Extract: Congressional Oversight: An Overview

Walter J. Oleszek Senior Specialist in American National Government February 22, 2010

# Incentives and Disincentives

Despite the importance of oversight, “pass it and forget it” lawmaking sometimes occurs on Capitol Hill. This reality is not to suggest that committees and subcommittees fail to hold regular oversight hearings and meetings, often aimed at rooting out government waste and abuse and, more broadly, monitoring the executive branch. Instead, there are various institutional and other developments that have limited the ability of committees and lawmakers to carry out their “continuous watchfulness” function in a continual manner. There are, in brief, various disincentives and incentives associated with the conduct of oversight. Three will be spotlighted in each category for illustrative purposes.

## Disincentives

First, there are time and energy limits. Workload-packed legislative schedules, constant campaign fund-raising, weekly travel back-and-forth to Members’ districts or states, periodic meetings with constituents visiting Washington, or print and media interviews are among the factors that combine to reduce constant attention to oversight. The term lawmaker, moreover, suggests where many Members prefer to spend much of their time. As former Speaker Newt Gingrich, R-GA (1995-1999) put it: “This is the city [Washington, DC] which spends almost all of its energy trying to make the right decisions and almost none of its energy focusing on how to improve implementing the right decisions. And without implementation, the best ideas in the world simply don’t occur.”[[1]](#footnote-1)

Second, unified government could act as a disincentive to assertive and aggressive oversight of administrative departments and agencies, especially during an era of partisan polarization. As one senior House Republican said of President George W. Bush’s Administration: “Our party controls the levers of government. We’re not about to go out and look beneath a bunch of rocks to try and cause heartburn. Unless they really screw up, we’re not going to go after them.”[[2]](#footnote-2) Added another experienced GOP lawmaker: “We ended up functioning like a parliament, not a Congress. We confused wanting a joint agenda with not doing oversight.”[[3]](#footnote-3)

Third, the policy or political payoff might be minimal at best or counterproductive at worst. Oversight can be unglamorous, tedious, technical, and long-term work that achieves few results. “To do it right,” said a Republican Senator, “you have to hear an endless stream of witnesses, review numerous records, and at the end of it you may find an agency was doing everything right. It is much more fun to create a new program.”[[4]](#footnote-4) Moreover, lawmakers recognize that hard-hitting investigations might arouse the ire of numerous constituents and special interests, which could jeopardize their chance of winning re-election.

## Incentives

One of the principal incentives that encourages legislative oversight of the executive branch is divided government (one party in charge of one or both chambers or Congress, the other party in control of the White House). Political and substantive issues are important factors that prompt heightened interest in oversight. Politically, as former Representative Lee Hamilton, D-IN, noted, when Democrats controlled the House during the first two years of the Clinton administration, no subpoenas were issued to executive officials by the panel with broad oversight jurisdiction. However, when Republicans captured control of the House, that same committee handed out “well over a thousand subpoenas to Clinton administration officials.”[[5]](#footnote-5)

Substantively, policy disagreements between the President and the congressional majority party also contribute to the amount and scope of oversight. As one scholar concluded:

*[P]olicy divergence is most likely to occur under divided government, so the majority party in Congress will want to constrain the agencies under the president’s control. In addition, members of the majority party may believe they can benefit from using oversight to emphasize policy differences between their party and the president’s party, and if in the case of such hearings and investigations they embarrass a president and his agency, this is not an insignificant [political] side benefit.[[6]](#footnote-6)*

Electoral incentives are another factor that can motivate lawmakers to oversee the bureaucracy. The opportunity to assist constituents in their dealings with federal agencies or to receive favorable publicity back home for resolving flaws or inequities in executive programs is a potential electoral bonus for members of Congress. Committee and subcommittee chairs “seek a high pay off—in attention from the press and other agencies—when selecting federal programs to be their oversight targets.”[[7]](#footnote-7) Electoral support from constituents, combined with press and media attention, are likely to prompt additional oversight activity by committees and lawmakers/

A third incentive for more oversight is large public concern about various issues (surging federal deficits, for instance) or events (a terrorist incident, for example). Numerous analysts and studies emphasize that the nation faces short- and long-term fiscal challenges. Growing citizen concern about the urgency of this issue could provoke committees to devote considerable resources to scrutinizing federal programs for waste and inefficiency, even eliminating or scaling back agencies or programs that are duplicative or not working. The money saved might then be used more productively. To be sure, a specific event can also prompt oversight. The unsuccessful 2009 Christmas Day attempt to blow up an airplane reportedly triggered no fewer than eight House and Senate committee hearings and investigations “to explore the intelligence, homeland security and foreign policy ramifications of the failed attack” by a Nigerian-born terrorist.[[8]](#footnote-8)

1. Tichakorn Hill, “Gingrich: Government’s Problem Is ‘Gotcha’ Culture,” Federal Times, July 18, 2005, p. 12 [↑](#footnote-ref-1)
2. David Nather, “Congress as Watchdog: Asleep on the Job?” CQ Weekly, May 22, 2004, p. 1190. See also Thomas E. Mann and Norman J. Ornstein, The Broken Branch (New York: Oxford University Press, 2006). [↑](#footnote-ref-2)
3. Ronald Brownstein, “Treating Oversight as an Afterthought Has Its Costs,” Los Angeles Times, November 19, 2006, online edition. [↑](#footnote-ref-3)
4. Congress Speaks: A Survey of the 100th Congress (Washington, DC: Center for Responsive Politics, 1988), p. 163. [↑](#footnote-ref-4)
5. Lee H. Hamilton, Strengthening Congress (Bloomington, IN: Indiana University Press, 2009), p. 25. [↑](#footnote-ref-5)
6. Charles R. Shipan, “Congress and the Bureaucracy,” in Paul Quirk and Sarah Binder, eds., The Legislative Branch (New York: Oxford University Press, 2005), p. 437. [↑](#footnote-ref-6)
7. Richard Cohen, “King of Oversight,” Government Executive, September 1988, p. 17. [↑](#footnote-ref-7)
8. Tim Starks and Caitlin Webber, “Bombing Attempt Generates Wave of Probes,” CQ Today, January 13, 2009, 1. [↑](#footnote-ref-8)