

Gov 1539: Section 9

Tyler Simko

April 14th, 2021

The goals for today

- Final Prompt
- Congressional oversight
 - What is it / where does it come from?
 - What is it for?
 - Incentives
 - Models of oversight
 - Kriner and Schickler (2018)

Presidents as national representatives

Who were the best presidents? Who were the worst? Who has moved up in the rankings and who has moved down? Media coverage and studies of the presidency are awash in presidential rankings. For some examples, see here, here, and here.

In your view, what does “presidential greatness” mean? How accurately do presidential rankings reflect this concept? Do you believe presidential rankings are meaningful—why or why not? How well do presidential rankings capture what we mean by presidents’ legacies?

Rogowski 2021

Congressional oversight

- What is it?

Congressional oversight

- What is it?
 - Oversight Manual pg. 1: “review, monitoring, and supervision of the executive and the implementation of public policy.”

Congressional oversight

- What is it?
 - Oversight Manual pg. 1: “review, monitoring, and supervision of the executive and the implementation of public policy.”
- What does congress have oversight powers over?

Congressional oversight

- What is it?
 - Oversight Manual pg. 1: “review, monitoring, and supervision of the executive and the implementation of public policy.”
- What does congress have oversight powers over?
 - generally, the executive branch (president, federal agencies, etc.).

Congressional oversight

- What is it?
 - Oversight Manual pg. 1: “review, monitoring, and supervision of the executive and the implementation of public policy.”
- What does congress have oversight powers over?
 - generally, the executive branch (president, federal agencies, etc.).
- Where does the power come from?

Congressional oversight

- What is it?
 - Oversight Manual pg. 1: “review, monitoring, and supervision of the executive and the implementation of public policy.”
- What does congress have oversight powers over?
 - generally, the executive branch (president, federal agencies, etc.).
- Where does the power come from?
 - Not explicitly mentioned in Constitution.
 - Implied as part of legislative process.
 - Has been authorized and expanded through various Supreme Court decisions (*McGrain v. Daugherty* (1927), *Eastland v US Servicemen's Fund* (1975), etc.).

What is congressional oversight for?

Lots of potential things, some include:

1. Prevent executive encroachment.

What is congressional oversight for?

Lots of potential things, some include:

1. Prevent executive encroachment.
2. Promote government efficiency, effectiveness, public interest, etc.

What is congressional oversight for?

Lots of potential things, some include:

1. Prevent executive encroachment.
2. Promote government efficiency, effectiveness, public interest, etc.
3. Draw public attention to issues.

What is congressional oversight for?

Lots of potential things, some include:

1. Prevent executive encroachment.
2. Promote government efficiency, effectiveness, public interest, etc.
3. Draw public attention to issues.
4. Investigate fraud, abuse, etc.

What is congressional oversight for?

Lots of potential things, some include:

1. Prevent executive encroachment.
2. Promote government efficiency, effectiveness, public interest, etc.
3. Draw public attention to issues.
4. Investigate fraud, abuse, etc.
5. Many others (listed in the manual pgs. 2-6).

What is congressional oversight for?

Lots of potential things, some include:

1. Prevent executive encroachment.
2. Promote government efficiency, effectiveness, public interest, etc.
3. Draw public attention to issues.
4. Investigate fraud, abuse, etc.
5. Many others (listed in the manual pgs. 2-6).

Takeaway: oversight is an additional way for Congress to check the executive branch and exert control over the policymaking process.

Why does it matter?

These folks think so:

- J.S. Mill (1861): "The proper office of a representative assembly is to watch and control the government; to throw the light of publicity on its act; to compel a full exposition and justification of all of them which any one considers questionable."
- James Wilson (1896): "The House of Representatives ... will diligently inquire into grievances, arising both from men and things."
- Woodrow Wilson (1885): "Quite as important as legislation is vigilant oversight of administration."

Some famous examples of congressional investigative hearings



Some famous examples of congressional investigative hearings



1954 Army-McCarthy Hearings (*Source: Getty*)

Models of Oversight

Two famous models of congressional oversight strategy in the reading come from McCubbins and Schwartz (1984):

Models of Oversight

Two famous models of congressional oversight strategy in the reading come from McCubbins and Schwartz (1984):

- Police Patrols
- Fire Alarms

Models of Oversight

Two famous models of congressional oversight strategy in the reading come from McCubbins and Schwartz (1984):

- Police Patrols
 - **Congressional strategy** is to **detect** violations.
 - Committees will actively check various areas to try to find violations.
- Fire Alarms

Models of Oversight

Two famous models of congressional oversight strategy in the reading come from McCubbins and Schwartz (1984):

- Police Patrols
 - **Congressional strategy** is to **detect** violations.
 - Committees will actively check various areas to try to find violations.
- Fire Alarms
 - **Congressional strategy** is to **create rules to allow others to report** violations.
 - Pass statutes that promote transparency, reporting capacity, etc.

Models of Oversight

Two famous models of congressional oversight strategy in the reading come from McCubbins and Schwartz (1984):

- Police Patrols
 - **Congressional strategy** is to **detect** violations.
 - Committees will actively check various areas to try to find violations.
- Fire Alarms
 - **Congressional strategy** is to **create rules to allow others to report** violations.
 - Pass statutes that promote transparency, reporting capacity, etc.
- Given themes of the course, which has become more common over time?

Models of Oversight

Two famous models of congressional oversight strategy in the reading come from McCubbins and Schwartz (1984):

- Police Patrols
 - **Congressional strategy** is to **detect** violations.
 - Committees will actively check various areas to try to find violations.
- Fire Alarms
 - **Congressional strategy** is to **create rules to allow others to report** violations.
 - Pass statutes that promote transparency, reporting capacity, etc.
- Given themes of the course, which has become more common over time?
 - Growth in size of govt since 19th century → police patrols are less efficient (congressional time is fixed, but govt. keeps growing).
 - With Fire Alarms, third parties bear most of the investigative cost.
 - One implication: lack of visible oversight doesn't necessarily mean nothing is happening. Congress may be relying on Fire Alarms.

Incentives in the process?

Assuming the best of intentions for members of Congress, what **incentives** are built-in to the oversight process? Types of incentives:

Incentives in the process?

Assuming the best of intentions for members of Congress, what **incentives** are built-in to the oversight process? Types of incentives:

- **Institutional**

- **Individual**

- **Partisan**

Incentives in the process?

Assuming the best of intentions for members of Congress, what **incentives** are built-in to the oversight process? Types of incentives:

- **Institutional**
 - Strong oversight can protect Congress vs. Executive power.
 - Madison in *Fed. 51* (1788): “ambition must be made to counterract ambition. The interest of the man must be connected with the constitutional rights of the place.”
- **Individual**
- **Partisan**

Incentives in the process?

Assuming the best of intentions for members of Congress, what **incentives** are built-in to the oversight process? Types of incentives:

- **Institutional**

- Strong oversight can protect Congress vs. Executive power.
- Madison in *Fed. 51* (1788): “ambition must be made to counterract ambition. The interest of the man must be connected with the constitutional rights of the place.”

- **Individual**

- Members most active in investigations can raise their personal profiles.

- **Partisan**

Incentives in the process?

Assuming the best of intentions for members of Congress, what **incentives** are built-in to the oversight process? Types of incentives:

- **Institutional**

- Strong oversight can protect Congress vs. Executive power.
- Madison in *Fed. 51* (1788): “ambition must be made to counterract ambition. The interest of the man must be connected with the constitutional rights of the place.”

- **Individual**

- Members most active in investigations can raise their personal profiles.

- **Partisan**

- Members stand to lose ground if a president of their party is investigated.
- Aggressive investigations lower presidential approval ratings (Krine and Schickler 2016).

“Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”

James Madison - Federalist #51 (1788)

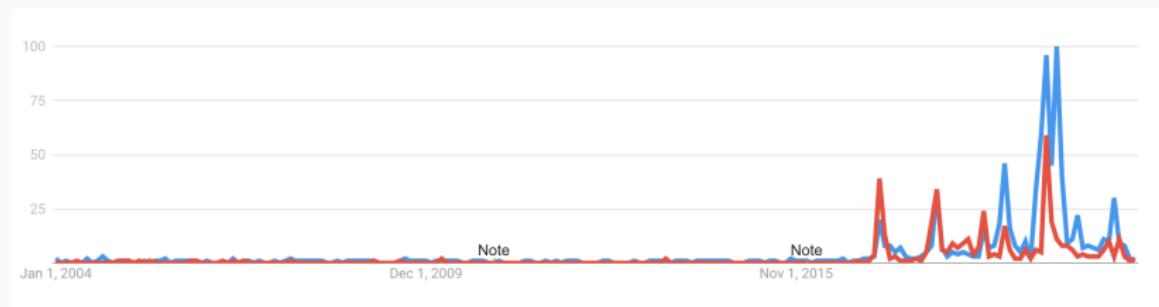
Institutional incentives

“Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”

James Madison - Federalist #51 (1788)

For oversight – Congress can protect its own power by checking executive.

Personal incentives



Google Trends search for Adam **Schiff** and Devin **Nunes**
(both served from CA since early 2000s).

Partisan incentives



"I just don't think it useful to be doing investigation after investigation, particularly of your own party. We'll never even get started with doing the things we need to do like repealing Obamacare if we're spending our whole time having Republicans investigate Republicans. I think it makes no sense."

Rand Paul (R-KY) 2017

Incentives in the process?

If you were a malicious member of Congress just trying to raise your own profile, how might you use oversight to your advantage?

Incentives in the process?

If you were a malicious member of Congress just trying to raise your own profile, how might you use oversight to your advantage?

- Can launch investigations into essentially whatever you want.
 - Under Police Patrol model, easily justified as well.
 - Is the president *actually* in charge of a drug smuggling ring? Well we still don't have all the facts, but I'm just asking questions.
- Might try to use investigations as a political weapon against other party.

This paper investigates one aspect of partisan incentives for congressional oversight. Does unified party control sap enthusiasm from investigations?

This paper investigates one aspect of partisan incentives for congressional oversight. Does unified party control sap enthusiasm from investigations?

- Partisanship does play an important role in limiting congressional investigations.
- House vs. Senate distinction

This paper investigates one aspect of partisan incentives for congressional oversight. Does unified party control sap enthusiasm from investigations?

- Partisanship does play an important role in limiting congressional investigations.
- House vs. Senate distinction
 - divided govt. sees more investigations in the House, no change in the Senate.
 - In House, majority party leaders and committee chairs can rein in efforts to undermine president's standing during unified govt.
 - In Senate, there are stronger minority party rights and individual members have more power.

How do they argue oversight **works** to influence shifts in politics and policy?

How do they argue oversight **works** to influence shifts in politics and policy?

1. Investigations can spur Congress to directly check the executive branch.

How do they argue oversight **works** to influence shifts in politics and policy?

1. Investigations can spur Congress to directly check the executive branch.
 - Impeachment in extreme cases, but more often legislation.
2. Investigations can encourage presidents to make unilateral concessions in the hopes of preempting a more extreme congressional response.

How do they argue oversight **works** to influence shifts in politics and policy?

1. Investigations can spur Congress to directly check the executive branch.
 - Impeachment in extreme cases, but more often legislation.
2. Investigations can encourage presidents to make unilateral concessions in the hopes of preempting a more extreme congressional response.
3. Investigations can impose political costs on the president (public opinion), which can influence both in areas unrelated to the investigation itself.