

relevant agencies to know that they are represented by this kind of member. If the agency knows the group's preferences and understands that they are represented by a member who will act to affect the agency's utility, the agency will be more responsive to the policy demands of the group in the first place, saving the need for costly fire-alarms in the final stage. In turn, groups will be willing to supplement the costs members incur by sending these signals.

Oversight serves a second valuable purpose for the group in that it provides information about the member's level of commitment. Groups generally have a problem wherein they find themselves uncertain about whether members simply espouse support the group's preferred policies or will follow through and actively support the group's interests. If groups cannot confirm the member's commitment they have incentives to be more circumspect in their giving, ultimately harming the member. By performing oversight, the member has an opportunity to take positions and demonstrate intensity to the group. Members who take a public position on an issue are, to some degree, linked to that stance. This makes the member unlikely to go back on their support as opponents could point out the member's inconsistency in future elections. Oversight signals intensity to groups in exactly the same way it does agencies. If a member is willing to use some of their scarce time to perform oversight advocating the group's positions, that group has information about the likelihood that the member is sufficiently committed to the group's well-being.

Groups will be willing to support members for overseeing relevant agencies, and the question for the member ultimately comes down to whether the group will be able to marshal the kinds of electoral goods needed to affect re-election. If so, the member chooses to perform oversight of the agency. If not, the member does the opposite. If members choose not to actively oversee and establish themselves as the type of member whose preferences should be noted before the agency makes decisions, the interest group merely withholds support or actively recruits a challenger who will

advocate on their behalf.

One important implication of this signaling framework is that it provides an explanation for oversight even in cases where the agency is doing what the member's constituency wants. What Aberbach (1990) terms "booster" oversight is confusing if the purpose of oversight is to detect and remedy violations of legislative intent. If the purpose of oversight is to signal the direction and intensity of the member's preferences, such behavior becomes less puzzling, as the signal should serve to inform future agency behavior. Members may not worry about what the agency is doing in the present, but they may still wish to provide signals about the likely consequences of future behavior. The fact that a member chooses to hold or attend a hearing and say nothing but positive things about the agency's performance should help to communicate that the member wants policy to remain similar going forward, and that they care enough about those future policies that they are willing to forego alternative uses of their time and energy in the present. This behavior also provides a signal to the interest group of member commitment, as the group gets to observe the member taking actions that should help ensure that the group's preferences are acknowledged forward.

An important question to ask in any kind of signaling interaction is whether the signal is informative. If the agency sees that the member performs oversight, they want to know if that implies that the member will follow through at the final fire-alarm stage or if the signal was simply bluster. If the agency knows that the member is bluffing, they will not be responsive to the member and policy demands of the interest group, which in turn means that members will not be able to benefit electorally. Thus, a signaling story of oversight must contend with the potential for members to dissemble. One way in which this can be solved is through the cost of signals. If members invest more at the oversight stage, holding multiple hearings or being active over a long stretch of time, the agency can be more certain that the member

is committed and will follow through. The presence of interest groups, however, also provides information to the agency about the structure of the incentives faced by the member. If, at the final stage, the group's electoral support for the member is conditioned on the member's decision about whether or not to impose sanctions, the agency has additional information about whether it is in the member's best interest to doggedly pursue sanctions.

Because interest group support is visible to both the agency and the member, interest groups can cause a separation of behavior in different types of members. Having visible interest group support can induce truthful behavior as long as the agency knows the member's potential gains from following through and the member knows that the agency knows. If members know that the agency knows that the member has no incentive to follow through on threats, the member simply won't bother paying the costs to make threats in the first place. When the agency sees a member engaging in oversight, then, they know that member is unlikely to be trying to mislead the agency and can be confident that the decisions affecting those members are likely to have consequences, positive or negative.

One final question that comes up in situations with non-contemporaneous exchange is whether the parties will renege. If either party is uncertain about the safety of the exchange they will choose not to hold up their end. What is to stop a member from taking a campaign contribution and not following through to advocate for the needs of the donating group? What is to stop interest groups from happily accepting a member's help with an agency but turning around and donating their money elsewhere? In the case of the interest group, there is no temptation to renege if they find themselves represented by the right kind of member. Members who have engaged in this costly signaling in the past carry that reputation into the future, and that reputation is valuable to the interest group. Interest groups will support the member for the same reason they would support any other member: they want to see

them returned to office. Members stick to their promises because the interest group's willingness to support or oppose the member is conditional on the type of member they are dealing with. If the member takes actions suggesting that they are not likely to be effectively advocates for the group's policy positions, the group can withhold support or actively oppose the member in the future.

### **3.4 Oversight and Congressional Institutions**

The empirical portion of the dissertation focuses entirely on one, particularly notable, form of oversight: hearings. Hearings are what most think of when they consider congressional oversight, with patterns in hearings being responsible for most of our stylized facts and empirical evidence on how oversight is conducted. The individual-level theory presented above assumed that members were free to engage in oversight of any agency that they wish, an assumption that is appropriate for many kinds of oversight. Members are unrestricted in their decisions about whether to contact individuals at an agency, order the CRS or GAO to perform an investigation of agency practices, or review an agency's casework, and their decisions about the use of these tools should resemble the decision outlined in the theory.

Assuming that members have the ability to oversee an agency if they want to is a less tenable assumption when it comes to committee hearings which, more than other forms of oversight, are situated within a well-defined set of norms and procedures in the congressional committee system. At the most basic level, committee hearings require the use of committee and subcommittee time, both of which are controlled by agenda-setters within those committees. If a hearing is never scheduled either because there is simply a dearth of plenary time or if key decision-makers want to ensure that the topic is not discussed in a public forum, the member lacks the opportunity to engage in this form of oversight. Thus, even if members want to use hearings as a means by which to perform oversight, there is no guarantee that they will be able

to do so. For that reason, discussing the dynamics of and potential biases in the formation of committee agendas is an important part of explaining and evaluating the effectiveness of congressional oversight. Which agencies are subjected to public oversight and which topics are discussed at those hearings may not reflect the interests of members, but those of agenda-setters given power over plenary time.

The most direct investigation of the committee agenda process comes from Joel Aberbach, whose classic book on congressional oversight contains a chapter in which legislators and staff were given surveys about the primary determinants of oversight activity (Aberbach, 1990). Members and staff were asked to name the factors leading some agencies or programs to be overseen (scandal, general public concern, policy disagreement with members, etc...), as well as which members priorities were reflected in the oversight agenda. While members and staffers disagreed on the relative influence of some actors (staff unsurprisingly believing themselves to be much more important), both groups agreed that committee and subcommittee chairs were the primary influence on the oversight agenda. Ranking minority members were thought to have little influence, as were rank-and-file members. While members believed that the priorities of the committee chair did tend to line up with the priorities of ranking members, they were unequivocal that in cases of disagreement, the unit chair was ultimately responsible for deciding what did and did not make the oversight agenda.

If, as Aberbach argues, committee and subcommittee chairs do exert an outsized influence on the oversight agenda, how should we expect them to use this power? Aberbach is not explicit about whether the power exerted by committee chairs is positive or negative in character, but both (or a mixture of the two) are plausible. In terms of positive agenda power, the interest-driven perspective would predict that chairs should use their position to stage oversight on topics for which they would expect to receive electoral benefits. This does not mean abandoning all topics in which the chair has little interest, as a number of factors, many of them exogenous to

member preferences, put topics on the agenda. On the margins, however, we would expect the agencies and programs chosen for oversight to reflect the interests of the chair. If we assume that committee chairs have preferences that look similar to those of their peers, their choice should be to emphasize oversight of agencies for which they expect to receive an electoral return on their time. Because chairs benefit the same as any other member by engaging in signaling to agencies, and may be able to derive additional electoral benefits from groups wanting to see a specific policy put on the agenda, they will use their agenda-setting power to give themselves opportunities to engage in this behavior with electorally relevant agencies.

The question, then, becomes under what circumstances they should use committee time to pursue oversight of interests relevant to their electoral supporters. That decision is based on what the chair believes to be the likely outcome of allowing oversight, which involves a consideration of what members are likely to do in the hearing and what the likely response, either from bureaucrats or other members, is likely to be. If the chair believes that allowing oversight is likely to provoke a response that could undermine the provision of favored policies, they should choose to not allow committee time to be used for oversight.

Oversight has the potential to produce negative outcomes for chairs in at least two ways, both of which depend on the degree of opposition to the chair's preferences among fellow committee members. First, oversight can result in information being revealed to the chamber that the committee chair would prefer not be revealed. While a long literature outlines the value of secrecy to bureaucrats, that same secrecy is important to members who benefit from policies that fly under the radar of most of their colleagues. Publicizing certain agency practices and policies could lead to increased scrutiny and creates the potential for support to rally around changing the status quo. In a sense, oversight offers a venue for conflict expansion, as aggrieved members can use their time to call attention to their problems with agency policy.

Insofar as the chair disagrees with those members, allowing oversight may open the chair to the risk of having their policy preferences undermined.

A second consideration is that a committee containing members who prefer policies different from the chair can result in a set of mixed signals, ultimately undermining what the chair set out to accomplish. In the individual-level theory, members engage in oversight because it communicates information that they hope will result in bureaucrats implementing the member's preferred policy outcome. Attending and participating in hearings communicates information about the direction and intensity of preferences, which bureaucrats work into their own personal calculations about the relative costs and benefits to a given course of action. Being opposed by fellow committee members may blunt the effect of the signal sent by the chair to the agency or the chair may even see the signal that they had intended to send overwhelmed by the signals sent by their colleagues on the committee. If the chair fears agencies being subjected to messages that would undermine the chair's preferred policies, the chair would face a strong incentive to avoid opening opportunities for the committee to engage in this activity.

Opposition alone will not induce gatekeeping, however, as some members are systematically less likely to engage in oversight of a given agency. Recall that the key individual-level predictor of oversight is not the preferences of the member, but the level of intensity induced by their re-election constituency. When members are backed by a constituency with intense interests in agency policies, they will attempt to use oversight to influence that agency. Absent sufficient intensity from their re-election constituency, the member will choose to allocate their effort elsewhere, meaning that they do not pose a credible threat in a way that would cause the chair to bypass opportunities for oversight. Even given the opportunity to influence agency policies, the low intensity member will choose not to do so.

Acknowledging the potential for gatekeeping raises the question of the degree to

which the predictions made about the actions of members are dependent on assumptions about the oversight agenda. If members are routinely denied the opportunity for public oversight of agencies of interest, the patterns uncovered by investigating patterns of individual participation may not provide an accurate picture of how members make choices about how they allocate time. While this may be a concern, it is unclear how the gatekeeping dynamics proposed here would alter the predictions about individual behavior. Gatekeeping would certainly call into question the ability to make broad claims about members of Congress not caring about oversight of a given agency, as that could be the result of member neglect or a strategic chair actively censoring oversight opportunities, but conditional on the chair making a choice to conduct oversight, we should still expect to see only the most interested members invest their time and effort. If chair strategically censor sensitive topics, we would expect to see lower overall levels of interest, but still a pattern in which highly interest members are the most likely to participate. Likewise, a chair inclined toward high profile topics (either for partisan or policy reasons) might result in the benefits of oversight outweighing the costs for a wider variety of members, but our predictions about levels of investment in this activity would still be that highly intense members are the most likely to attend and actively engage in oversight.

### **3.5 Implications**

This section will begin with the implications from the theory that are tested in subsequent chapters, followed by implications for broad patterns in oversight and the behavior of members, interest groups, and agencies.

**(H1) Effort allocated to oversight of a given agency or program will be increasing in the program-specific interest of (outside) donors as well as constituency groups.**

This is the implication tested in Chapter 5, and is what I take to be the primary

behavioral implication of the theory. Members make choices about how to allocate effort based on whether the benefits outweigh the costs. The benefit to oversight will increase as the ability of an interest group to affect electoral outcomes increases. Therefore, the most politically attractive targets of oversight for members will be the ones of interest to the strongest and most politically active groups. In cases where the member's electoral coalition does not contain groups interested in the policies of a given agency, we should expect members to avoid oversight of that agency.

**(H2) The oversight agenda will reflect the interest-group-induced priorities of the members with control of the committee agenda.**

Hypothesis 2 is the focus of Chapter 4. Oversight takes place in committees and subcommittees whose agendas are determined, at least in part, by unit chairs. As such, topics that are electorally important to those agenda-setters should be more likely to be subjects for oversight.

**(H3) Committee chairs will be less inclined to focus on agencies for oversight when fellow committee members have divergent and intense preferences.**

Hypothesis 3 is also tested in Chapter 4. Recall from the discussion above that the chair's decision to exercise gatekeeping power should depend on two factors. One, there must be a divergence in preferences between the member and fellow committee members. Two, the members with preferences in opposition to the chair must have preferences that are sufficiently intense such that they would credibly be a threat to engage in oversight of the agency in question. In cases of low committee intensity, chairs have no reason to avoid oversight of an agency. In cases where preferences do not diverge, chairs have no reason to avoid oversight of an agency. Only cases with divergence in preferences and intense opposition should result in gatekeeping.

The following hypotheses also follow from the theory, but go untested in the dissertation.

**(H4) Members will not perform oversight of an agency unless the direction of their preferences aligns with the organized interests in their electoral coalition**

So far I have ignored the preferences of members, assuming that members act on behalf of the interest groups who support them. Relaxing that assumption, however, does little to the conclusions drawn. Imagine a member from an agricultural district who is in favor of strong regulations on pesticides that are opposed by the agricultural interests. The choice faced by the member is whether to send a signal of their preferences to the agency. If the member chooses to advocate against the group's preferences, the group will oppose the member, with the level of opposition increasing in the degree to which the member advocates. The member is, then, in a no-win situation where if they pressure the bureaucracy to adopt their preferred policy, they will suffer electorally. As such, if not willing to change their position entirely, the member should avoid taking actions that actively harm the group and avoid oversight.

**(H5) The effect of organized interests will decrease when the preferences of organized interests supporting the member are heterogeneous.**

Hypothesis 1 states that members should be more active when politically organized interests reward them for doing so. That effect, however, should be conditioned on the degree to which preferences in the member's coalition are unified. If we imagine that the same district described above also has a politically active group of environmentalists, the member could find it in their interest to pursue their own preferred policy or to avoid oversight altogether. At that point, the relevant calculation for the member is whether the difference between the political benefits from the environ-

mental group minus the political costs from the agricultural group and the costs of performing oversight is greater than alternative activities. Similar to what Fiorina (1974) describes in his study of congressional voting, preference heterogeneity makes oversight a less appealing option as benefits coming from one group are offset by costs imposed by the other. In a case where there is conflict among groups within their constituency the member will avoid oversight of the agency entirely.

**(H6) When only one side (supporters or opponents) of a policy are organized, oversight will be performed by a homogenous and unrepresentative subset of the chamber.**

Oversight will be performed by a homogeneous subset of members when only one side can provide legislators with benefits for oversight. When both sides are politically active, both sides should be represented in oversight, making it more representative. In cases where both sides are organized but one fully encompasses the other (all environmentally minded districts also have organized agriculture but not all organized agriculture districts have organized environmental interests), oversight will be homogeneous.

**(H7) Members will perform both police-patrol and fire-alarm oversight.**

The signaling logic makes clear why members would find it in their interest to perform police-patrol oversight. Doing so sends a signal to the agency, who take that signal into account when making future decisions. Interest groups whose positions align with the member's signal will benefit and those groups will provide the member with electoral compensation in return. Fire-alarm oversight will still take place when interest groups need it, but police-patrol oversight can help make the need for fire-alarms less common. Instead of fire-alarms replacing police-patrols as in McCubbins and Schwartz, the two work in tandem.

**(H8) Oversight need not be negative.**

One of Aberbach's most striking findings is that hearings often seem to serve a "booster" function, with agency representatives brought in to have praise heaped upon them. This behavior is consistent with a signaling story, as "booster" hearings serve exactly the same purpose as those with a more negative tone. Members can use these hearings to signal the direction and intensity of their preferences, just as they could in hearings that are critical of agency policies. This behavior is inconsistent with a fire-alarms story in which members perform oversight to respond to problems, as responding to problems should always result in a negative tone.

**(H9) Oversight will occur primarily on programs with strong interest communities.**

This follows from the fact that individuals will not perform oversight absent interest group backing. Programs or policies without an organized set of winners or losers will simply never be a priority for members.

**(H10) Interest groups will reward/punish members electorally for oversight of group-relevant agencies.**

Interest groups want to be represented in Congress by members who agree with and have demonstrated a commitment to the group's goals. Groups will condition their decision about whether to provide or withhold support in part based on the member's decisions regarding oversight. The most enthusiastic support provided by groups will be to the members best able to produce policy outcomes favored by the group.

### 3.6 Conclusion

In this chapter I advanced a theory of oversight in which oversight serves as a costly signal to agencies, sent by members on behalf of organized interests. This theory can explain why oversight occurs at all, why it takes the form that it does, and why some members perform oversight of a given agency and not others. In this view, oversight is not intended to solve Congress' problem of political control and bring policy in line with majority preferences. Instead, oversight serves the policy needs of interest groups while serving the electoral needs of members.

The subsequent chapters offer empirical tests of the theory's implications. First, I take on the question of how the oversight agenda is set. Before members face a decision about whether they want to perform oversight, they need the opportunity. Here, I have argued that unit chairs have the opportunity and incentive to shape committee agendas to further their own goals and that there are conditions under which chair preferences should be more or less important. Chapter four tests those expectations and finds results largely consistent with the theory. The final empirical chapter tests the implication that oversight will be dominated by members whose electoral fates are most connected to pleasing organized interests, again finding the pattern predicted in this chapter..

## CHAPTER IV

### Setting the Oversight Agenda

The previous chapter introduced a theory of why members perform oversight that centered on pressure received from the interest groups who make up the member's electoral coalition. Members, I argued, use oversight to signal to agencies and interest groups the direction and intensity of their preferences regarding policies made by the agency. While the theory made clear predictions regarding when members would choose to actively oversee agencies, opportunities to perform oversight do not arise randomly. Oversight, particularly the kind performed in public hearings that is the empirical focus of this dissertation, is situated on a set of institutional procedures and norms that determine how scarce committee time will be used. This raises the question of what drives the oversight agenda and offers the rank and file these opportunities to engage in signaling through congressional hearings. Here, I use the interest-driven perspective to investigate a central question about agenda-setting in congressional oversight that has received very little attention: Why are agencies the subject of rigorous oversight at some times and largely ignored at others?

Building empirically on the theoretical discussion from the previous chapter, I test the proposition that committee oversight agendas are affected by the interest-driven preferences of unit chairs. I apply Aberbach's (1990) finding that committee and subcommittee chairs have the largest influence on the oversight agenda to a case study

of the House Committee on Energy and Commerce and its constituent subcommittees and, using a panel-data design and a measure of constituency interest based on the degree to which members received contributions from interest groups in sectors that actively lobby a given agency, I show that committee and subcommittee attention to an agency  $a$  at time  $t$  is a function of the constituency demands of committee and subcommittee chairs. I test alternative explanations about the importance of divided government and the level of regulatory activity in which agencies are engaged, finding that each lacks explanatory power. Indeed, a (certainly too) simple model of agenda-setting based on the interest-group induced constituency pressures faced by committee and subcommittee chairs outperforms all of the more conventional explanations outlined above.

In addition to the basic tests, I examine the degree to which individuals who may plausibly influence the internal dynamics of committees see their preferences reflected in the oversight priorities of the Committee on Energy and Commerce. The results show mixed support for the proposition that subcommittee medians are able to influence the oversight agenda, and no support for the idea that committee oversight activities are affected by partisan concerns. Next, I test a conditional theory of agenda setting in which the decisions of committee chairs are conditioned on the degree to which they face intense opposition within their committee, finding little support for the hypothesis that unit chairs engage in strategic censoring of the oversight agenda.

The chapter proceeds as follows. First, I discuss the scant empirical work on when and why agencies choose to oversee agencies. Next, I argue that the most plausible source of agenda-setting power in committees is the chair, and discuss how we should think about the chair's preferences for oversight activity in the interest-driven framework. The following section outlines the strategy for measuring interest group pressure faced by committee chairs, basic patterns in the data, and a research design to investigate the effect of interest group pressure on committee oversight

activity.

## 4.1 When and Where to Oversee?

Empirical work on oversight has demonstrated a high degree of variation in the amount of oversight performed over time and across units. Previous research demonstrates convincingly that overall levels of oversight change over time, that certain committees are more active in oversight than others, and that committees vary in the amount of oversight they perform over time. Aberbach (1990) shows that the overall amounts of oversight increased markedly from the 1960's to the late 1970's, going from about 100 oversight days per year in 1961 to approximately 500 days by 1983. McGrath (2013) extends Aberbach's analysis through 2006, showing a similar increase in oversight activity in the post-war period. He finds, however, that the rate of increase has slowed, with the number of hearing days in the House oscillating between 400 and 800 per year since the marked increases in the 60's and 70's.

In addition to variance over time, there is strong evidence that committees and subcommittees vary substantially in the degree to which they are active in oversight. In Chapter 2, I showed that committees vary a great deal in the degree to which they focus on oversight with some like the Committee on Agriculture or Committee on Natural Resources focusing heavily on oversight with others, such as Education and the Workforce and Financial Services doing less. McGrath (2013) demonstrates that not only is there variance across committees, but within committees over time, finding that ideological divergence between the sitting president and the members of the committee leads committees to engage in more oversight.

Evidence of temporal variation in the degree to which certain agencies are targets of oversight lacks a great deal of large-n support, but the collected evidence through case studies and committee interviews suggests fairly convincingly that such variance exists. In an early investigation of the dynamics of congressional oversight, Scher

(1963, p. 530) uses interviews to understand what drives congressional attention to agencies, concluding that monitoring is “a spasmodic affair marked by years in which the agencies are virtually ignored followed by spurts of committee interest in agency activity.” Aberbach’s (1990) adds more structure to Scher’s argument, finding that staffers report increases in oversight of a given agency in cases of scandal, disagreement with key committee members, and a number of additional factors, suggesting that both actions by agencies and features of the congressional committee system produce changes in the levels of scrutiny received by agencies. Finally, in their examination of issue expansion and congressional attention, Baumgartner and Jones (1993) show that oversight of nuclear and tobacco regulatory policies changed markedly in the post-war period, with each seeing a large increase in the number of committees overseeing the policies and the amount of attention paid by those committees before an eventual loss of interest by the chamber. So while few empirical studies have attempted any kind of systematic investigation of how attention to agencies varies over time, intuition and the collected case studies suggest that such variation does exist.

The question to be answered here is how we can explain these patterns of variation. More specifically, we want to know how committees come to prioritize oversight of some agencies over others, and why those priorities change over time. Existing work has largely focused on one or two of these dimensions of variation, but never all of them at the same time. This omission is largely a function of data, as collecting information on the targets of oversight beyond a broad description of the policy area addressed is a substantial undertaking. Still, the fact that no large-n research has attempted to answer this question is surprising, as understanding why committees choose to oversee one agency and not another and why committees vary in their oversight of a given agency over time would seem to be central to understanding what oversight is intended to accomplish and whether oversight is having its intended effect.

Although the empirical work on oversight has not taken up this question, the explanations proposed for why we see increases or decreases in oversight broadly are useful for thinking through the committee-agency dynamics of interest. One set of proposed explanations for variation in oversight behavior centers around partisan concerns. In these explanations, committees work at the behest of the majority party in Congress and use their control of the oversight agenda to perform rigorous investigations of opposition party presidents while ensuring that topics that may be politically damaging to co-partisan presidents are avoided. Scher (1963, p. 541) is the first to suggest partisan concerns as a determinant of oversight, stating that “when the leadership of the majority party in Congress believes it can cause sufficient embarrassment, with accompanying profit for itself, to a past or current opposition President who is held responsible for the performance of his agency appointees, committee oversight tends to be used for this purpose.”<sup>1</sup> Mayhew (1991) was the first to test this link, finding no connection between investigatory activity. Subsequent analyses (including one by Mayhew himself), however, find that divided government is a strong predictor of congressional investigations (Kriner and Schwartz, 2008; Parker and Dull, 2009). These studies are limited only to investigations, a highly public form of oversight that may overstate the degree to which oversight broadly is influenced by partisan motives. These studies also fail to explain the fact that a large amount of oversight and investigatory activity happen under unified as well as divided government, and do not produce clear predictions about which agencies will be the targets of oversight. Generally, however, an application of this logic would predict that agencies would be more rigorously overseen under divided government.

A second explanation for oversight activity is based on policy considerations, with congressional attention driven by increased agency activity. This explanation is largely consistent with the principal-agent framework in which committees use over-

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<sup>1</sup>Note that Scher does not actually state that overall levels of oversight should be increased, only that the nature and tone of oversight performed will change.

sight to gather information about changes to status quo policies. When a committee sees that an agency is making major changes to policy, the committee's need for information increases and the committee should, in turn, increase its oversight activity. Consistent with the hypothesis that oversight is driven by agency activity, Aberbach (1990, p. 45) shows that the overall level of oversight tracks very closely with the increase in the number of pages in the federal register, though it should be noted that the federal register has continued to increase in size while the number of oversight hearings has leveled off over the past 20 years. Dodd and Schott (1979) emphasize pressures within Congress and the need to respond to concerns voiced by interest groups, arguing that oversight should be unlikely in the absence of agency outputs that conflict with interest group preferences. As regulatory activity increases, then, we should see a corresponding increase in demands for oversight. Building on this logic, McGrath (2013) presents a theory of oversight in which Congress' need to perform oversight is a function of the level of disagreement between the committee and agency. Committees, he argues, have more of a need to pay the costs of investigating agency behavior when those committees are under the control of ideologically divergent presidents, suggesting that the effect of increased regulatory activity on oversight is conditional on characteristics of the agency and committee. Unfortunately, due to limitations in the ability to measure agency and committee preferences on any kind of comparable scale as well as a lack of data on which agencies were the subjects of oversight hearings, McGrath is unable to address the question of why oversight of a given agency varies over time, focusing instead on the related but distinct question of why committees vary in their oversight activity (aggregated across all agencies).

## **4.2 Committee Chairs and the Oversight Agenda**

The theory outlined in Chapter 3 highlights a different process by which oversight may come to be salient for members. That is, members perform oversight in order

to signal to agencies their preferences and the intensity with which they hold those preferences. This story clearly offers predictions about how members will go about choosing to perform oversight of certain agencies, but requires an additional tweak to produce predictions about agencies and committees in the time-series. What conditions would give rise to high levels of scrutiny at one time and low levels at another?

In the previous chapter, I suggest that the preferences of committee and subcommittee unit chairs may help explain this variation. Oversight, as performed by congressional committees, does not occur in any kind of systematic fashion. While Congress has occasionally directed committees to engage in “continuous watchfulness” of the agencies within their jurisdiction, oversight is not continuous and is the product of choices of actors within the committee system. More specifically, oversight occurs when key agenda-setters choose to allocate committee time to holding hearings and investigations. The question becomes who these agenda-setters are and what drives their decisions. Aberbach (1990) does not go so far as to offer a theory of oversight agenda-setting, but does give insights into who the primary agenda setters might be. To address the question of which members have the largest impact on the oversight agenda, Aberbach conducted surveys of top legislative staffers and members of Congress. While the two surveys produced disagreement about the influence of some individuals (members did not believe staff to be as influential as staff believed themselves to), one unequivocal finding from the surveys is that unit chairs (committee and subcommittee chairs) are widely thought to have the primary influence over the selection of agencies and programs for which oversight will be performed. Among high-ranking staffers, 68% responded that the unit chair is the most influential, while 88% of members of the House and Senate who were not chairs reported the same. Respondents also differed by chamber, with both staff and members being more likely to report that chairs in the House were influential than chairs in the Senate.

The findings regarding the influence of chairs are particularly striking in light

of Aberbach's findings regarding the effects of other members. Aberbach finds that it is rare for chairs to schedule oversight hearings in the absence of some kind of discussion with other members, but that minority ranking members lack a great deal of influence (between 4 and 7 percent of staffers mentioning ranking members as a major influence), as do rank and file members. So while committee chairs rarely act unilaterally, their desire to oversee an agency or program is, in effect, necessary for a hearing to take place. Likewise, the lack of power ascribed to these other members suggests that unit chairs have a great deal of leeway to use committee time and resources to pursue topics of their own interest. Simply put, if there is an individual with the capability to shape the oversight agenda, the chair is that individual. The question, then, is to what degree do the chair's preferences drive the actions of the committee? First, however, one must consider what the utility function of the chair looks like.

The interest-driven perspective outlined previously provides one potential explanation for the components of that utility function. Simply put, if members have the ability to choose topics for oversight, they will choose topics that advance their political goals. Chairs, like any other member, face the reality of electoral demands. Like their colleagues, they need to take actions that help attract support from organized interests, which provides them with the same incentives for oversight as any other member. The primary difference is that the chair has the ability to put topics of interest on the agenda. If a unit chair's electoral coalition is made up disproportionately of one interest or another, the chair can focus attention on agencies of concern to those interests and engage in the kind of signaling described in Chapter 3<sup>2</sup>. This is not to say that they will only allow oversight of the agencies most relevant to their own interests. Chairs are, of course, agents of their party and have little to lose by allowing oversight of agencies when preferences of the members on the committee are

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<sup>2</sup>It may also be the case that the chair's use of committee time provides another mechanism for signaling

homogeneous. Chairs can, however, conceivably tilt the scales and choose to emphasize oversight of a specific agency or program if they so choose. They may be limited by party demands or events exogenous to the agenda setting process, but if chairs are the primary decision-makers and act as I have proposed that members do, they should use their powers to emphasize agencies and programs that are of interest to important constituency groups.

### 4.3 Measuring Constituency Pressure

Recall that the interest-driven account asserts that oversight activity is a function of the degree to which organized interests in the member's electoral coalition are affected by the policies created by a given agency. Thus, a member backed by Agricultural interests will pay close attention to the activities of the USDA, while members representing energy interests will keep a close eye on the Department of Energy and the Federal Energy Regulatory Commission. In some cases, identifying the organized interests who care the most about agency outputs is simple. Narrowly tailored regulatory agencies like the SEC or FDIC have a large affect on specific sectors that are easily identified. In other cases, however, the identity of affected groups is less clear. For example, which interests would we expect to drive member behavior in overseeing the Department of Commerce or the Department of Labor?

To address this issue, I use federal lobbying disclosures to identify which sectors actively lobbied which agencies, allowing me to focus on a wide range of agencies and use the intensity of interest groups as revealed through their own actions to determine the groups to whom a member should be responsive for oversight of any given agency. These data are available through [www.opensecrets.org](http://www.opensecrets.org), and cover all instances in which an agency was lobbied from 1998-2014, totaling 888,303 observations. Each entry in the lobbying data includes the entity doing the lobbying, the individual or group on whose behalf that entity was lobbying, the agency being lobbied, and the

amount spent on lobbying. This level of detail allows calculation of how much any individual or group spent lobbying a given entity. Crucial for the application here is that each entry also includes a unique identifier for each group engaged in lobbying and an industry code for the lobbying client, allowing me to determine the degree to which any given sector is active in lobbying a particular agency.

The next step was to link the political activities of those sectors to the electoral well-being of members. This was accomplished using data on campaign contributions from Adam Bonica's Database on Ideology, Money in Politics, and Elections (DIME), a collection of federal and state campaign finance records tracking contributions from 1980-2014. Each entry in Bonica's data is a record of a contribution, whether that be individual to candidate, individual to PAC, or PAC to candidate. The number of contributions tracked ranges from 463,857 in 1980 to over 25 million in the 2012 election cycle. Crucially for the analysis to follow, contributions that involve interest groups are coded using the same identifiers and industry codes that OpenSecrets uses for lobbying. This allows me to observe the lobbying activities of a specific sector and then track the campaign contribution patterns of that same sector to each individual member of Congress, giving me a link between the measure of group intensity and constituency make-up.

The assumption I make for the purposes of this analysis is that the political pressure a member faces from a given sector can be captured by the degree to which that member is funded by those groups. There is a long and heated debate about whether campaign contributions shape congressional behavior or are shaped by congressional behavior and I do not intend to wade into the debate on vote-buying. Using campaign contributions is simply intended to capture the degree to which any individual group is an active supporter of the member and the member would find it in their interest to send signals to agencies and interest groups about the degree to which they care about one issue or another. Thus, members who receive a large amount

of campaign contributions from agricultural interests are, in this application, more dependent on the activities of groups in that sector than members who receive none of their campaign contributions from those same interests.

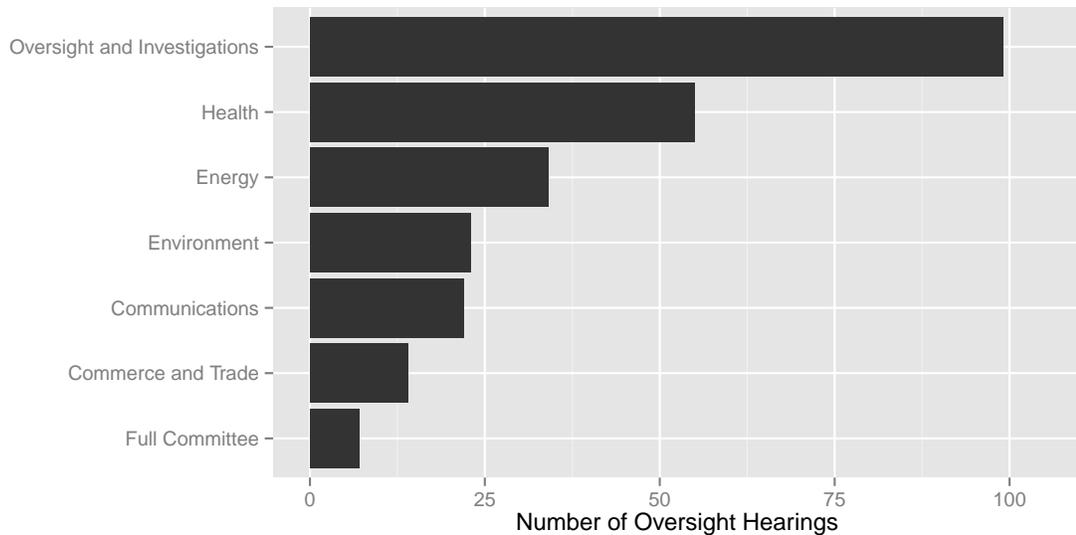
#### **4.4 Data and Research Design**

To analyze the dynamics of oversight agenda-setting, I use a case study of the House Committee on Energy and Commerce and its component subcommittees. Energy and Commerce is active in a wide variety of policy areas, giving it a reasonable claim to jurisdiction over a large and varied set of important federal agencies. Analyzing a committee with broad jurisdiction helps to ensure that the results are not simply a function of one specific policy subsystem, and also allows for variation in the constituency pressure variable that is harder to find in committees where membership is more homogeneous. Energy and Commerce conducts oversight in areas such as consumer protection and trade, health care and medical research, communications and technology, energy, and environmental regulation. The subcommittees of Energy and Commerce have remained largely unchanged over the past two decades and are designed so as to align with these policy areas. In addition, the committee has a general oversight subcommittee and can, of course, carry out business in full committee, though in practice most of the committee's activity occurs in its subcommittees.

I began by taking all hearings identified as oversight using the procedures in chapter 2 and separating out the hearings conducted by Energy and Commerce. Another advantage of using Energy and Commerce is that, compared to many other committees, Energy and Commerce has very thorough records of its hearings available on the Government Printing Office's website going back to 1999. Given that the question at hand involves a time component, these extra years are important for reasons of statistical power. The period covered by the data is the 106th Congress (1999-2000) through the 112th Congress (2011-2012), during which the committee

conducted 254 hearings that were coded as oversight.

Figure 4.1: Oversight Hearings by Subcommittee, 1999-2012



Two things immediately jump out in Figure 4.1, which contains the number of oversight hearings held by each subcommittee over the time period. First, almost no oversight is conducted in the full committee. Only 9 hearings held in full committee over the period are coded as oversight, suggesting that investigating subcommittees as well as the full committee is necessary for an accurate picture of agenda dynamics. The second notable feature of Figure 4.1 is that the subcommittee designated for oversight and investigations is by far the most active in oversight, holding almost twice as many hearings as the next closest subcommittee. The subcommittee on health is the next most active, which is unsurprising given that both George W. Bush and Barack Obama passed major pieces of legislation concerning health care. The least active of the subcommittees is Commerce and Trade which has primary jurisdiction over the Department of Commerce, the Federal Communications Commission, and the Federal Trade Commission.

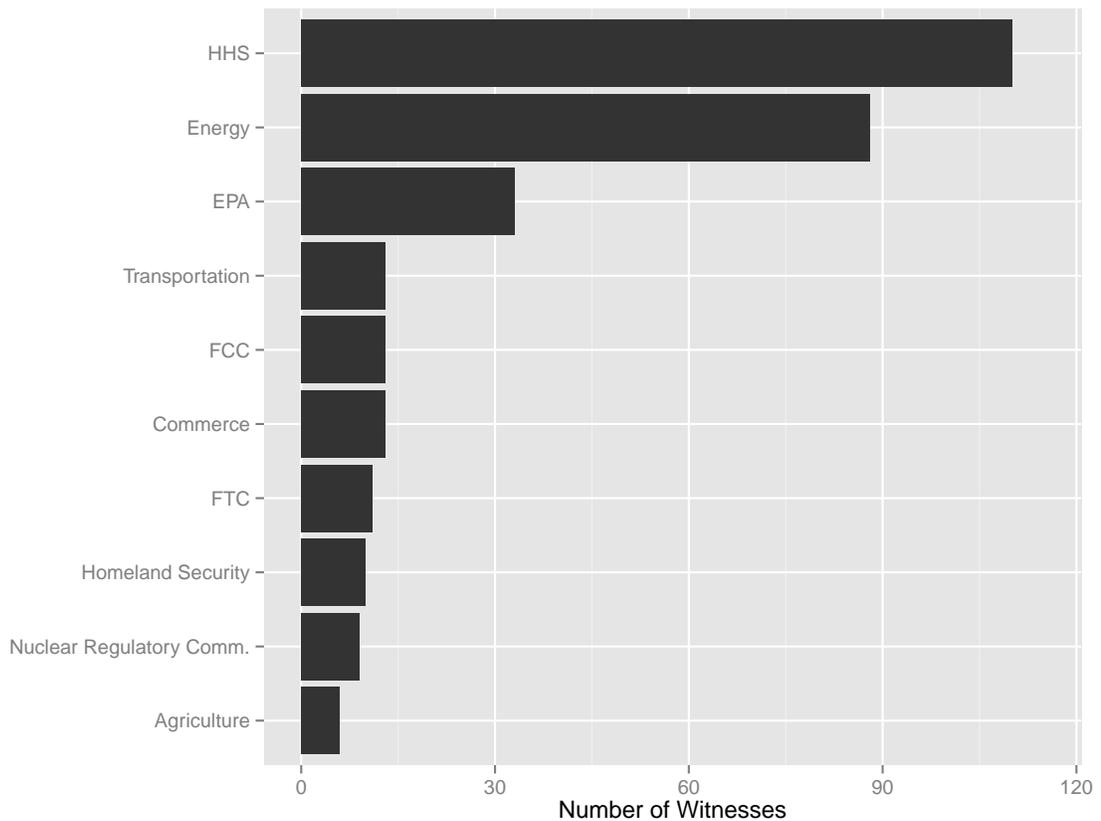
Having identified oversight hearings, the next step was to determine which agency was the target of oversight. To identify the agency being overseen I use information

about the witnesses at the hearing. Congressional committees have the power to issue subpoenas compelling agency witnesses to testify, and a witness being called from a particular agency is a strong signal that the policies of that agency are a major topic of discussion at the hearing. This method for identifying agencies does have a shortcoming, which is that some oversight hearings do not have any agency witnesses. Committees sometimes wish to hear about the operation of a program from only affected private sector interests or public interest advocacy organizations, meaning that some instances in which an agency is being overseen will be missed. A fruitful topic for future research would be to use the text of hearings to identify the agency or agencies being overseen and to see whether these hearings differ in substance from hearings with agency representatives, but as an initial attempt at investigating oversight agenda dynamics I simply use the witness shortcut.

Information on the identity of witnesses comes from one of two sources. First, each hearing file is accompanied by an .xml file that contains metadata on the hearing including date, venue, and witnesses. Information on witnesses includes their name, professional title, and the organization on behalf of which they are appearing. Several hearings had witness entries missing from their metadata, which necessitated an alternative solution. In those cases, I wrote a script to identify the portion of the hearing transcript in which witnesses were identified and parse out the relevant information. Each witness was coded for their agency affiliation, and if their entry contained information about a specific office or bureau, that sub-agency. Of the 254 hearings, 54 had no witnesses from agencies, meaning that 78.7% of the hearings identified as oversight featured an agency witnesses. The hearings featured 350 agency witnesses for an average of approximately 1.4 per hearing, with the largest number of agency witnesses in a hearing being 7.

Given the breadth of the committee's jurisdiction, it is unsurprising that a large number of agencies were subject to its oversight at one point or another. In the data

Figure 4.2: Number of Witnesses by Agency, 1999-2012



there are 29 different agencies represented at committee oversight hearings. When one also considers bureaus or offices as separate entities, the number jumps to 60. These agencies include the large agencies that obviously fall within the jurisdiction of Energy and Commerce, but also feature small agencies like the Medicare Payment Advisory Board and the Chemical Safety Board, as well as large agencies that do not obviously fall within Energy and Commerce’s jurisdiction such as the State Department and the Securities and Exchange Commission. Figure 4.2 displays the number of witnesses coming from each of the 10 agencies most frequently called to testify. As before, we see a heavy emphasis on healthcare, with 110 witnesses coming from Health and Human Services. The Department of Energy was the second best-represented in the data with 88 witnesses, followed by a sharp drop-off to the Environmental Protection Agency with 33. So while the range of agencies covered by Energy and Commerce is

broad, most oversight occurs on a fairly small subset of agencies.

Because the object of this chapter is to test when a given agency will be overseen, the next step is to define the range of agencies and bureaus to be considered. One option would be to consider the full range of 29 agencies, but given the low intensity of focus on many of these agencies, such an analysis would contribute little. While Energy and Commerce has occasionally heard from witnesses from out-of-jurisdiction agencies like Justice or State, it is unlikely that these appearances are determined by anything more than chance. As such, I narrowed down the agencies under consideration to only those which were the subject of somewhat regular or sustained oversight, keeping only agencies or bureaus that were subjected to at least 10 days of oversight by the committee over the period of consideration. Doing so narrowed the range of oversight targets from 60 to 13<sup>3</sup>.

Having described the committees and agencies to be analyzed, I turn now to more concrete issues of measurement and research design. The dependent variable in all of the analyses to follow is the number of hearings held by committee over an agency in a given Congress. Consideration was given to further breaking down the data and analyzing each year separately, but the fact that a key control variable (divided government) is unchanged within each Congress and the fact that contributions increase (and hearings decrease) markedly in election years led me to combine the two years of each Congress. The data contain 12 agencies, 7 committees, and 7 congresses. Two committee-year combinations had to be removed. First, the Subcommittee on Commerce, Trade, and Consumer Protection did not have any of its hearings posted

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<sup>3</sup>The agencies: Commerce, Federal Communications Commission, Federal Trade Commission, Nuclear Regulatory Commission, Environmental Protection Agency, Transportation, Health and Human Services, Centers for Medicare and Medicaid (HHS), Food and Drug Administration (HHS), National Institutes of Health (HHS), Energy, Federal Energy Regulatory Commission (DOE). Two agencies that met the number of days condition were omitted. Homeland Security was omitted because nearly all instances of oversight came in the immediate aftermath of 9/11, suggesting that oversight was driven by a different process. The Centers for Disease Control were omitted because they do not engage in any regulatory activity, meaning that a major control variable could not be included.

in the GPO database for the 106th Congress. Second, the Subcommittee on Environment and Hazardous Materials was subsumed by the Subcommittee on Energy and Air Quality during the 111th Congress, though it was re-established as a separate subcommittee in the 112th. With those committee-years removed, we are left with 564 committee-agency-year observations<sup>4</sup>.

The primary independent variable, *Chair Intensity*, is derived from the campaign contribution data described earlier. For each of the agencies in the sample, I separated out campaign contributions by the 15 sectors that spent the most on lobbying that agency over the entire period.<sup>5</sup> The value of this variable is the log of the total campaign contributions received by the committee/subcommittee chair from the top lobbying sectors in the previous election, adjusted for inflation. The lowest value in the data is \$14,007, given to Karen Gillmor, chair of the Subcommittee on the Environment and Hazardous Materials, by interests affiliated with the National Institutes of Health leading up to the 107th Congress. The highest value is the \$630,942.50 received by Frank Pallone, chair of the Subcommittee on Health, by interests affiliated with the Centers for Medicare and Medicaid leading up to the 110th Congress. The prediction for *Chair Intensity* is that it will have a positive and statistically significant effect on the amount of oversight performed.

In addition to the measure derived from campaign contributions, two additional variables were included to control for the two primary alternative stories outlined previously. The first alternative was that oversight is a function of partisan concerns. As such, we would expect to see oversight of agencies increase when control of government is divided. To test for this possibility, I include a dummy variable that takes a value of 1 when Congress is divided and zero otherwise.

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<sup>4</sup>All regressions were also estimated with the full committee omitted with no substantive change in the results. Given the low amounts of oversight performed in full committee, the lack of effect is unsurprising.

<sup>5</sup>The decision to use 15 was somewhat arbitrary and was driven primarily by my own evaluations of the whether that group of sectors mapped well to the agency's jurisdiction. The results, however, are identical using the top 10 or 20 sectors.

The second alternative was that oversight occurs in response to increased agency activity. I measure regulatory activity as the number of rules promulgated by an agency during a given Congress<sup>6</sup>. To gather data on agency regulatory activity I turned to the Federal Register, the daily digest containing proposed rules, final rules, and public notices. The Federal Register’s website maintains an impressive collection of information on proposed and enacted regulations going back to the late 1990’s. In addition, the Federal Register maintains an API that makes it simple to retrieve information about regulations, including the number of pages, using a simple script in Python.

Finally, McGrath (2013) proposes a mix between the two explanations, which is that agency activity will spur congressional oversight when the administration and committee are ideologically divergent. This story calls for the inclusion of an interaction between agency activity and preference divergence, which I capture with divided government.

## 4.5 Estimation and Results

As described above, the dependent variable in the empirical test is the number of days of hearings held by a committee involving an agency in a given congress. Because the data are non-negative event counts and display a high degree of overdispersion, I estimate the equations using negative binomial regression<sup>7</sup>. A positive coefficient for any of the independent variables would indicate that they are associated with higher levels of oversight. The primary independent variables are intended to capture the effects of policy disagreement (divided government), and the level of activity in which an agency was engaged (total pages of new regulations), with both expected to have

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<sup>6</sup>I also collected the number of pages of regulations added to the federal register to capture complexity, but the measures were so highly correlated (.847) that using one or the other made no substantial difference.

<sup>7</sup>As a robustness check I also estimated the equations using OLS with logged hearing days as the dependent variable. The results did not differ substantially.

positive coefficients.

While these are the primary systematic explanations for oversight activity, the decision to conduct oversight is obviously more complex than what is indicated here. Oversight may occur due to external focusing events (Jones and Baumgartner, 2005), certain committee-specific factors that make the conduct of oversight less likely<sup>8</sup>, or features of an agency that make oversight of a specific agency more or less politically fruitful. My strategy for dealing with these external sources of variation is to use fixed effects to capture time-invariant features of agencies and committees, as well as controlling for external events that shape the agenda across committees and agencies such as the Clinton impeachment or 9/11. The fixed effects strategy has the benefit of ensuring that unit-specific factors are not driving the results, but has the disadvantage that one is unable to estimate the effects of any time-invariant variables. Given the fairly narrow focus of the empirical task in this chapter, I feel comfortable addressing concerns about confounds with different sets of fixed effects and different estimation strategies including analysis of specific subsets of the data and a set of zero-inflated models, intended to address problems in the data.

A potential objection to the kind of design implemented here is that it does not address potential sources of non-independence of observations. This could occur one of two ways. The first is that by committing resources to overseeing one agency, a committee may be unable to allocate resources to oversight of a different agency. A central theme of the argument advanced in this dissertation is scarcity of legislative resources enjoyed by members and it might be the same with committees, which are limited in the time and effort of permanent staff and the amount of floor time available for such hearings. While committee resource constraints may be pressing, for this to be a large problem it would need to be the case that the committee or subcommittee is operating at or near its full capacity. Given the low formal constraints on the use

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<sup>8</sup>For example, the Energy and Commerce Committee's norm of conducting oversight in subcommittee, which is far from universal

of committee time, this seems unlikely.

A second source of non-independence would be that multiple committees may be constrained in how much they can oversee the same agency. If, as we see in the data, several subcommittees at one time or another perform oversight of the same agency, that agency may become less available for each of the committees attempting to perform oversight, effectively making agency time a common-pool resource. Oversight undoubtedly imposes costs on agencies, pulling key bureaucrats away from work and to the House and Senate floors, but it is also generally the case that agencies are called to testify fairly infrequently, and costs can be distributed by sending different bureaucrats to testify. More importantly, committees are able to compel attendance through use of subpoenas, and bringing in an agency that has already been inconvenienced with high levels of oversight entails no additional costs to the committee. Several committees calling upon an agency may be deleterious to that agency's ability to perform their job, but that is unlikely to dissuade committees that wish to oversee.

Table 4.1 contains the results of the first set of estimations. In addition to coefficients and standard errors, the bottom of the table contains the Akaike Information Criterion (AIC) to assess goodness-of-fit and  $\theta$ , the overdispersion parameter from the model. Column 1 presents the most straightforward test, with only *Chair Intensity* and fixed effects for agency, congress, and subcommittee. We see strong initial support for the interest-driven perspective, with the coefficient on *Chair Intensity* being positive and statistically significant. The second model includes controls for the number of regulations passed by the agency, which we would expect to be positive, as well as an indicator for divided government, which we would expect to be positive as well. Neither prediction is borne out, as the coefficient on the number of regulations is negative and statistically insignificant, while the coefficient on divided government is statistically significant, but in the opposite direction of what we would expect. We also see almost no change in either the coefficient or standard error on the coefficient

for *Chair Intensity*, with the values of each differing by only 1 in the third digit.

Column 3 uses the same independent variables, but uses a different set of fixed effects. In this equation, I included fixed effects for agency-year and committee-year<sup>9</sup>. This was an attempt to capture any time-specific trends with either the agency or the committee that the time-variant variables included in the regressions do not capture. These fixed effects would capture things like scandals or agencies suddenly becoming presidential priorities for a limited amount of time. Because these fixed effects are linear combinations of the fixed effects used in columns 1 and 2, I omit those fixed effects. The first thing to note is the magnitude of the coefficients relative to the other regressions. Each is substantially larger than in the previous estimation, and each is statistically significant at the .1 level and in the correct direction. The coefficient on regulations approaches standard statistical significance while the coefficient on divided government exceeds it. Most importantly, the coefficient on  $\log(\textit{contributions})$  remains positive and statistically significant. While these results offer some support for the alternative theories, it is worth noting that the AIC is substantially higher in this model, meaning that it offers a worse fit of the data than the previous two models.

As mentioned earlier, McGrath (2013) argues that the effect of regulatory activity depends on preference divergence. According to his theory, regulatory activity should spur more oversight when preferences diverge between overseer and administration, suggesting a coefficient of zero on the constituent term for the regulatory activity variable and a positive interaction with divided government. I include an interaction between the number of regulations and divided government in Column 4, finding that the expectation of a positive and statistically significant interaction is not borne out empirically. The interaction term and its constituent terms are both statistically

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<sup>9</sup>I also attempted to include committee-agency fixed effects, but the models failed to converge and produced nonsensical estimates suggesting that no committee-agency fixed effects had any effect on the level of oversight. I attempt to address agency-committee dynamics below.

Table 4.1: Negative Binomial Estimates of Oversight Activity

<i>Dependent variable: Committee-Agency Oversight Days</i>				
	(1)	(2)	(3)	(4)
Chair Intensity	0.8755*** (0.1946)	0.876*** (0.195)	1.604*** (0.267)	0.887*** (0.196)
log(Regulations)		-0.174 (0.153)	1.838* (0.968)	-0.215 (0.166)
Divided		-0.671* (0.392)	4.253** (2.062)	-0.938 (0.652)
Divided * log(Regulations)				0.068 (0.130)
Constant	-13.256*** (2.444)	-12.297*** (2.561)	-13.069** (5.818)	-12.302*** (2.562)
Agency FE	Y	Y	N	Y
Congress FE	Y	Y	N	Y
Committee FE	Y	Y	N	Y
Agency-Year FE	N	N	Y	N
Committee-Year FE	N	N	Y	N
Observations	564	564	564	564
Log Likelihood	-433.285	-432.680	-353.004	-432.550
$\theta$	0.384*** (0.066)	0.385*** (0.066)	1.090*** (0.231)	0.384*** (0.066)
Akaike Inf. Crit.	916.571	917.361	956.008	919.100

*Note:*

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

insignificant and the coefficient sizes on the other variables remain unaffected.

An issue that has, to this point, gone unaddressed, is the fact that multiple processes can produce zeros in the data. The first reason that we might see no oversight in a given Congress is simply a lack of interest by chairs in performing oversight. This could be due to constituency pressures, desire to avoid overseeing a co-partisan president, or lack of agency activity to which to respond. The second reason we might see no oversight is a lack of jurisdiction. While committee jurisdictions are highly fluid and there are examples of Energy and Commerce extending its oversight to agencies we would not expect, there remain norms regarding which committee or subcommittee will be tasked with oversight of specific agencies. The data includes several instances of subcommittees and agencies whose jurisdictions make them an odd pair for oversight. The inclusion of agency and committee fixed effects go some way toward solving this problem, the agency-committee fixed effects that we would ideally include result in nonconvergence of the models. An alternative solution may be found in zero-inflated count models.

Greene (2008) describes the zero-inflated negative binomial (ZINB) regression in great detail, but the intuition underlying the model is quite simple. ZINB is a maximum-likelihood estimator for count data where the zeroes in the data are inflated by some systematic process. The first step in the procedure is to estimate the probability that an observation takes a value of zero, using some set of covariates specified by the user. Following this first stage, another equation is estimated for observations greater than zero that incorporates parameters from the first stage. Given no strong theoretical prior about why any of the explanatory variables used above should be excluded from the first stage estimate, I include the same set of variables in both equations.

Table 4.2 contains the results of three regressions that closely mirror the results in Table 4.1. Column 1 contains the simple regression with *Chair Intensity* along

Table 4.2: Zero-Inflated Negative Binomial Estimates of Oversight

<i>Dependent variable: Committee-Agency Oversight Days</i>			
	(1)	(2)	(3)
Chair Intensity	0.552*** (0.180)	0.434** (0.201)	0.408* (0.214)
log(Regulations)		-0.073 (0.126)	-0.073 (0.140)
Divided		-0.538** (0.225)	-0.536 (0.510)
Divided * log(Regulations)			-0.002 (0.120)
Constant	-8.427*** (2.262)	-5.899** (2.565)	-5.605** (2.666)
Agency FE	Y	Y	Y
Congress FE	Y	N	N
Committee FE	Y	Y	Y
Observations	564	564	564
Log Likelihood	-367.897	-394.915	-394.323
Akaike Inf. Crit.	837.795	875.831	878.646

*Note:*

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01  
All variables used in both equations

with fixed effects for congress, agency, and subcommittee. The coefficient on *Chair Intensity* is smaller than in Table 4.1, but remains positive and statistically significant. Column 2 adds the control variables, again finding a positive and statistically significant correlation between constituency pressure and oversight. Unlike before, this regression includes only agency and committee fixed effects. The reason for this is that the ZINB estimator was unable to converge when both congress fixed effects and divided government were included.

As before, there is no demonstrated connection between regulatory activity and oversight, and the coefficient on divided government is significant but in the wrong direction. Column 3 includes the interaction between divided government and regulatory activity, again finding no evidence of a conditional relationship between regulatory activity and oversight. Worth noting is that the coefficients on *Chair Intensity* are usually about half of the size of the same coefficient in the equivalent regression in Table 4.1. While the levels of statistical significance did not change, this change in coefficient size suggests that the choice of estimator is important and that something systematic is happening in the observations with counts of zero.

Table 4.3 contains another attempt to deal with the potential problem of jurisdiction. In these regressions, I replicate the regressions in Table 4.1 with a subset of the original sample. Here, I keep only committee-agency pairs that, at some point during the period of study, produced positive counts. This helps eliminate pairs like the Federal Energy Regulatory Commission and Subcommittee on Health, which has no obvious reason to concern itself with FERC. By doing so, I ensure that only pairs for which some minimum level of jurisdiction is established are included. This reduces the number of observations from 564 to 285.

The findings in 4.3 look surprisingly like those in Table 4.2. In the regressions that include congress, agency, and committee fixed effects, the coefficients on *Chair Intensity* is approximately .48 which is much closer to the equivalent regressions

Table 4.3: Negative Binomial Estimates of Oversight Activity, Split Sample

<i>Dependent variable: Committee-Agency Oversight Days</i>				
	(1)	(2)	(3)	(4)
Chair Intensity	0.474** (0.190)	0.478** (0.189)	0.764*** (0.291)	0.485** (0.190)
log(Regulations)		-0.162 (0.148)	1.170 (1.365)	-0.148 (0.158)
Divided		-0.521 (0.371)	2.9051 (2.946)	-0.671 (0.613)
Divided * log(Regulations)				-0.038 (0.122)
Constant	-8.249*** (2.357)	-7.399*** (2.459)	-8.150 (8.182)	-7.408*** (2.459)
Agency FE	Y	Y	N	Y
Congress FE	Y	Y	N	Y
Committee FE	Y	Y	N	Y
Agency-Year FE	N	N	Y	N
Committee-Year FE	N	N	Y	N
Observations	285	285	285	285
Log Likelihood	-366.469	-365.917	-285.202	-365.871
$\theta$	0.700*** (0.128)	0.706*** (0.129)	2.927*** (0.830)	0.706*** (0.129)
Akaike Inf. Crit.	782.938	783.834	820.403	785.741

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

in Table 4.2 than those in Table 4.1. Most importantly, the same patterns hold. *Chair Intensity* is consistently positive and statistically significant, while divided government and regulatory activity appear to have little or no impact on oversight.

## **Alternative Agenda Setters?**

So far, the tests in this chapter have assumed that it is committee and subcommittee chairs who have the authority to determine set the oversight agenda. Committee chairs, however, are hardly the only individuals with the ability to influence committee activity. Indeed, one of the primary topics of interest in the literature on congressional organization is the degree to which different actors influence the composition of committees and the rules by which they operate so as to influence policy outcomes. The partisan theory of organization suggests the most severe constraints on chairs, going so far as to suggest that committee chairs are the direct agents of their colleagues in majority party leadership. The degree to which decisions about what committees are overseen is dominated by committee chairs, then, is ultimately an empirical question. Members themselves seem to believe that chairs are the most important actors, but that may simply be a matter of perception. Fortunately, these questions can be addressed empirically within the research design used throughout this paper by measuring the preferences of potentially influential members and seeing if chairs still appear influential.

To test the robustness of the results above, I replicate those tests and include measures of campaign contributions received by alternative potential agenda setters. Doing so allows me to ensure that the results for unit chairs are robust, and that there is something unique about responsiveness to committee chairs. The first individual considered is the median member of the majority party. In a series of articles and books, Gary Cox and Mathew McCubbins develop an explanation for congressional institutions based on the power of parties (Cox and McCubbins, 1993, 2005).

In their view, parties exist to overcome collective action problems and ensure that congressional institutions work to advance goals of majority party members. Key to their story is that committee chairs are, in effect, direct agents of the majority party. Chairs serve in their posts at the pleasure of their party, and should a majority of the majority party decide that a committee chair is not effectively serving party goals, the party median has the power to cast the pivotal vote to remove the chair from power in a subsequent Congress. Because the majority party median is the pivotal vote on whether a chair continues to hold their post, we might expect that their priorities might come to be reflected in committee activity. Thus, while members may believe that committee chairs are the key actors in setting the agenda, the decisions of chairs may also be influenced by internal party dynamics.

A second member that I consider is the median member of the committee or subcommittee in question. Aberbach (1990) explores the possibility that rank and file committee members are highly influential in committee agenda setting, finding that members and staff believe that the influence of the unit chair far outweighs that of other members on the committee. While Aberbach's findings suggest that individual members perceive themselves to be less powerful than unit chairs, those results are far from conclusive. Aberbach simply finds that chairs are perceived to be the most influential, but such a perception may arise more from the title and stated responsibilities of the chair than actual power wielded in practice. Unit chairs may be making decisions and scheduling hearings, but that does not preclude the possibility that their decisions are informed by pressure from other important members.

While committee medians are obviously important in voting, it is less clear why they should be influential in oversight decisions. The committee median does not have the power to sanction committee chairs in cases where they disagree with the chair's priorities, and decisions regarding whether or not to conduct oversight are not the product of a majority vote. McGrath (2013) uses the ideological distance between

the committee median and president to predict oversight activity, but offers little explanation as for why the median should be expected to be influential. Focusing on the committee median does, however, offer a readily identifiable individual from the committee rank and file to test against the chair. So while there is not an obvious committee-median agenda setting story, this does offer a means to evaluate the influence of a fairly typical member who should theoretically have little in the way of influence.

A second reason for focusing on internal committee dynamics is that it can offer insight into potential reverse causality. One possible explanation for the results presented above is that, anticipating a high degree of oversight of a given agency, interest groups offer campaign contributions to try and convince members to take their preferred position. If this is true, we should expect to see rank and file members receiving contributions in anticipation of hearings, just as we would expect to see chairs receiving contributions, as each member, but particularly a member who may be pivotal in voting should oversight lead to a proposed change to the status quo, would make sense as a target for persuasive campaign donations. Insofar as we see contributions to chairs, but not contributions to the committee median, predicting committee oversight activity, we can be more confident that there is something special about the priorities of the chair as opposed to a more general strategy by interest groups of donating more when agencies of interest are expected to be on the agenda.

Table 4.4 contains the results from six estimations, with two each employing the strategies used in tables 1-3. The primary independent variables of interest are the level of contributions to the chair, *ChairIntensity*, the level of contributions to the majority party median, *MajorityMedianIntensity*, and the level of contributions to the committee/subcommittee median, *SubcommitteeMedianIntensity*<sup>10</sup>. The first two columns are estimated by negative binomial regression on the entire sample of

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<sup>10</sup>Medians are identified using DW-NOMINATE scores.

committee-agency pairs, the second two are estimated by zero-inflated negative binomial regression, and the third two are estimated by negative binomial regression on only the subset of committee-agency pairs for which there is a non-zero entry in the sample. The first estimations in each of the three groups contain only the campaign contribution variables, while the second estimations also contain the variables for agency regulatory activity and divided government<sup>11</sup>. Each estimation contains fixed effects for Congress, agency, and committee/subcommittee.

The first clear pattern to emerge is that the correlation between campaign contributions received by the unit chair and oversight activity continues to be positive and statistically significant. Different estimation strategies produce notably different coefficient sizes, but all six estimations produce coefficients that are positive and statistically significant at a .1 level of significance, with five of those coefficients being significant at the .001 level. Thus, it appears that even when accounting for the potential influence of other important actors within the chamber, the relationship between chair intensity and oversight activity remains.

Evidence for the oversight agenda being influenced by other members of the chamber is decidedly more mixed. The intensity of the majority median consistently has a coefficient in the wrong direction, with one estimation producing a coefficient that is significant at the .1 level. There is mixed evidence for the proposition that the intensity of the subcommittee median influences the committee oversight agenda, with the coefficient on contributions received by the subcommittee median being positive across all estimations and statistically significant in three of the six estimations. It should be noted, however, that the fully specified zero-inflated model and the negative binomial models estimated only for committee-agency pairs with some established level of jurisdiction return no statistically significant effect. Given good reasons to

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<sup>11</sup>I exclude the interaction between regulatory activity and divided government to conserve space. The interaction term was insignificant when included in all of these estimations and had no important effects on the other variables

believe that the estimates produced by the negative binomial model on the full sample of committee-agency pairs are the least reliable of the three, this result should be met with some caution and treated as largely inconclusive.

So while members other than the chair may be influential in setting the committee oversight agenda, it appears that the oversight agenda is, in fact, influenced by the preferences of the chair. Across a variety of estimation strategies carried out on the full sample or relevant subsamples, the coefficient on contributions to the committee chair is consistently statistically significant and in the direction one would expect if chairs are biasing the oversight agenda.

## **Strategic Considerations in Oversight Agenda-Setting**

The discussion thus far has focused on establishing that unit chairs enjoy some kind of positive agenda power within their committees and use that power to emphasize oversight of agencies that are of interest to the interest groups in their electoral coalition. The benefit to unit chairs of doing so is that it creates opportunities for that chair to engage in the kind of costly signaling described in the previous chapter. In addition, chairs may be able to derive additional benefits from groups seeking the opportunity to testify or simply draw attention to a given issue for purposes of bolstering a program or laying the groundwork for an eventual challenge of status quo policies.

Table 4.4: Estimates of Oversight Activity

	<i>Dependent variable: Committee-Agency Oversight Days</i>								
	<i>Negative Binomial</i>	<i>Zero-inflated Count Data</i>	<i>Negative Binomial (split sample)</i>	(1)	(2)	(3)	(4)	(5)	(6)
Chair Intensity	1.088*** (0.209)	1.087*** (0.210)	0.255* (0.152)	0.394*** (0.150)	0.657*** (0.200)	0.661*** (0.200)			
Majority Median Intensity	-0.182 (0.262)	-0.175 (0.263)	-0.376* (0.207)	-0.003 (0.103)	-0.168 (0.242)	-0.161 (0.242)			
Subcommittee Median Intensity	0.484** (0.237)	0.490** (0.238)	0.381** (0.178)	0.143 (0.187)	0.220 (0.222)	0.233 (0.221)			
log(Regulations)		-0.135 (0.161)		-0.144** (0.073)		-0.161 (0.150)			
Divided		-1.278*** (0.474)		-0.265 (0.197)		-0.879** (0.435)			
Constant	-19.323*** (4.301)	-18.692*** (4.349)	-4.089 (3.281)	-8.424*** (2.528)	-11.232*** (4.186)	-10.618** (4.186)			
Observations	564	564	564	564	285	285			
Log Likelihood	-368.869	-368.549	-354.838	-365.611	-314.607	-314.079			
$\theta$	0.454*** (0.085)	0.454*** (0.084)			0.810*** (0.162)	0.824*** (0.164)			
Akaike Inf. Crit.	789.737	791.098	813.675	819.223	681.213	682.158			

*Note:* \*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Left unconsidered to this point have been any potential costs associated with scheduling oversight of a constituency-relevant agency. The decision faced by the chair so far has been thought to be a simple calculation regarding the benefits received from scheduling oversight weighted against the opportunity costs of using committee time for other purposes. In reality, conducting public oversight hearings and opening agency policies to the scrutiny of committee members carries with it a set of benefits and risks, all of which stand to make the choice to schedule oversight of a given agency more or less appealing. The purpose of this section is to investigate potential conditions under which we would expect to see chairs not pursue oversight of agencies relevant to their electoral constituency, allowing a more nuanced view of the choices made by unit chairs.

The major risk faced by the chair when choosing whether or not to engage in oversight is the possibility that the hearing will serve as the catalyst (or simply contribute in some way) to an unfavorable policy change. Whether in a more traditional principal-agent framework in which members are looking for deviations from preferred policies, or a signaling framework in which members act to provide information to bureaucrats about the likely consequences of their actions, oversight is ultimately aimed at making sure that agencies create policies in line with the preferences of their overseers. If there are conditions under which oversight is likely to backfire and produce changes to the status quo that harm the unit chair and their campaign backers, we should expect oversight to be avoided. Oversight can produce changes to policies in several ways, but the primary mechanisms would be to reveal information that was previously unknown to the chamber, to draw attention to some previously ignored policy, or for members to signal dissatisfaction with status quo policies such that bureaucrats find it in their interest to alter their behavior. The question, then, is when these mechanisms are likely to produce negative outcomes.

The previous chapter contained a discussion of these conditions, with the chair's

decision taking into account both the preferences of fellow committee members and the degree to which those individuals care about the policies produced by a given agency. The logic underpinning opposition is simple, as a committee made up of opponents would be more likely to undermine the preferences of the chair either through communicating divergent messages to agencies or by drawing attention to agency policies that the unit chair would prefer not be emphasized. In cases where preferences among committee members are similar, concerns about members trying to provoke a disfavored policy response are largely irrelevant, allowing the unit chair to proceed as they see fit.

The second factor informing the choices of chairs is the degree to which these actors care about the policies made by the agency. Recall that the primary theoretical variable determining individual member participation is not preferences, but the degree to which interest groups would like to see their member active in a given policy area. In cases where this kind of political incentive does not exist, members will choose not to engage in oversight regardless of any preference divergence with either the chair or the agency. Preference divergence is not, therefore, a sufficient condition for unit chairs to curb their oversight activity. For chairs to avoid oversight, there must be opposition that is sufficiently intense to provide a credible threat to the chair.

Previous tests have introduced a means by which intensity can be operationalized, but capturing preference divergence is less straightforward. The most common strategy for capturing preference divergence is to simply take the difference between the DW-NOMINATE scores of the actors being compared, which in this case would be the unit chair and unit median. One set of tests uses this measure, though one should exercise caution when treating DW-NOMINATE scores as measures of preferences applicable across policy areas. While appealing in its simplicity, DW-NOMINATE scores are, of course, highly aggregated measures of preferences that need not map

onto the kinds of issue-specific preferences that are more relevant to the question at hand. Indeed, distributive theories of organization emphasize that committees tend to bring together individuals who are homogeneous in both their intensity and preferences on the specific issues handled by that committee, even when their preferences on other issues diverge sharply. Using a measure like DW-NOMINATE or even collections of seemingly more relevant subsets of votes can, therefore, overstate the degree to which preferences among committee members actually diverge on the issues considered by that committee (Hall and Grofman, 1990).

As a check on the results derived from DW-NOMINATE scores and an attempt to more accurately capture the concept of policy-specific preferences, I include a second measure based on the sources of campaign contributions to individual members. The basic logic underpinning this measure is that divergence in preferences will be captured by the degree to which members receive campaign support from different groups relevant to a specific agency. Differing patterns of campaign contributions may lead to divergent preferences through vote buying, or they may simply reflect that groups want to support members who share their own preferences, but the assumption I am making with this measure is that, given a set of members and a set of interest groups, members who receive campaign support from similar sources have preferences that are more similar than members who receive their support from a different subset of those interest groups.

As an example, take the Environmental Protection Agency (EPA). The EPA is lobbied by a wide range of interests, including but not limited to environmental groups, business groups, and energy producers. Each of those groups have different policies that they would like to see enacted by the EPA, Some, like business group and energy producers, are mostly in agreement, advocating primarily for deregulatory policies or specific regulatory policies aimed at gaining a competitive advantage. Others, like environmental groups and energy producers tend to be at odds with each

other, with environmental groups advocating for stricter regulations on pollution than energy producers. The basic strategy employed here is to take each member and see how much of their support among sectors interested in the EPA comes from each of these groups, creating a measure that would capture the degree to which members differ in their support received by different sectors. Therefore, when we see that two members receive most of their support from energy and business interests and little from environmental groups, we would conclude that those two members have similar preferences on policies relevant to the EPA. A member receiving most of their support from environmental groups and little from energy producers would have preferences that are very dissimilar from the two individuals who rely on business and energy and interests.

To create this measure, I used the campaign contributions from the intensity measures used previously. Recall that the intensity measure is the sum of contributions received by an individual from the fifteen sectors most active in lobbying that agency. For this application, the contributions were left unaggregated and were turned into percentages of the total received by individuals from the groups in this sector. Therefore, if the agency in question is the EPA and the individual received \$1,000 from energy interests, \$1,000 from business interests, and no money from any of the thirteen additional sectors, that individual would have values of .5 for business and energy interests, and 0 for all other sectors. This vector of proportions is then compared to that of the committee chair, with the absolute value of the difference summed across all fifteen sectors to calculate the total difference in sources of support.

Table 4.5 provides a useful illustration of how the variable is calculated. In this case, there are two members, a chair and a median, measured across three sectors in two congresses. The ultimate measure we want to create is the sum of differences across the three sectors for each Congress. In the 110th Congress, we see that the median receives most of their support from the second sector, while the chair receives

Table 4.5: Example of Preference Divergence Variable Calculation

Chair	Median	Sector	Congress	Difference
.6	.1	A1	110	.5
.1	.8	A2	110	-.7
.3	.1	A3	110	.2
.6	.6	A1	111	0
.1	.1	A2	111	0
.3	.3	A3	111	0

more from the first and third. When taking the absolute value of and summing the differences for the 110th Congress, we get 1.4 ( $.5 + .7 + .2$ ). In the 111th Congress, the two individuals receive the same percentages of support from each of the three groups, indicating that their support coalitions are highly similar. Summing their differences returns a value of zero. Thus, this variable takes a higher value when differences in support coalitions are larger, going as high as 2 when two members receive support from none of the same groups, and has a lower bound of zero when the levels of support for each group are the same.

The hypothesis being tested here states that chairs increase oversight of agencies on which they are highly intense, unless it is the case that they face potential opposition that is both intense and has divergent preferences. This hypothesis suggests an interactive model, but one that is substantially more complex than usual. Because the effect of chair intensity depends on two variables in tandem, the appropriate estimation strategy is to use a three way interaction between the intensity of the chair, the intensity of the alternative actor being considered, and the preference divergence between the two. In expectation, the three way interaction term should be negative, as higher levels of the interaction between preference divergence and intensity should reduce the effect of chair preferences. We would expect the two way interactions to be statistically insignificant, as preference divergence and intensity of the alternative member should have no effect independent of the way in which they condition the chair's decision.

To test the conditional nature of chair use of positive agenda power I estimate the a set of negative binomial regressions with the same variables included above but also including the three way interaction and the constituent two way interactions. Preference divergence as measured by a difference in DW-NOMINATE scores is used for the first two estimations, while the measure derived from campaign contributions is used in the second two. Because of the relatively small number of observations, large number of fixed effects, and complex nature of the interaction terms, attempts to estimate the equations via zero-inflated negative binomial regression were unsuccessful. As such, I report only the standard negative binomial results, though it should be emphasized that the zero-inflated results and results analyzing the split sample did tend to produce similar results in previous estimations as much of what the zero-inflation picks up is the lack of jurisdiction enjoyed by subcommittees over a given agency.

Table 4.6 contains results from the regressions with the various interaction terms and shows some support for the conditional hypothesis, though the nature of the rest of the results suggests that any conclusions should be extremely guarded. Unlike before, we see that the effect of *ChairIntensity* is either statistically insignificant or statistically significant in the wrong direction. In fact, the only variable that shows up as statistically significant in the regressions using DW-NOMINATE based preferences is divided government, though it is still in the opposite direction of what was predicted. The regressions using differences in patterns of campaign contributions to measure preference divergence show the opposite pattern, with all variables other than regulatory activity and divided government being statistically significant. The three way interaction is significant and in the predicted directed, but contrary to expectation, the other interactions also show up as significant.

Easily the most noteworthy feature of Table 4.6 is the outlandish size of the coefficients. Because of the complex nature of the interaction terms, it is difficult

Table 4.6: Negative Binomial Estimates of Oversight Activity with Interactions

<i>Dependent variable: Committee-Agency Oversight Days</i>				
	<i>DW-NOMINATE Preferences</i>		<i>Contributions Preferences</i>	
	Full Sample	Split Sample	Full Sample	Split Sample
	(1)	(2)	(3)	(4)
Chair Intensity	-1.022 (6.879)	4.659 (6.179)	-35.722*** (13.096)	-39.288*** (12.889)
Subcommittee Intensity	-2.464 (6.932)	3.685 (6.206)	-39.687*** (13.487)	-42.456*** (13.209)
Preference Divergence	-440.793 (353.982)	121.934 (332.939)	-507.208*** (156.594)	-527.451*** (158.752)
log(Regulations)	-0.140 (0.160)	-0.159 (0.148)	-0.090 (0.153)	-0.151 (0.143)
Divided Government	-1.127** (0.466)	-0.878** (0.429)	-1.132** (0.451)	-0.690 (0.430)
Chair Intensity *	0.193 (0.597)	-0.338 (0.535)	3.324*** (1.136)	3.546*** (1.116)
Subcommittee Intensity				
Chair Intensity *	32.454 (30.469)	-14.385 (28.744)	42.494*** (13.344)	44.274*** (13.578)
Preference Divergence				
Subcommittee Intensity *	37.228 (30.510)	-10.791 (28.688)	45.726*** (13.696)	46.871*** (13.844)
Preference Divergence				
Chair Intensity *	-2.728 (2.629)	1.268 (2.480)	-3.837*** (1.167)	-3.942*** (1.184)
Subcommittee Intensity *				
Preference Divergence				
Constant	12.064 (79.799)	-53.301 (71.616)	424.488*** (155.268)	469.217*** (152.493)
Observations	564	285	564	285
Log Likelihood	-363.194	-312.154	-348.325	-299.444
$\theta$	0.476*** (0.088)	0.860*** (0.173)	0.578*** (0.115)	1.028*** (0.225)
Akaike Inf. Crit.	788.388	686.307	758.650	660.888

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

to cleanly interpret the effect of the subcommittee median on the chair's decisions. This is further complicated by the fact that many of the values of the independent variables are never realized, for example either full preference divergence or agreement. One way to check the validity of the estimates produced, however, is to look at the predicted counts from the regression. If the models are producing expectations that seem unusually large or small, we should increase our level of skepticism regarding the model outputs.

Figure 4.3: Predicted Hearings: Table 4.6, Column 4

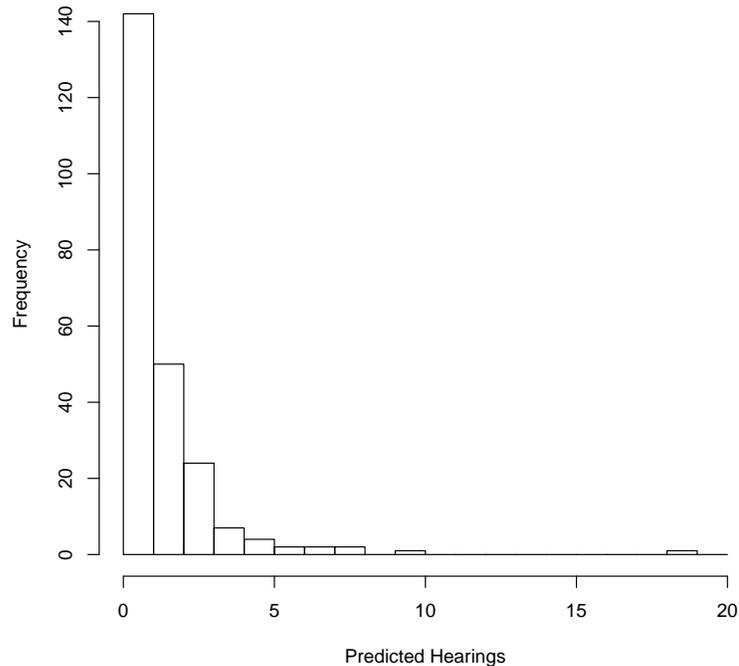


Figure 4.3 displays the predicted hearings from the model using the campaign contribution derived measure of preferences estimated on the subset of the data used for previous estimations. Despite the seemingly outlandish predictions, the predicted number of hearings looks very much how we would expect. By far the most common prediction is between zero and one hearings (split about evenly between those predicting less than .5 and those predicted more), with the frequency of predictions

decreasing as the predicted number of hearings goes up. There are rare instances in which a large number of hearings are predicted, but mostly what we see is consistent with what we actually observe in the data.

## Conclusion

The purpose of this chapter was to better understand the process by which oversight occurs in the House of Representatives. While the focus of this dissertation is primarily the factors that lead individual members of Congress to perform oversight, we know little about what governs the process by which opportunities for oversight arise. I argue that the individual-level perspective on oversight presented in the theory chapter yields a set of predictions about how committees will use their time. Unit chairs, I argue, have incentives to bias the focus of committees toward agencies of interest to their constituents in order to achieve electoral gains. In addition, previous research argues that chairs enjoy primary authority over how oversight is prioritized within their committees, suggesting that the oversight agenda within committees should change along with the constituency-induced preferences of their chairs.

This chapter provides the first empirical test of the question: Why does committee  $c$  oversee agency  $a$  at time  $t$ ? In so doing, it introduced a means of identifying the interests relevant to particular agencies and provided a set of empirical tests aimed at addressing various shortcomings in the data. In keeping with theoretical expectations, it is consistently the case that committees engage in more oversight of agencies when chaired by members whose electoral coalitions are interested in the policies made by that agency. Equally as important, there is no evidence that partisan concerns or the level of agency activity affect oversight in any meaningful way. In addition, the results turn up limited evidence that members who could theoretically impact the oversight agenda exert influence over committee proceedings. There is, however, some preliminary evidence that chairs are strategic in their agenda-setting. When chairs

face opposition within their committee and the members opposing the chair having increasingly intense preferences, the effect of constituency pressure decreases for the chair. This suggests that chairs are strategic. While they want to engage in oversight of constituency relevant agencies, they may restrict opportunities for oversight when they fear potential negative consequences.

This research is not without its shortcomings, however, and these should be addressed in future research. First, the analysis here considers only the House Committee on Energy and Commerce. While the evidence for the interest-driven perspective is consistent, it may not be the case that the findings are as strong for other committees. In addition to increasing generalizability, including additional committees may provide the statistical power needed to overcome problems of non-model convergence that necessitated omission of what may be important fixed effects.

While this chapter provides support for the interest-driven theory, the primary implication of that theory concerns the decisions of individual members in attending and actively participating in oversight. I turn to this question in the next chapter.

## CHAPTER V

# Interest-Driven Oversight in the Financial Services Sector

Having offered an examination of the ways in which individual incentives faced by committee chairs shape opportunities for members to engage in oversight through congressional hearings, I turn now to the question of what members do when given those opportunities. The evidence in Chapter 2 demonstrated that, despite the strong incentives faced by members to shirk their oversight responsibilities, oversight is an important part of congressional activity. Chapter 3 introduced a theory of oversight suggesting that regular oversight need not mean effective legislative defense against bureaucratic drift and inefficiency. The primary purpose of oversight, I argue, is not to gather information about what the agency is doing and why, but to demonstrate the member's interest in what the agency does and signal that the member is likely to respond to unfavorable decisions with actions that agencies would rather not see. The crucial link in the story is interest groups who want policy benefits from agencies but lack the means to impose costs on bureaucrats and credibly threaten negative consequences if their preferences are not accounted for. As such, interest groups rely on their representatives in Congress, providing electoral benefits in exchange for performing oversight.

The primary behavioral implication of this theory is that members will engage in

higher levels of oversight when there is an organized interest group willing to provide electoral benefits in exchange for doing so<sup>1</sup>. As such, we should expect to see that oversight of a given agency will be dominated by members whose electoral fates are most strongly affected by groups with an interest in the policies produced by that agency. I use a case study of oversight of financial regulatory agencies to validate this implication empirically. Decisions made by agencies like the Securities and Exchange Commission and the Commodity Futures Trading Commission have the potential to impose substantial costs on some of the most politically active and powerful interests in the United States. At the same time, these agencies make highly complex policies with most members unable to match wits with the regulators, making this a policy where we should expect to see shirking in the classic principal-agent framework.

Using a novel measure of within-district interest group activity derived from geographically identified campaign contributions, this chapter demonstrates that oversight of financial regulatory agencies is dominated by members representing districts with a concentration organized financial interests. The members who select into oversight on this topic are extreme outliers relative to the chamber, but also outliers when compared to the House Committee on Financial Services. Because these members represent high-demanding constituencies, they have the weakest incentives to protect majoritarian policy outcomes, creating a situation in which agencies receive pressure only from the highest demanding constituencies. This kind of oversight does create incentives for bureaucrats to be politically responsive, but only to the demands of a handful of unrepresentative members.

## 5.1 Data and Research Design

Evidence for the theory's primary implication comes from a case-study of financial regulatory agencies. In selecting a case, three features stand out as particularly

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<sup>1</sup>This implication is H1 in the theory chapter.

important. First, it must be the case that the policy area has politically active interest groups. Financial regulation is particularly well suited to the questions at hand due to the political salience of financial regulation and the political power of the financial industry. The major financial regulatory agencies have a wide set of missions, ranging from the Securities and Exchange Commission which oversees the operation of the stock market to the Commodity Futures Trading Corporation which is charged with regulating futures markets and complex financial instruments. Most importantly, the financial services sector is highly politically active and thought to be extremely powerful. According to the Center for Responsive Politics, financial interests have spent over \$6 billion on lobbying since 1998 and spent more than \$70 million on campaign contributions in each of the 2012 and 2014 electoral cycles. In turn, it has been argued that financial interests have a great deal of power in determining regulatory policy (Kroszner and Stratmann, 1998; Kroszner and Strahan, 1999).

Second, Congress should be at an informational disadvantage. It is the focus on the value of information that separates distributive oversight from models in which Congress attempts to use oversight to gain information. The areas regulated by these agencies are highly technical, meaning that the average member of the chamber is at a severe informational disadvantage compared to the agency. Because the informational disadvantage faced by the members of Congress is so steep, attempting to investigate and evaluate the performance of these agencies is difficult for most, if not all, members. Becoming informed about the policies made by these agencies and their consequences is likely to be extremely costly. It is situations where informational advantages are too costly to overcome that Lowi (1969) suggests should be the most prone to legislative abdication of oversight, making this a case that traditional approaches are poorly suited to explaining.

Finally, we want a policy area that involves targeted benefits and costs as we need to be able to identify winners and losers and make predictions about who is likely to

be active. Regulatory agencies are tasked with imposing a set of targeted costs with diffuse benefits and the identity of those who bear the costs are fairly well defined, allowing me to assume that the financial industry generally has preferences regarding financial regulation that differ substantially from the chamber median. In cases where regulation aids a group, they will want aid above and beyond majorities are likely to support. In cases where a group is harmed by a regulation, they are likely to be more concerned with the costs of policies than the chamber median. Important for this case is that, in general, opponents of financial regulation are highly organized while proponents are not. This means that cross-pressure of the kind described in chapter 3 is unlikely. The potential downside to using financial regulation is that the performance of the financial industry affects nearly every district indirectly and crises in the financial sector could be attractive opportunities to be seen publicly scolding bankers and bureaucrats. In that sense we might expect the members performing oversight to be more representative of the chamber than in other, less politically salient, policy areas.

The dependent variables are two measures of individual-level participation in oversight hearings - whether a member was present for a hearing and how many times they spoke during the hearing if they were present. These are meant to proxy for effort allocated to oversight, as showing up for a hearing diverts resources toward oversight and away from other activities and additional participation imposes costs above and beyond the decision to attend. In effect, this measures the member's willingness to send all of the different types of signals outlined in Chapter 3. Showing up demonstrates intensity to a degree, but active participation allows for a stronger signal of intensity and for the member to communicate a set of policy preferences. Members who do all of these should be of particular concern to the agencies implementing these programs.

The participation measures are derived from the Government Printing Office's set

of hearings outlined in Chapter 2. The process for identifying members who were present for hearings was outlined in Chapter 2, but I turn here to the much thornier problem of determining degree of participation. The first option for determining levels of participation is to simply hand code the hearings, which is what most scholars using hearings in their research have done. One can go through the hearing, identify who was present, and count the number of times they spoke or the number of lines that their speech took fairly simply for a small set of hearings. For larger sets of hearings this strategy is infeasible. In PDF form many of these hearings are several hundred pages, and hearings over 1,000 pages are not uncommon. To code any significant number of these manually would require large numbers of research assistants and substantial training in how to code the hearings.

Even more difficult with this approach would be extracting content of what members are saying. Research assistants would have to manually scroll through pages and copy/paste excerpts from the hearings, making the endeavor extremely costly if one intends to analyze anything above a small number of hearings. To address these problems I choose instead to develop an algorithm that takes hearing texts, uses patterns in the text to identify unique pieces of speech, and uses the previously collected and cleaned data on who is present to identify speakers. Identifying who is present and assigning individual pieces of speech to specific members or witnesses results in a data set of which members attend oversight hearings, who testifies at hearings, how much all of those individuals spoke, and what exactly they said.

Having identified all individuals attending a hearing, I could then begin to assign individual pieces of speech to people attending the hearing. Identification of individual pieces of speech is accomplished using patterns in the text. The texts of hearings vary a great deal in their formatting, particularly across committees, but the one commonality is how individual speakers are recognized. Each new piece of speech can be identified by the start of a new line beginning with multiple (usually between 3

Figure 5.1: Raw Hearing Text

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Ms. Ros-Lehtinen. We will take them either way. New Jersey,  
New York, come on down. Madam Secretary----  
Secretary Clinton. There are a lot of New Yorkers already  
down there, I think, aren't there?  
Ms. Ros-Lehtinen. But you can only vote once. We are very  
picky about that.  
Madam Secretary, thank you for the positive working  
relationship that we have had during your tenure at the State  
Department. I request that I get written responses for the  
questions that I am going to ask.
```

and 5) blank spaces, a title (i.e. Mr., Mrs., Secretary), a word (or multiple words in the case of members like Chris Van Hollen or Mary Bono Mack) denoting the last name of the speaker, and a period<sup>2</sup>.

A piece of speech begins when the pattern is detected, and ends when that pattern is detected again, with all text between being attributed to the individual identified as the speaker. Figure 5.1 contains the raw text of a recent hearing in which Secretary of State Hillary Clinton was being questioned about her knowledge regarding the attacks on the United States embassy in Benghazi. We see three unique pieces of text in the excerpt, one by Secretary Clinton and two by Ileana Ros-Lehtinen. Thus, the first two lines would be attributed to Representative Ros-Lehtinen, the next two to Secretary Clinton, and everything after to Ros-Lehtinen. Because the final paragraph does not begin with one of the selected titles (“Madam”) and does not have a period in the first line, the algorithm is able to recognize that that paragraph is a continuation of Representative Ros-Lehtinen’s earlier statement. Separating the speaker from the text and stripping the title left me with pieces of speeches and associated last names, allowing for analysis of how much individuals participated and what they said.

After breaking down the text and associating each line of speech with the last name that began the excerpt, the final step is to use the speaker’s last name to

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<sup>2</sup>The regular expressions used to identify these patterns generally take the form: “ $\wedge\{3,5\}\text{Mrs}\backslash\cdot\left(\left[\text{A-Za-z}\right]^*\left[\text{A-Za-z}\right]^*\left[\text{A-Za-z}\right]^*\right)$ ”. Several different titles were included as well as modifications to allow for hyphenated names or other less common names

identify which of the individuals present was responsible for the speech. Because speakers are not identified by their first and last name in the text, matching speech to individuals present needs to be accomplished using only last names. This step begins with compiling the names of members present and comparing it to the names of witnesses. In cases with no overlap, assigning speech to a member or witness is trivial. Because there is no other Ros-Lehtinen in the House and no Ros-Lehtinen called to testify, the only person it could be is Ilana Ros-Lehtinen. If two members with the same name are present or a member shares a last name with one of the hearing witnesses, identification is more difficult. In most cases where two individuals have the same last name the text will generally identify the member by including the member's state, meaning that if a witness named "Lucas" was present at the same hearing as Frank Lucas, Frank Lucas would be identified as "Mr. Lucas of Oklahoma." If I could not distinguish between the two, those lines were dropped from any analysis. Such instances were rare and deletion of lines was not required for any of the hearings used in this chapter.

To identify hearings concerned with oversight of the financial services industry I narrowed the list of hearings coded as oversight to those featuring a witness from any one of seven agencies involved with banking or finance <sup>3</sup>. In addition, I looked for any hearings coded as oversight that were held by the House Committee on Financial Services to identify any hearings that might qualify as oversight of the actions taken by the financial regulatory agencies despite not having an agency representative present. The scope of the data covers the 107th through 111th Congresses and features a total of 45 oversight hearings, an average of 9 per Congress. As one would expect, the lion's share of hearings took place in the Committee on Financial Services, but the sample also includes hearings held by Agriculture, Small Business, and Energy

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<sup>3</sup>The agencies: Securities and Exchange Commission, Federal Trade Commission, Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, National Credit Union Association, Consumer Finance Protection Bureau, and the Office of the Comptroller of the Currency

and Commerce. Given the short time period, the data cover a surprising variety of government configurations. Republicans controlled the House for three of the five Congresses covered (107-109) and party control of the House and Presidency was split only for the 109th Congress. George W. Bush was the President for the first four congresses in the sample with Barack Obama in power for the final Congress.

The most important independent variable identified by the theory is the degree to which members derive support from organized interests within a sector. Those interests can come from inside or outside of the member's district, but I focus on strength inside the district for this application. To measure the strength of organized interests I employ a new measurement strategy based on the geographic location of campaign contributions from individuals to political action committees. When individuals make campaign contributions over a certain amount, whether that be to a candidate, party, or PAC, they are required to report that information to the Federal Election Commission. Included in that report is the address of the individual, meaning that the congressional district from which the donation came can be identified. The FEC releases that data and various third party sources have cleaned and categorized the data for their own use.

To create the measure, I count the total number and amount of campaign contributions from individuals living in a given district to political action committees coded by the Center for Responsive Politics as being any of: commercial banks, savings & loans, credit unions, finance/credit companies, securities and investment, or miscellaneous finance <sup>4</sup>. For example, if we saw that an individual in New York's 10th district gave donations of \$5,000 to Morgan Stanley's political action committee and the Securities Industry & Financial Market Association, that would count as two donations and \$10,000 for the summed variable. Powerful financial interests are nearly all represented either through their own political action committee or as part

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<sup>4</sup>Data on campaign contributions and the locations of individual donors comes from Adam Bonica's recently released DIME dataset.

of a larger association and make up a large portion of who is primarily affected by the decisions of financial regulatory agencies. For each district running total is created using contributions from the two years before, the two years after, and the two years of a given Congress. The running total is intended to get around election-specific idiosyncrasies in campaign donations, but using only the most recent election does not make an important difference in the results.

Campaign contributions from individuals to groups are useful here because they indicate either membership in that group or a certain level of intensity in supporting that group's positions. The hypothetical individual giving to Morgan Stanley is unlikely to do so unless they agree with the organization's positions and want to see them advocated enough so as to become politically active. If nothing else, looking at these individuals provides an estimate of individuals who are more likely to become campaign donors and provides an indication of what their issue priorities are. A full list of members of these organizations as well as their location would be ideal, but such a list is unavailable and the measure derived from campaign contributions maps quite well on to what one would expect to be the districts with the most intense interests in the financial sector. Two districts from New York City covering the Wall Street area and mid-Manhattan are by far the most intense on this measure with districts in southern Connecticut, the western Chicago suburbs, and Staten Island being the other top districts. The distribution is heavily skewed to the right, with a few highly intense districts and a large number of low-intensity districts.

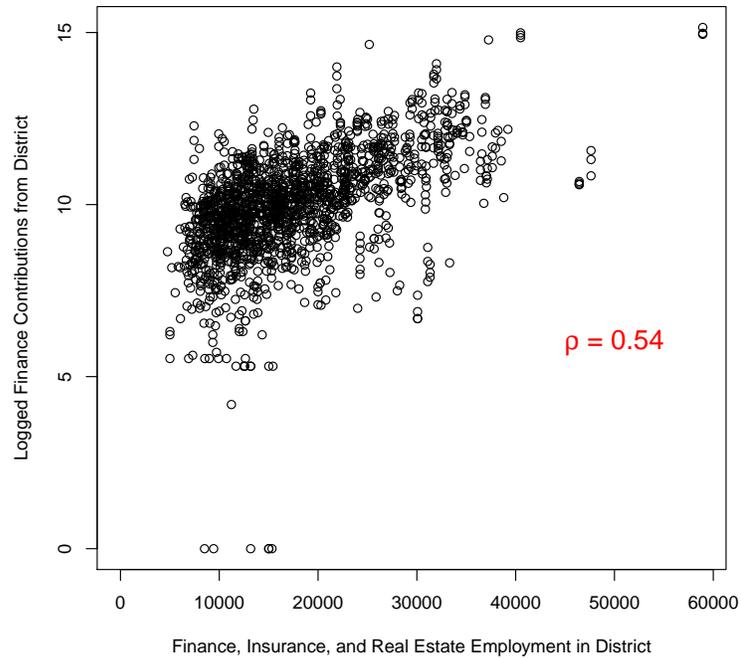
Previous studies attempting to measure constituency interest in the financial sector have primarily used the number of people employed in the financial sector as measured by Census records (Adler and Lapinski, 1997). I use individual contributions instead of census measures for two reasons. First, it captures an element of the level of the sector's organization. We want to capture the degree to which groups can impose electoral benefits or sanctions on a member, but simply having a large

number of employees does not capture this. If many employees in a sector inhabit a district but all are low-level and unorganized politically, we would not expect their opinions to carry as much weight when it comes to oversight.

The second and more important reason is that individual contributions allow me to focus on more narrowly defined groups within the financial industry. The Census assigns each employed person a code based in the sector in which they work and the code for finance workers includes any person above age thirteen working in finance, insurance, or real estate. For this case we certainly want people working in finance, but do not want people working in insurance or real estate. While both sectors are affected by the decisions made by the agencies examined here, their primary interests are in other agencies that focus more narrowly on their own sectors. Using campaign contributions allows the researcher to focus only on industries directly related to the agencies being overseen, or any subset of those industries (investment banks, venture capital, stock exchanges, etc..) if one uses the industry codes provided by the Center for Responsive Politics. The fact that this data can be so narrowly tailored also makes it easily transportable to other policy domains as long the groups in that policy are active in giving campaign contributions.

Because this measure is new, validating that it captures the underlying concept is crucial. I do so here by comparing the contributions to financial groups in a district to number of employees in the sector as defined by the census. In Figure 5.2 I compare the measure derived from campaign contributions to data from Adler's collection of district constituency characteristics derived from Census data, which includes real estate and insurance employees (Adler, N.d.). We would expect a strong correlation as part of the census measure should be highly correlated with donation activity, but the insurance and real estate employees in the census measure should result in a less-than-perfect correlation. Each dot in the figure represents one district in an electoral cycle. Adler's data ends with the 105th Congress so I compare the

Figure 5.2: Comparison of Financial Industry Concentration Measures



census measure to the campaign contributions measure from the 103rd Congress to the 105th, meaning that there are 1605 observations. Unsurprisingly, the two are highly correlated ( $\rho = .542$ ), suggesting that the two capture a similar underlying concept, though the correlation is not so high that one is obviously a substitute for the other. Due to the time period in which the two measures overlap, the correlation may understate the relationship, as well. The amount being donated to and donated by PACs has grown markedly over the past 20 years and now there are relatively few major firms in the financial sector that do not offer campaign contributions through their political action committee. As the number of finance PACs grows, more workers in the finance industry have the ability to donate to their company's PAC which is a focal landing spot for individuals planning to put their contributions money in the hands of industry groups.

An alternative strategy to counting contributions to PACs would be to simply

count campaign contributions from financial interests to each member. Whereas I use campaign contributions to create a measure of the degree to which interest groups are organized and active in a given geographic area, others have suggested that the actual money transferred from group to member is the source of influence in legislative politics (Hall and Wayman, 1990). Such data is readily available via the Center for Responsive Politics and would seem to map well to the idea of interest groups providing carrots and sticks for members performing oversight. As discussed in Chapter 3, while any group is free to offer support to a member, those with a presence in the district are advantaged in that they have non-monetary means to support candidates that are likely to be more effective than when those same means are used by groups without a strong presence in the district.

Groups with an active organized presence in the district, however, offer a set of electoral benefits (or penalties) that affect the member much more directly than a small percentage of their campaign war chest. These groups can offer endorsements, get out the vote operations, and can choose whether or not to actively support or even field a primary challenger for the incumbent. Because the group has an actual presence in the district, things like endorsements or primary help are more likely to be incorporated into the decisions of individual voters when it comes time to cast a vote. A group with no presence in a member's district is free to endorse the incumbent or not, but without individuals sympathetic to the group's cause in the district, that endorsement is unlikely to impact the member's electoral fates in any important way. The role of outside contributions is interesting and deserves additional attention, but conditions in the district are likely the bigger determinant of legislative behavior.

## **5.2 Research Design and Results**

Testing the primary implication of the theory requires evaluating the degree to which oversight is performed by individuals with unrepresentative and uniquely in-

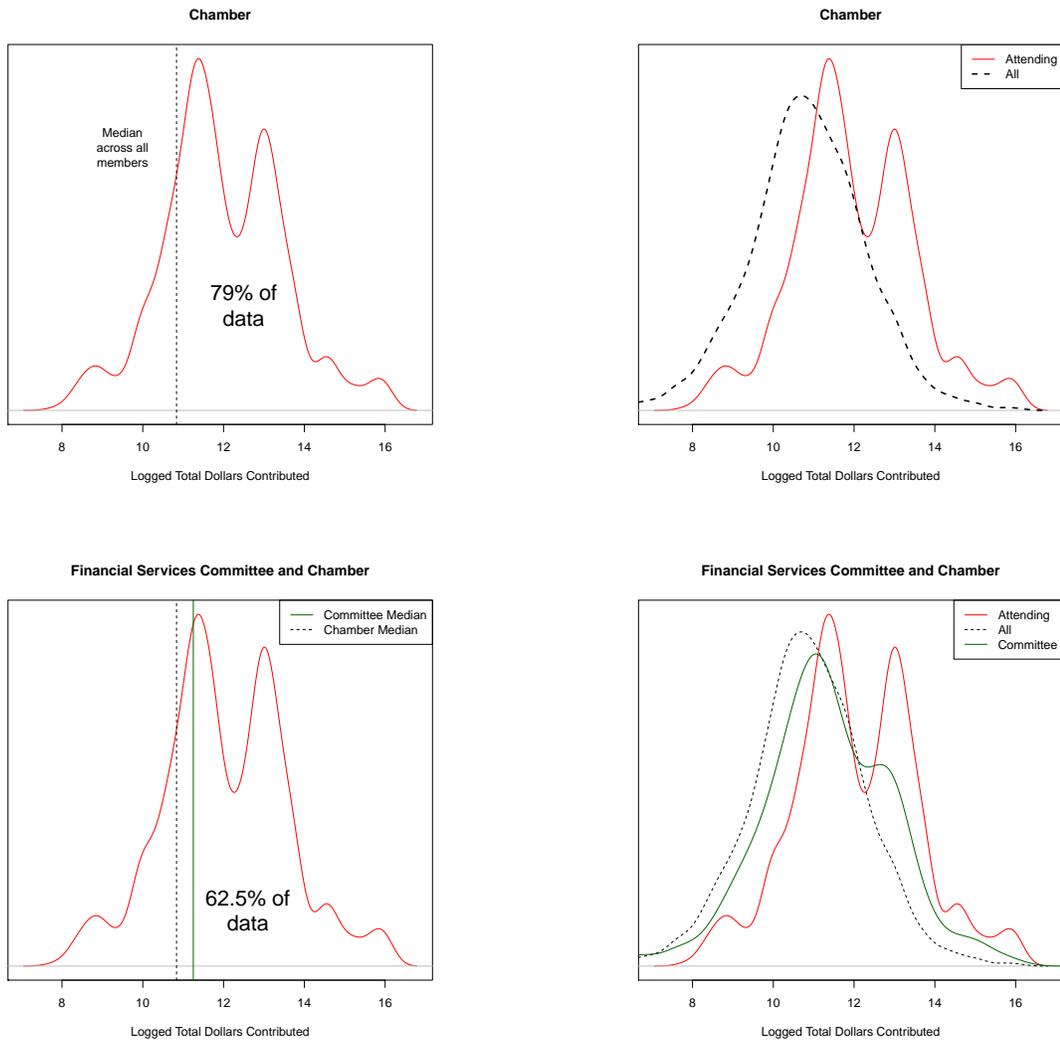
tense preferences on the issue. To do this, I perform a set of monte carlo simulations that allow me to examine whether the distribution of members performing oversight is, in fact, different from the overall distribution of the chamber. One potential problem with using the chamber as a comparison is that it could be the case that oversight is performed by an unrepresentative subset of the chamber due to committee selection. If all of the extreme members select onto Financial Services and only Financial Services oversees these regulatory agencies, the distribution would be unrepresentative even if the process was simply a random draw from the committee. If we think that oversight is aimed at serving members representing particularly intense electoral coalitions, we would actually expect to see a pattern in which intense members try to select onto relevant committees, making it difficult to uncover a difference from the committee even if distributive oversight is taking place. I report comparisons to the committee but focus primarily on the chamber for several reasons. First and foremost, the problem being addressed here is one of whether institutions are set up in a way that provides members with incentives to accurately reveal information to the chamber. If the committee system is funneling members with incentives to dissemble into positions where they are the only ones tasked with oversight, the chamber's problem is not being solved. If we really believe that the purpose of oversight is informational, the chamber should have developed means by which to prevent these preference outlying members from dominating oversight.

In addition, oversight is not necessarily restricted to committee members. It may operate that way in practice, but there is no formal or even informal norm about leaving oversight exclusively to committee members. In fact, there is a norm of accommodation in which members are generally allowed to attend and participate in whatever hearings they like. Members not on the committee holding the hearing regularly attending hearings with a particular constituency interest and are given the right to participate and question witnesses. If participation is not restricted

to committee members, the patterns of participation may still break down along committee lines, but are not dictated by them. A third objection is that committee jurisdictions are malleable and that members interested in conducting oversight of a given agency could simply decide to hold a hearing regarding the effects of the agency's policies within their jurisdiction. Committee jurisdictions are not set in stone, and committees regularly hold hearings to attempt to claim jurisdiction over policies of interest to their members (Talbert, Jones and Baumgartner, 1995; King, 1997). Most hearings in the data are conducted by the House Committee on Financial Services, but there are also hearings conducted by the Committee on Small Business, the Committee on Agriculture, and the Committee on Science and Technology. If a topic like financial regulation is of interest to members outside of the Financial Services committee, the formal barriers to conducting oversight are low.

The first set of tests involve a broad look at participation, simply comparing the distribution of intensities of members attending to the chamber and committee. Figure 5.3 contains four plots. The x-axis on each plot is the measure of constituency intensity derived from campaign contributions. Higher values correspond to more contributions, meaning that we should expect the observed data to be skewed to the right relative to the chamber and committee. To create the distribution of attending members I simply included each member attending each hearing. This means that if one member showed up to all 45 hearings in the data they would show up in the distribution 45 times. If they showed up zero times they would not enter into the distribution at all. The first shows the distribution of the members attending in red, with the overall median of districts being the vertical dashed line. The skew in participation is quite striking. Of the 909 members attending these oversight hearings, 714 (78.9% of the total) are above the median in terms of constituency intensity in the policy area. What this shows is that not only are relatively extreme members showing up to hearings, but members whose constituencies more closely match the

Figure 5.3: Comparing Intensity of Members Attending Hearings to Committee and Chamber



overall distribution of districts are not.

The second plot compares the distribution of intensity in the members attending hearings to the overall distribution of district intensities. The overall chamber distribution is calculated using each district in each year of the data as an observation, and the comparison to the members attending reveals a similar, if less visually striking, pattern. Members attending hearings featuring witnesses from the financial regulatory agencies are skewed substantially to the right of the chamber. While the visual pattern is less striking, it is worth noting that the data are logged for no particular theoretical reason, but to assist in visualizing the distributions. Unlogged, the data are so right-skewed that comparing the two distributions visually is nearly impossible as most of the area is uncovered with a large percentage of the data on the far left and a small amount on the far right. Taking this into account, it should be noted that divergences between the lines on the right side of the plot represent a larger difference in amounts than divergences on the left side. The Kolmogorov-Smirnoff test comparing the cumulative density functions of the two distributions is sufficient to reject the null hypothesis that the two distributions could be the same at a level well below .001.

Comparison to committee membership is clearly a tougher test than comparison to the chamber, as the same factors that I argue lead members to engage in oversight are the ones that lead members to seek committee membership (Shepsle, 1978; Adler and Lapinski, 1997). If we imagine an extreme case where only the most extremely interested members selected onto Financial Services, finding a difference between committee membership and oversight attendance becomes nearly impossible. Fortunately, that is not actually the case. For the two plots at the bottom of Figure 5.3 I restrict the measure of members attending to only the hearings taking place in the House Committee on Financial Services. This allows a more natural comparison between committee intensity and the intensity of those attending. The

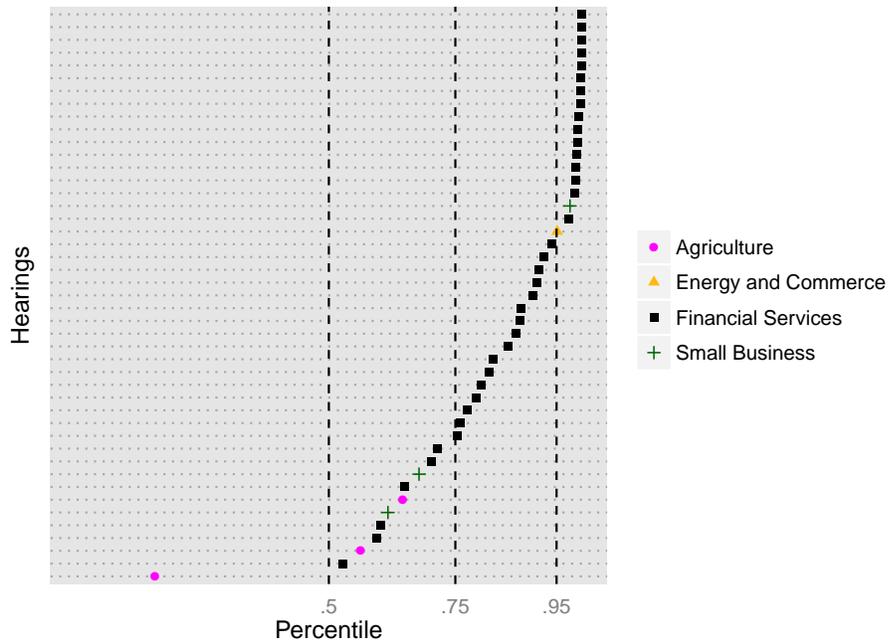
bottom-left plot reveals that 62.5% of members attending The bottom-right plot in Figure 5.3 adds the distribution of members of the Committee on Financial Services and restricts the members attending only to those in hearings of the Financial Services Committee. Immediately, one can see that the Financial Services Committee is generally unrepresentative of the chamber, particularly in the furthest right portion of the distribution, though not nearly as extreme as is often thought. Even taking into account that the Financial Services is unrepresentative of the chamber, the members that attend oversight hearings held by that Committee are skewed to the right. Participation in this domain is dominated by preference outlying members.

To further establish that oversight activity is driven by interest group pressures, I move from analyzing the overall distributions of members attending hearings to analysis of attendance at each of the 45 hearings hearings. These tests involve Monte Carlo simulations in which I draw a random subset of either the chamber or committee depending on what comparison is being made and compare the outcomes observed in the simulated hearings to those that actually occurred. From this set of simulated hearings one can compare what was actually observed to an unbiased system in which oversight is performed by a representative subset of members. For each hearing in the data I record a number of distributional statistics about the hearing (minimum, 25th percentile, median, 75th percentile, maximum) as well as the number of members that attended that hearing. I report only the comparison of medians here, but using different percentiles produces the same results.

For each iteration of the simulation I randomly select the number of members that actually attended the hearing from the Congress in which that hearing was held, recording the same summary statistics about the random draw. So, if twenty members attend a hearing in the 109th Congress, the each round of the simulation draws twenty members and saves that distribution to compare to the hearing we observe. This procedure is repeated 5,000 times for each hearing, offering a distribution of

5,000 simulated test statistics that are comparable to the observed test statistics. All results reported here are the natural log of the three Congress running total of dollars donated, though the results would be identical with the unlogged variable as the order of observations is what matters for percentiles as opposed to the magnitude.

Figure 5.4: Median of Actual Attendees Versus Median of Simulated Hearings



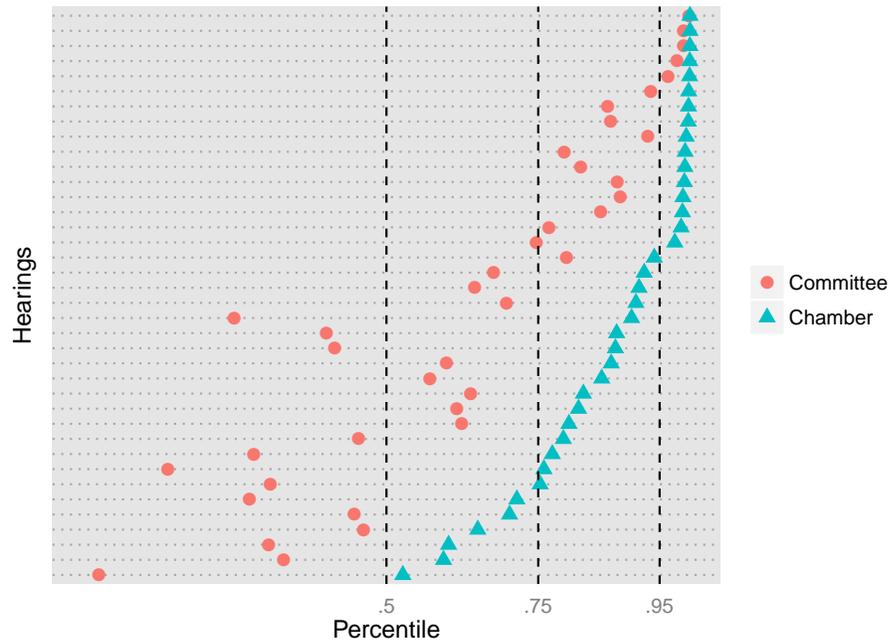
The points in Figure 5.4 each represent one hearing. The x-axis of the figure is the percentile of the median constituency intensity of the members attending each hearing as compared to the simulated versions of that hearing. Thus, if the median that we actually observe is higher than that of any simulated hearing the point in the plot would be in the furthest right portion of the plot. If the observed median is in the middle of the distribution of simulated medians the point would be at the 50th percentile. If it is the case that oversight is primarily being conducted by preference outlying members it should be the case that the dots are to the far right of the plot, which is largely what we observe. The three dashed lines represent the 50th, 75th and 97.5th percentiles respectively. When interpreting these simulations it is helpful

to think about the percentile as a p-value. In standard t-tests we reject the null hypothesis when our test statistic is above some percentile, usually the 95th for a one-tailed test or 95th for a two-tailed test. If we see that the median falls above the 95th percentile we can be fairly confident in rejecting the null hypothesis that the median we observe is the same as the median under the null hypothesis. The 75th percentile is marked to help guard against type 2 errors. As argued in Hall and Grofman (1990), testing a hypothesis of no difference requires a different standard of statistical significance to ensure that scholars do not overstate their confidence in non-findings. They suggest that finding that  $\alpha > .25$  (one-tailed) is sufficient to reject the hypothesis of a statistical significance. Given the interpretation of percentiles as p-values, the appropriate percentile is the 75th.

The first set of comparisons concerns the chamber as a whole. Of the 45 hearings we can reject the null hypothesis of no difference in medians for eighteen and fail to confirm the hypothesis of no difference for an additional sixteen, leaving ten hearings for which the null hypothesis appears to be confirmed. Taking the numbers of hearings for which the distributive hypothesis is confirmed (or not rejected) offers support but not overwhelming support for the distributive hypothesis. However, taking these results together suggests a strong bias in favor of highly interested members. It is telling that the median member attending these hearings is below the 50th percentile only once. If we take seriously the idea that oversight activity is unbiased we would expect some kind of distribution in test statistics that centers around the 50th percentile. If we throw out the magnitude of the results observed here and assume that the probability of the observed median ending up on one side of the median is .5, the odds of observing this distribution of test statistics is  $45/2^{45}$  or well under 1 in a billion.

Next, I perform the same set of simulations, but sample members only from the committee. As discussed above, this provides a substantially more difficult test.

Figure 5.5: Median of Attendees Versus Simulated Median: Committee and Chamber



The distribution of members attending financial oversight hearings is much closer to the distribution of members on the Financial Services committee. This increased similarity is likely to be driven by the same factors that influence oversight, effectively creating a problem of collinearity. This makes distinguishing between committee membership and oversight intensity difficult even if the distributive explanation is what is truly driving members. To perform this comparison I reduced the sample to only hearings held by the Financial Services Committee and sampled members only from that committee.

Figure 5.5 shows that the comparison of medians is less successful uncovering bias, which is to be expected. Five hearings have values above the 95th percentile, eleven are between the 75th and 95th percentiles, nine hearings are between the 50th and 75th percentile, and thirteen hearings fall below the 50th percentile. While less striking than the comparison to the chamber, the distribution of p-values we observe is still highly unlikely under the null that attendance is driven only by committee

membership. Thirteen hearings are lower than the 50th percentile and 25 are above the 50th percentile, and the skew of percentiles toward the right is much stronger than the skew to the left. While this is not overwhelming on a hearing-by-hearing basis, the probability of 25 medians to the right of .5 and 13 to the left of .5 is .02 if we assume that ending up on one side or the other of .5 is truly random. Taking into account that hearings above the median are much more skewed to the right than hearings below the median are the left, the probability of these results under the null is well below .02.

The first set of results shows fairly strong support for an interest-driven perspective. The members attending hearings in which financial regulatory agencies are being overseen appear to have a substantially higher levels of constituency interest in financial policy than the chamber and the Committee on Financial Services. Having established that attendance in hearings occurs primarily among high-demanding members, I turn to analyzing the degree to which activity in these hearings is driven by those members. For the second set of results I count the number of times each member spoke in a given hearing, giving me a kind of weighted attendance measure wherein members who attend hearings and participate at higher levels are counted more heavily than those that did not.

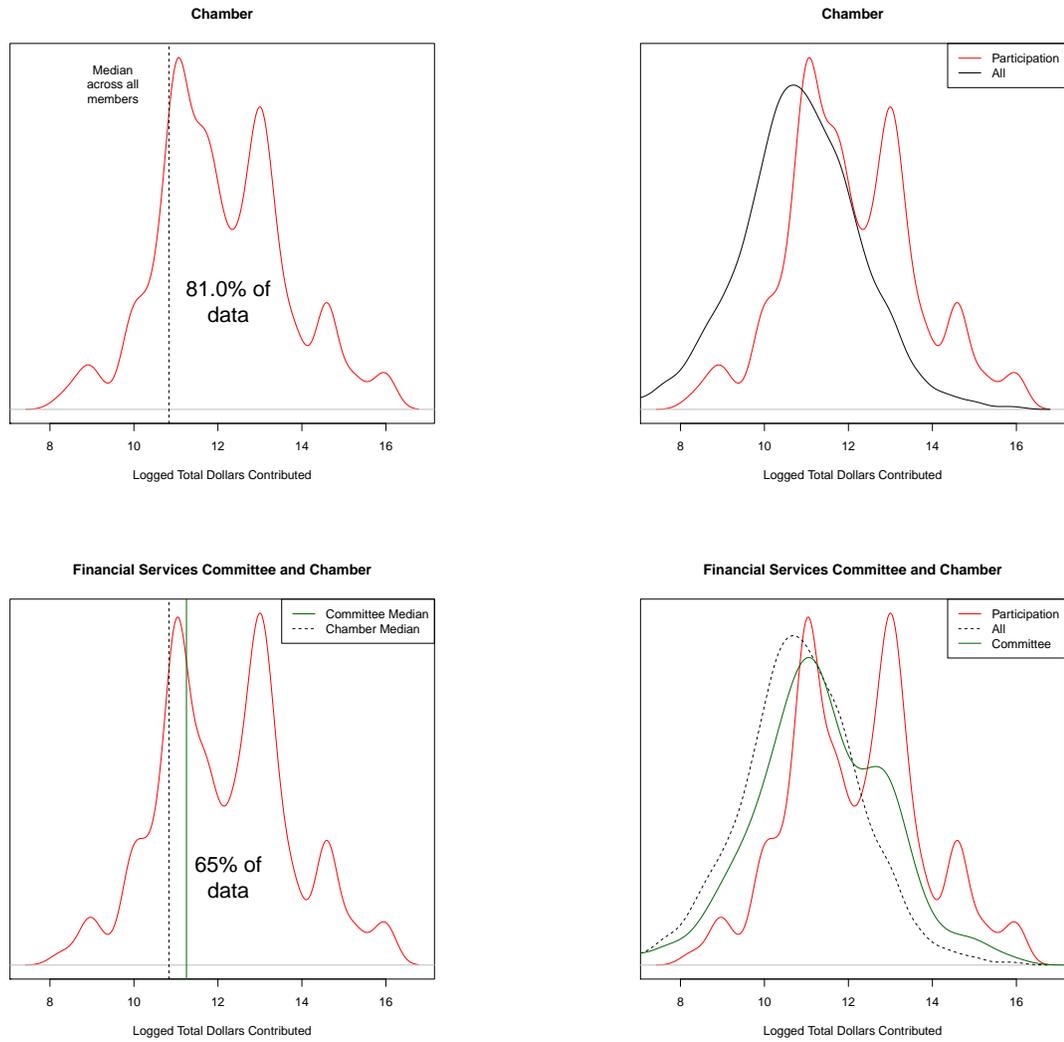
Recall that oversight is supposed to serve an informational purpose. Individuals in the chamber need information about policies and active participation in oversight offers a way to provide that. Attendance alone can provide some, but not a great deal of, information about what the agency is up do. Participation is where the primary revelation of information occurs. The quality of that information, however, is going to be linked to who contributes to providing it. Choosing to emphasize one activity at the expense of another or presenting an agency representative with a set of softball questions produces a biased set of information about the agency's activities. In a classic signaling game where we have individuals conducting oversight to provide a

signal to the remainder of the chamber about agency activities, the degree to which the chamber can use the information produced through oversight is going to be a function of the preferences of the individuals sending the signals. Members who are heavily biased in favor of an agency's policies are going to want to produce signals that lead the chamber toward supporting policies that they would otherwise oppose. The best thing for the chamber, then, is an unbiased, or at least heterogeneous, set of members. The interest-driven perspective emphasizes a different set of signals and produces different expectations about who should be active. In this perspective, members participate to communicate their preferences as well as their willingness and ability to impose sanctions on an agency. If interest group demands are the mechanism underlying oversight, activity within hearings should be dominated not by the individuals who are likely to be most informative, but those who have the strongest incentives to mislead chamber majorities.

The dependent variable for the analysis of participation is effectively a weighted measure of attendance. Using the method outlined earlier to parse texts, I counted the number of times each individual at the hearing spoke. Members present were then weighted by the number of times that they spoke at that hearing. If a member spoke 10 times, their constituency intensity enters into the participation distribution 10 times. If information is produced disproportionately by extreme members the distribution should be skewed to the right relative to the distribution of members attending. In principal this information allows me to also analyze the content of text or the total number of lines spoken (as opposed to number of pieces of unique speech). Due to complexities in how hearings are formatted however, the measure of number of times a member spoke is substantially more reliable than the number of lines spoken or the exact content of their speech.

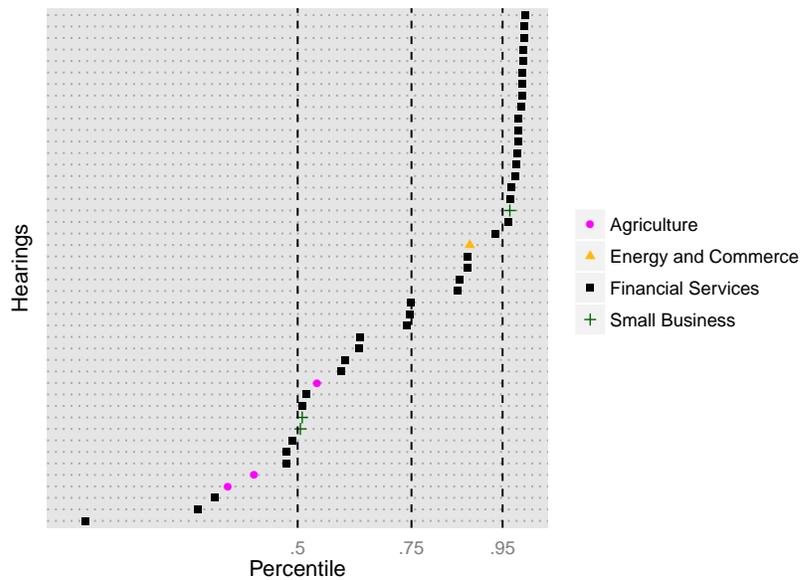
Somewhat surprisingly, the results from this set of distributions look extremely similar to those from the previous sets. Figure 5.6 shows the distribution of speech

Figure 5.6: Comparing Intensity of Participation to Committee and Chamber



compared to the median district and the overall distribution of districts. The distribution in Figure 5.6 peaks substantially closer to the overall median, though similar to the previous results 81.0% of the data is to the right of the median. The plot on the right of Figure 5.6 shows the weighted distribution of attendees against the unweighted distribution of districts, again showing a statistically significant ( $p < .001$ ) difference in distributions according to a Kolmogorov-Smirnoff test. Comparing the distribution of participation to the committee in the bottom two plots, one finds slightly stronger evidence for bias than simply looking at attendance. 65% of the data is to the right of the committee median and the tail of the participation distribution clearly extends to the right of the committee, suggesting that the results are not simply the result of committee composition.

Figure 5.7: Median of Participation Versus Median of Simulated Hearings



Turning to individual hearings, we again find strong evidence of bias relative to the chamber and even stronger evidence for bias when compared to the committee. As above, I include dot plots of the percentile of constituency intensity of participating members in each hearing. Figure 5.7 contains the percentiles of the simulated medians

with the committee holding the hearing denoted by the shape and color of the point. Unlike members present, there are eight hearings that fall below the 50th percentile. However, 37 of 45 hearings are above the median, nineteen above the 95th percentile, and another six above the 75th percentile, suggesting that the hard work of oversight is being performed by an unrepresentative subset of the chamber. Using the standard outlined above, this distribution of medians is clearly not a matter of chance.

Figure 5.8: Median of Participation Versus Median of Simulated Hearings

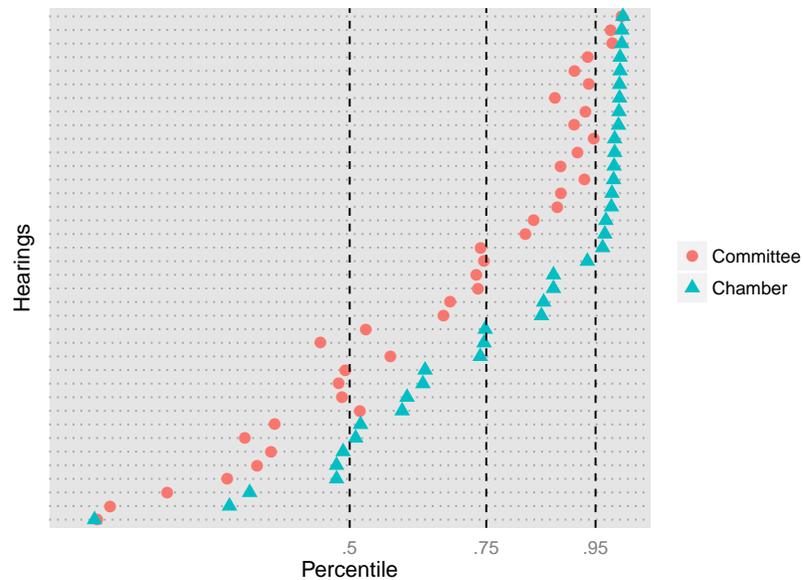


Figure 5.8 shows the results of sampling from both the committee and chamber. As one would expect, the distribution of medians shifts to the left when sampling from the committee. However, the distribution of medians still shows substantial bias toward high intensity members and the results more closely track the comparison to the full chamber than with attendance. As with attendance, twelve of the 38 hearings fall below the 50th percentile, a number well below what random chance would predict. Only three of the hearings have medians above the 95th percentile, but another fourteen are above the 75th percentile. The remaining nine fall between the 50th and 85th percentile. Simply put, oversight activity is not being driven from

a coalition representative of the chamber, not is it representative of the primary committee of jurisdiction. There is a considerable degree of self-selection involved in oversight and it is overwhelmingly high-intensity members selecting into the activity.

### **5.3 Conclusion**

In this chapter I set out to test the primary behavioral implication of the theory proposed in Chapter 3, which is that members will be more active in oversight of a given agency when their coalition of support contains a politically active interest group constituency affected by that agency's policies. The patterns predicted are hard to reconcile with a story based on oversight serving an informational purpose for the chamber, as the members I predict will perform oversight are the ones with the weakest incentives to provide accurate information to the committee. If congress has successfully created a set of institutions to incentivize the defense of legislative intent, information coming from untrustworthy sources is a fundamental problem for the chamber to address.

Evidence for the theory comes from a case study of oversight of financial regulatory agencies. These agencies make decisions that have the potential to impose substantial regulatory costs on businesses or entire sectors, affecting the balance of competition within an industry and having major implications for consumer welfare. The groups affected by these policies are extremely politically active and thought to influence the behavior of members. The question that I address here is whether that perceived influence is real. Do members perform oversight on behalf of organized interests or out of concern for the needs of the chamber?

I find that it is decidedly the former. Using a novel new measure of constituency intensity derived from campaign contributions I show that oversight is primarily performed by members backed by powerful organized interests. These uniquely intense are more likely to get on the committee of jurisdiction and attend and participate in

hearings conditional on being a member of that committee. Oversight is driven by self-selection and the decision to select in to this activity is dominated by a small but extreme subset of the chamber. Congress may not have solved the problem of shirking oversight, but interest groups have, suggesting that oversight can create political responsiveness but that responsiveness is not likely to be to majority preferences.

## CHAPTER VI

### Conclusion

The purpose of this dissertation was to address what I take to be a fundamental question in democratic theory: Is Congress able to act collectively to protect its constitutionally prescribed place in policymaking? Doing so, I argued, requires individual members of the chamber to take costly actions to further collective goals, a situation ripe for Olsonian free-riding. I began in Chapter 2 by introducing a means by which oversight could be identified and member participation evaluated. In that chapter, I show that oversight makes up a substantial portion of congressional hearing activity. Moreover, oversight is common across units within the chamber. Every committee in the sample allocated at least of 20 percent of its hearing activities to oversight, with several committees allocating well over 40 percent. Most importantly, Chapter 2 presented the first systematic evidence that oversight is not neglected by members in any meaningful sense. While oversight hearings are a slightly less popular use of member time than some alternatives, a substantial number of members actively participate in oversight of federal agencies.

Chapter 3 introduced a theory aimed at explaining the conditions under which members would choose to engage in oversight. The theory differs sharply from the common treatment of oversight in principal-agent models, but is at heart, still a principal-agent model. While most principal-agent models treat oversight as a means

of investigation, I build on a largely ignored set of oversight theories that emphasize the ability of oversight to provide a costly signal of intensity to bureaucrats. Bureaucrats, I argue, are responsive to members from whom they perceive an active threat and costly oversight activities signal the degree to which the member provides a credible threat to an agency. Interest groups want to be represented by members to whom agencies are responsive, and offer electoral benefits to help re-elect members who engage in this costly signaling. In turn, members decide to allocate their scarce time selectively, focusing on oversight of agencies that are of interest to key constituency groups. The primary normative implication of this theory is that oversight is aimed not at helping the chamber maintain control broadly, but for members to make themselves a valuable representative for organized interests.

In Chapter 4, I apply the theory to the question of how the oversight agenda is set, providing the first quantitative large- $n$  test of why committee  $c$  oversees agency  $a$  at time  $t$ . The theory in chapter 3 provides a general utility function for members, and I suggest that committee chairs should use their scheduling powers to maximize that utility, focusing committee oversight on agencies of interest to key constituency groups. Using a case study of the House Committee on Energy and Commerce, I find consistent evidence of an effect. In so doing, I introduced a new means of identifying which politically active groups are the most interested in policies made by a specific agency using publicly available lobbying records.

Chapter 5 tests what I take to be the primary implication of the theory, providing a test of how individual members of Congress allocate effort to oversight of agencies. In the process of conducting these tests, I introduce a general strategy both for evaluating the degree to which individuals active in oversight differ from the chamber and committee of jurisdiction, and measuring the interest group pressures faced by members in their geographic constituency. Evidence for the theory comes from a case study of oversight of financial regulatory agencies, showing that the members

who choose to engage in oversight of these agencies are uniquely dependent on support from financial interests both compared to the chamber and the Committee on Financial Services.

## **6.1 Discussion**

### **6.1.1 Interest-Driven Oversight and the Prospects for Congressional Control**

Showing support for the idea that oversight is driven by interest group demands provides strong support for the theory, but does not rule out the possibility that the collective good is being served to some degree. As Gailmard (2009) argues, must oversight occurs in ways that can be viewed by any member. Hearings are held publicly and are quickly available both in text and video formats for for any member who wishes to check up on the status of a program. In addition, members have access to a vast repository of Congressional Research Service reports that help to summarize complex issues and make recommendations. Even if oversight is driven by organized interests, it may be the case that useful information is created as a “by-product” of this unrepresentative oversight (Olson, 1965).

While I cannot say anything definitively, I doubt this to be the case. Oversight is useful to the chamber when it produces a set of informative signals, whether that be about efficiency, fidelity to legislative principals, or any number of other types of information. Members can affect those signals in two primary ways. First, they can choose whether or not to have a hearing. If there is something that a member wants to bring to the attention of the chamber they can devote committee time and resources to a hearing. If the member wants to keep information private they can choose not to hold a hearing. If a hearing is being held, members have choices about what they want to discuss and who they wish to ask questions of, each of which affects the

quality of signals received by non-participating members. Members can dig in and ask tough questions that reveal useful information, they can ask leading questions that serve to get across the impression that the chamber's needs are not being met, or they can choose to ask nothing at all and reveal no additional information.

The question is whether the high-demanding legislators who actually choose to perform oversight are likely to reveal information that helps the chamber reach an informed decision. If members are acting as the agents of interest groups they will want to ensure that policy benefits going to that group are maximized. When a group in the member's constituency is being served inadequately the member will attempt to send a signal that the programs insufficient in its current form and try to get Congress to alter policy so as to provide more benefits to the group. Such an arrangement is fine from the standpoint of the chamber because their intention was to provide higher benefit levels. The problem from a signaling standpoint is that high-demanding members always have an incentive to send these signals. Even if legislative intent is being perfectly adhered to or is overly generous to the group in question, the uniquely intense members performing oversight will want to convince the chamber that more resources are needed. In the parlance of signaling games, the members that we observe performing oversight pool in their responses, making their signals uninformative. When benefits going to a group are higher than intended by Congress, members have incentives to avoid revealing this information. If reporting such a state of the world the member faces the possibility that Congress will choose to act and alter delegation so as to provide fewer benefits.

The outcome of interest-driven oversight, then, is largely unhelpful in helping the chamber solve its informational problem. Members only reveal information when their constituencies are being underserved and when they report that their constituencies are being underserved the chamber has a difficult time discerning whether their signal accurately depicts bureaucratic outputs. If oversight were to be performed by a more

representative subset of the chamber with varying preferences and intensities the informational problem would be less acute. Members with relatively little stake in a policy would have incentives to accurately reveal when benefits going to high-demanding constituencies are too high and could confirm or disconfirm the signals sent by high-demanding members. Unfortunately for the chamber, that is not what we see

### **6.1.2 Oversight and Bureaucratic Responsiveness**

The results here call into question the feasibility of “congressional control” of the bureaucracy, but do not suggest that members are powerless in attempting to influence bureaucrats. What exactly is meant by congressional control varies among scholars. Here, I take it to mean that an agency faithfully implements the preferences of the enacting coalition. Control need not be absolute, as an agency choosing to implement a policy close to Congress’ stated preferences could reasonably be said to be more “controlled” than one setting policy far away. The key to this definition is simply that congressional intent serve as some kind of binding constraint on the actions of agencies. “Influence” is not the same as control. Influence occurs when the threat of reaction from Congress causes an agency to choose policies that are different from what they would have chosen in the absence of those threats. Control and influence overlap when threats from Congress compel the agency to enact policy that better mirrors legislative intent but can diverge when bureaucrats are incentivized to pursue policies that differ from legislative intent.

In the theory outlined above, bureaucrats must be uniquely responsive to the demands of their active overseers. Members who, backed by organized interests, can credibly threaten to take costly actions affecting the agency must be accommodated more than other members. This basic intuition was introduced and demonstrated empirically by Arnold (1979), who showed that distributive goods tend to flow to

members who can credibly threaten to become coalition leaders. Given that this threat is communicated through oversight, bureaucrats will need to be responsive to the coalition who choose to oversee. If that coalition wants to defend legislative intent, influence works toward control. The distribution of preferences and intensities in the oversight coalition examined above, however, makes it unlikely that the oversight coalition has any particular interest in protecting the interests of the chamber. Because the members performing oversight are extreme and bureaucrats need to keep those members happy, they have incentives to design policies that provide benefits above and beyond the relatively moderate preferences of the chamber. Bureaucrats can, in effect, make side-payments to members in order to make the member satisfied enough so as not to pursue the possibility of sanctioning the agency. If oversight of policies other than financial regulation operate in a similar fashion, the outcome is a wide variety of unrepresentative policies.

A long and prestigious literature has been devoted to finding instances of “control.” In these pieces, preferences of some member or subset of members serve as the independent variable while some bureaucratic output that maps onto those preferences is used as the dependent variable. Weingast and Moran (1983) were among the first, showing that the FCC responded to changing preferences on the committee of jurisdiction. Subsequent scholars have found evidence of responsiveness in the NLRB (Moe, 1985), OSHA (Scholz, 1991), the Antitrust Division of the Department of Justice (Wood and Anderson, 1993), and the FDA (Shipan, 2004). These studies are often taken as evidence that Congress controls the bureaucracy. The results presented here suggest a subtle but important alternative. Individual members of Congress influence agencies, but that does not mean that the agency is controlled by the preferences of the chamber more broadly. To whom bureaucrats are responsive within Congress and how that affects policy outputs is an important topic that should be taken up in future research.

### 6.1.3 Institutional Design and Interest-Driven Oversight

The explanation presented here does downplay the effectiveness of administrative procedures as a means to protect congressional intent. More broadly, any solution that focuses only on reducing costs to oversight will not be enough to compel the actions of members on its own. For members to willingly contribute to congressional control their utility must be somehow connected with the needs of the chamber. Absent that connection, no amount of cost minimization will make informative oversight an attractive option for members. It does not, however, mean that administrative procedures and congressional research agencies are unimportant to members.

Oversight of a given agency is desirable to some subset of members, and those members would be willing to perform it even in the absence of measures to reduce the costs of oversight. If Congress had not developed institutional means to subsidize oversight we would still see oversight, it would just be more resource intensive and likely less frequent. The purpose of administrative procedures may have been to help convince members to contribute to chamber goals, but their real effect may be to subsidize members' use of oversight to acquire policy benefits from agencies. The presence of administrative procedures and research agencies helps members perform the type of oversight that they find useful and leads to more of the activity than would otherwise take place. Members who are disinclined to perform oversight will continue not to perform it, and those who want to perform oversight for constituency reasons have the costs of doing so subsidized by the procedures set up to ensure political control. Ironically, the institutions designed to automate political control of the bureaucracy may contribute to additional agency loss for the chamber. Research on administrative procedures largely focuses on when Congress adds ex ante controls and which controls are used, but the importance of constituency motivations in oversight suggests that scholars should also pay attention to how administrative procedures are used by individual members.

#### **6.1.4 Why Unrepresentative Oversight?**

Demonstrating that oversight is performed by an unrepresentative subset of the chamber raises positive as well as normative questions. If theory based on interest groups can answer the question of why members would want to engage in oversight, it cannot answer the question of why such a system would survive in equilibrium. Key congressional agenda setters have an interest in a system of oversight that produces accurate information about the functioning of federal agencies. Given their ability to shape the internal organization of Congress it is not clear why they would allow a system that seemingly fails to provide this outcome.

One possibility is that unrepresentative oversight is simply part of the trade-off identified by Gilligan and Krehbiel (1987). If congressional agenda setters want members to specialize they may need to incur a distributional loss in order to get any information at all. The trade-off in this scenario is the value of unbiased information against the cost of the side-payments needed to induce that information. Instead of paying disinterested members who lack expertise to specialize, the chamber may simply have to make due with committees as they exist currently. Such an arrangement may not be feasible and even if non-specialists who will tend to be the desirable low-intensity signalers do provide less biased information, it is likely that they would also produce less accurate information as they are less able to overcome the informational disadvantages held by agencies. Regardless, a further examination of how specific congressional practices may aid in eliciting information, even if that information is biased, is key to understanding the question of why this practice would be allowed to persist.

#### **6.1.5 Where's the Party?**

An issue pushed largely to the side in this dissertation is the influence of parties in the conduct of oversight. The fundamental puzzle addressed was one of collective

action, and it is well known that parties have some degree of expertise in dealing with this class of problems (Cox and McCubbins, 1993, 2005). Parties have the potential to affect the conduct of oversight both through the selection of committee chairs, forcing chairs to focus on one issue and not another, and maybe even by compelling member participation in these activities. I cannot rule out either possibility. What I can say is that it is not obvious how the results presented here would be subsumed by a partisan theory of oversight. The measure of interest group measure in Chapter 5 was completely uncorrelated with the party of the representative, and Chapter 4 explicitly included a variable for divided government, finding no evidence that it mattered. There is strong evidence elsewhere that parties affect how investigations are conducted, but less that they matter for more programmatic oversight. Future research should attempt to derive a partisan model and conduct more thorough tests of that explanation than the one presented here.

### **6.1.6 Individual Incentives and Interbranch Relations**

The primary focus of this work was to understand the incentives that individuals have to take costly actions to protect their constitutional prerogative. Madison's famous treatment of the question in Federalist 51 argued that actors in government would naturally wish to protect the power they have and encroach upon the authority of others. Madison's exhortation that "Ambition must be made to counteract ambition" needs no further examination, but the following line, "The interest of the man must be connected to the constitutional rights of the place," deserves more attention. While it is generally assumed that the interest of political actors is tied to the maintenance of their powers, the findings here call into question whether that is the case. An extensive literature examines the ability of Congress to defend its legislative authority, but the problem of free-riding has not been sufficiently addressed theoretically or empirically. We know a great deal about how courts, Congress, the president, and

the bureaucracy bargain with artificially anthropomorphized committees, chambers, branches, etc... The analysis here suggests that the inter-personal dynamics within those bodies have an important effect on bargaining between branches and that those dynamics need to be considered in our theories of separation of powers. Or to put it in Madison's terms, we need to think more about how the interest of the man affects the ability of Congress to defend the constitutional rights of the place.

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