

A Congressional Oversight Office: A proposed early warning system for the United States Congress

By Elaine C. Kamarck

INTRODUCTION



Elaine C. Kamarck

is a senior fellow in the Governance Studies program at Brookings and the director of its Center for Effective Public Management.

A central function of the United States Congress is oversight of the executive branch. Although it was not explicitly written into the Constitution, it has been—since the beginning of the United States—an “implied” rather than an “enumerated” power. The Framers assumed that the congressional role would be modeled on the British House of Commons which conducted investigations of the ministers and were considered, according to James Wilson of Pennsylvania, a Constitutional Convention delegate—“grand inquisitors of the realm.”¹ Congressional oversight, as exercised from the beginning of the nation, was and remains an essential tool in making the separation of powers real by empowering Congress to check the executive. It is also justified by giving agency to Congress’ lawmaking and appropriating powers.

In modern America, the Congress has engaged in two kinds of oversight: “fire-alarm” and “police-patrol”—phrases coined years ago by political scientists Matthew D. McCubbins and Thomas Schwartz. “Fire-alarm” oversight is oversight conducted when something goes really wrong in the executive branch, usually generating news headlines and catching the Congress by surprise. It is serious enough for Congress to rally resources and attention to it even in the midst of other business. Alternatively, “police-patrol” oversight is the more mundane work of routinely monitoring what is going on in the executive branch, and figuring out what is working and what is not. Not surprisingly, Congress has tended to favor the former and avoid the latter.”² In the 1980s, Morris P. Fiorina pointed out that members of Congress have little electoral incentive to conduct oversight because the time and effort required are politically unrewarding.³ In contrast, “fire-alarm” oversight grabs headlines.

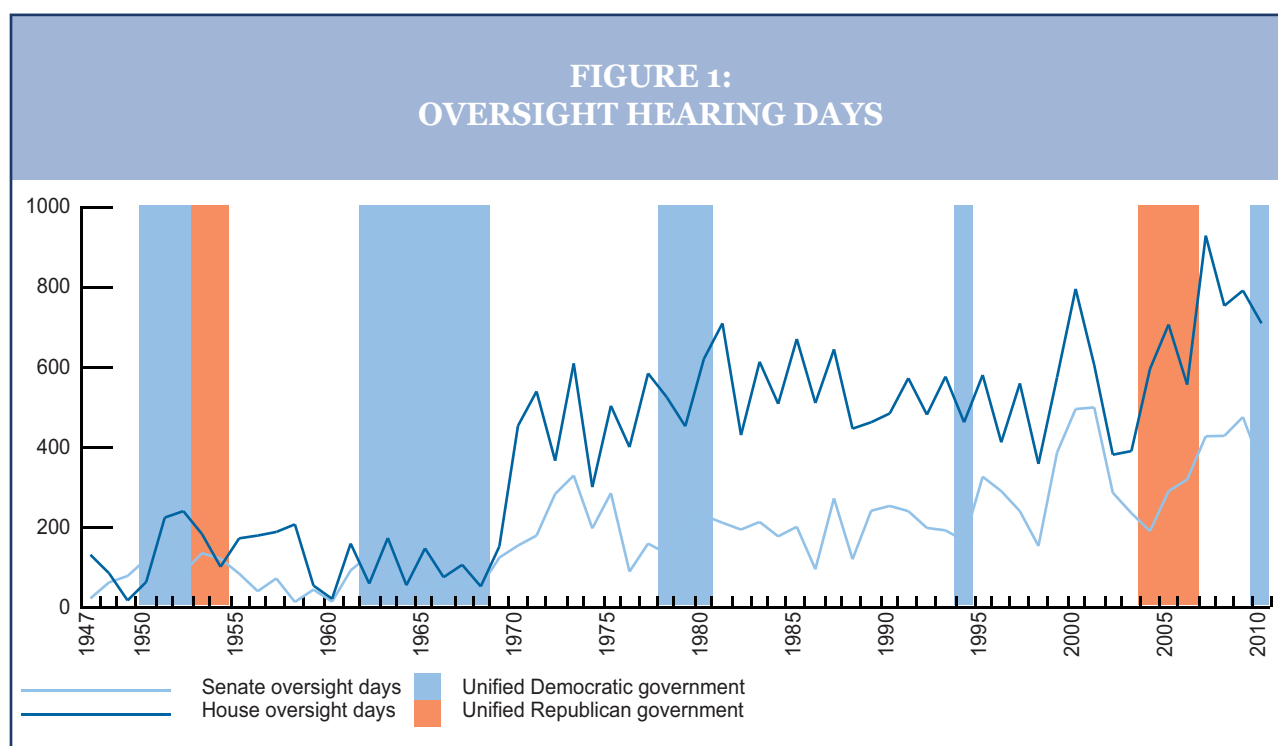
1 United States House of Representatives. “Investigations & Oversight.” Accessed at: <http://history.house.gov/Institution/Origins-Development/Investigations-Oversight/>

2 Matthew D. McCubbins and Thomas Schwartz, “Congressional Oversight Overlooked: Police Patrol versus Fire Alarms,” *American Journal of Political Science* 28, no. 1 (1984), pp. 165-179.

3 See, for instance, Morris P. Fiorina, “Congressional Control of the Bureaucracy: A Mismatch of Incentives and Capabilities,” in *Congress Reconsidered*, 2nd ed., edited by Lawrence C. Dodd and Bruce J. Oppenheimer (Washington: CQ Press, 1981).

In the intervening years, as “regular order” has become a thing of the past, the budget process has collapsed and polarization has reached paralyzing levels, congressional oversight has reflected the divisive politics of the Congress. As the congressional scholars Tom Mann and Norm Ornstein point out, during the 1980s and 1990s, serious oversight was conducted by the Appropriations Committees in both houses and by a number of authorizing committees. However, “when the Republicans took control of Congress, there was substantial aggressive oversight—for the period when Bill Clinton was president, that is—although the oversight of policy was accompanied by a near-obsession with investigation of scandal and allegations of scandal. But when George Bush became president, oversight largely disappeared.”⁴ The collapse of oversight is evident in the numbers. The number of oversight hearings (excluding appropriations committees) dropped from 782 in the first six months of 1983 to 287 in the first six months of 1997. And the decline in the Senate was similar.⁵ Mann and Ornstein state that “... a centralization of political control in Congress and the marginalization of committees contributed to a sharp reduction in congressional oversight of the executive.”⁶ Most disturbing of all is their conclusion “... executive agencies that once viewed Congress with at least some trepidation because of its oversight activities now tend to view Congress with contempt.”⁷

More recent work by Jason A. MacDonald and Robert J. McGrath measures the ebb and flow of congressional oversight. Consistent with Mann and Ornstein’s observations from the Bush years, oversight in recent decades is driven by partisan strategy. It spikes, not surprisingly, during periods of divided government but it also spikes in the first years of unified government. “Our theory asserts that these bursts are driven by oversight that is retrospective in nature, with



4 *The Broken Branch: How Congress Is Failing America and How to Get It Back on Track*, (Oxford, Oxford University Press) 2008, p. 151

5 *Ibid*, p. 157. Data from work by Joel Aberbach.

6 *Ibid*, p. 157.

7 *Ibid*, p.155

committees directing agencies to amend policies and implementation protocols established in the previous presidential regime.”⁸

In the absence of the will and the capacity to do effective oversight, Congress is at risk of losing its power to the executive branch and thus failing one of its most important constitutional roles.

In the modern Congress oversight is one more political tool – used to discredit the current President during eras of divided government or to discredit the previous president. Missing from this is any semblance of “police-patrol” oversight—“retrospective oversight” is, by definition not police patrol oversight. This is part of a larger trend in Congress—minimizing the role of committees. Congress has historically done most of its hard work, especially oversight, in committees. In fact, those who are old enough to have studied political science several decades ago remember

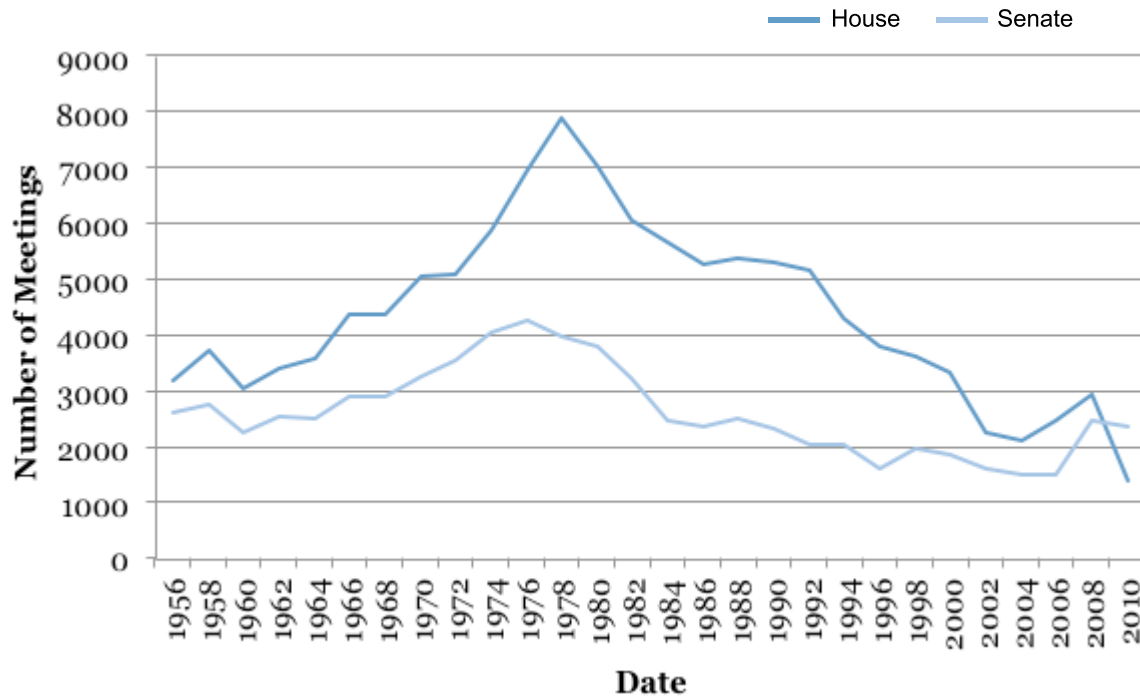
having to read a “door-stop” of a book (700 dense pages) devoted almost solely to the powerful Appropriations Committee in Congress.⁹ Young members of Congress were told that if they waited patiently and were good soldiers, they could one day serve on Appropriations or its powerful counterpart in the House of Representatives, Ways and Means. But increasingly, congressional committees don’t even meet regularly anymore. The chart on the following page shows the sharp decline in committee and subcommittee meetings that began in the 1980s and has not recovered through four presidencies.

Missing from the modern Congress is the will and capacity to do what I will call “prospective oversight”; the kind of oversight that could identify problems before they explode. In the absence of the will and the capacity to do prospective oversight, Congress is at risk of losing its power to the executive branch and thus failing one of its most important constitutional roles.

8 Jason A. MacDonald and Robert J. McGrath. 2016 (forthcoming). “Retrospective Congressional Oversight and the Dynamics of Legislative Influence over the Bureaucracy.” *Legislative Studies Quarterly*, p. 20, accessible at <http://jasonmacdonald.polisci.wvu.edu/r/download/220802>.

9 Richard F. Fenno, Jr., *The Power of the Purse, Appropriations Politics in Congress*, (Boston, Little Brown) 1966.

FIGURE 2:
COMMITTEE, SUBCOMMITTEE MEETINGS,
84TH - 111TH CONGRESS



Source: *Vital Statistics*

The question this paper will address is whether anything can be done to get Congress back into the oversight business. A portion of that answer is political—divided government and highly polarized politics lend themselves to a style of oversight that looks for headlines and scandals and eschews the less headline grabbing work of “police-patrol” oversight. But the longer run damage done by polarized politics is that it elevates partisanship over institutional interests. Oversight requires both political incentives and sufficient capacity.

Much has been written about the hyper-polarized Congressional era and in this paper I have little new to say. But alongside the hyper-polarization are trends that lead one to question whether the modern Congress has the capacity to do effective oversight. According to a recent article in *Roll Call*, Congress’s newspaper, Sen. Mike Lee, R-Utah, announced [a new project](#) to re-invigorate the first branch of government. “The premise of the Article I Project is simple,” he explained [in a statement](#). “The federal government is broken, and congressional weakness is to blame.” Lee is among a [growing number of conservatives](#) who have come to see that congressional dysfunction is a problem of Congress’s own making, and who wants to do something about it. Yet, for all the growing interest in “restoring congressional power,” there’s something fundamentally missing from these plans—the capacity to actually do it.”¹⁰

10 Lee Drutman, “Congress Needs More and Better Paid Staff: Disinvestment results in inexperience, empowers lobbyists,” *Roll Call*, March 21, 2016. Accessed at: <http://www.rollcall.com/news/opinion/congress-needs-better-paid-staff>

This paper will turn its attention to the following question: Assuming that future Congresses develop the political will to conduct oversight, do they have the capacity to do oversight of a large, modern, and complex executive branch?

THE PROBLEM: MISMATCHED RESOURCES

The modern federal government is a complex and enormous enterprise. For instance, total revenue of the federal government (\$3.9 trillion in 2014) is slightly larger than the combined revenues of the sixteen largest companies in the Fortune 500—Walmart through AmerisourceBergen—as ranked by revenue.¹¹ In terms of employment, the federal government's 4.2 million workers (including military personnel) is roughly equal to the total employment of the six largest U.S. companies: Walmart (2.2 million), McDonalds (420,000), IBM (412,775), Kroger (400,000), Home Depot (371,000), and Target (347,000), according to figures for 2015.

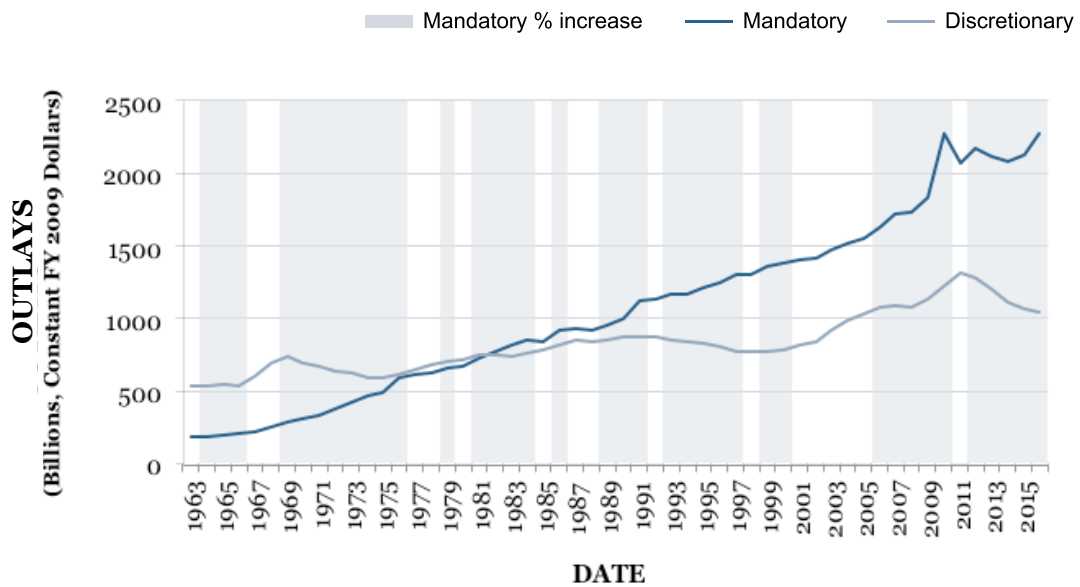
Back in the middle of the twentieth century, this vast enterprise was smaller and, perhaps more importantly, it was simpler. It was composed mostly of clerks who recorded social security payments, veterans' benefits, and the like. By the start of the twenty-first century, the information age had taken those jobs away and given them to computers. The clerks were replaced by programmers, lawyers, doctors, molecular biologists, nuclear physicists, engineers, cyber security experts, and a whole host of other specialists.

The sheer size of the permanent government or the bureaucracy can be overwhelming. No wonder Republicans like to think “the whole darn thing is a mess and should be cut”—they are ideologically opposed to large government. Meanwhile, some Democrats like to think “it all works just fine and can be expanded,” while others have a real interest in making sure it runs properly. In an organization as vast as the federal government, the law of averages tells you that every version has a kernel of truth—things are going very right in some places and very wrong in other places all at the same time.

Over the years, not only the scope but the composition of the oversight challenge has changed. As the following graph indicates, the discretionary portion of the federal budget has shrunk at the expense of the mandatory portion. In the 1960s, discretionary spending exceeded mandatory spending. Those lines crossed, however, in 1981, when mandatory spending became the larger of the two budget categories. Discretionary spending now accounts for only 31.5 percent of federal outlays. (See Figure 4.) This means that the typical oversight challenges have shifted from programs that can be changed, cut, or expanded in a yearly budget cycle, to large entitlement programs that are immune to the yearly budget cycles but which present increasingly complex management and implementation challenges. (The exception seems to be the defense budget, which is on the discretionary side and where, increasingly, military interventions are funded “off budget” so that no one has to face the hard work of cutting defense.)

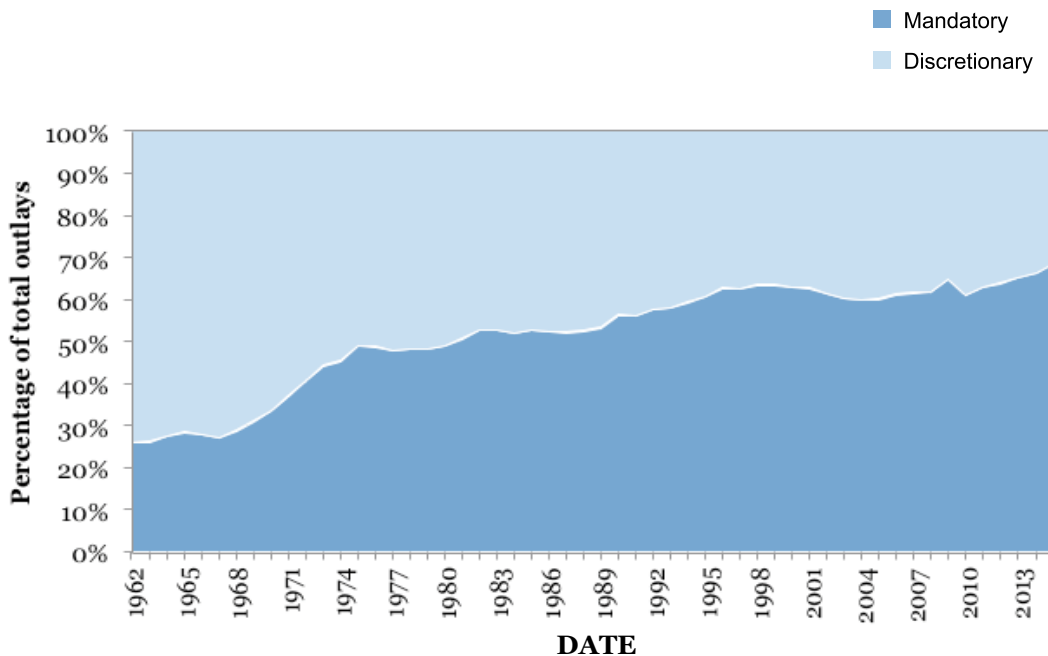
11 See listing at www.fortune.com/fortune500/.

FIGURE 3:
MANDATORY AND DISCRETIONARY OUTLAYS



Source: Gallup

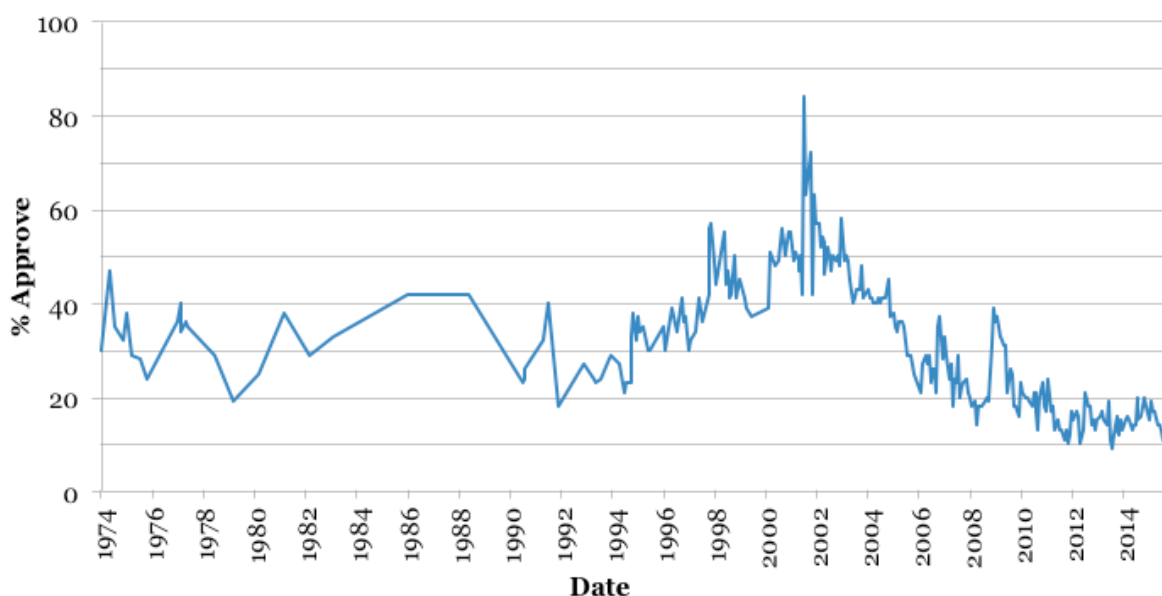
FIGURE 4:
MANDATORY VS. DISCRETIONARY SPENDING
AS PERCENTAGE OF TOTAL OUTLAYS



Source: OMB Historical Tables, Table 8.6 and 8.8

While the federal government has grown bigger and more complicated, Congress has in the name of budget cutting taken steps that have had the effect of “dumbing itself down.” As the need for congressional oversight has become more and more important, Congress has become less and less capable of undertaking the kinds of systemic oversight that can solve, let alone prevent, problems. Congress’s constant bickering and dramatic gestures that don’t solve anything—like shutting down the government—create the impression that its members don’t care about Americans’ economic insecurity. No wonder Congressional approval ratings are at all-time lows.

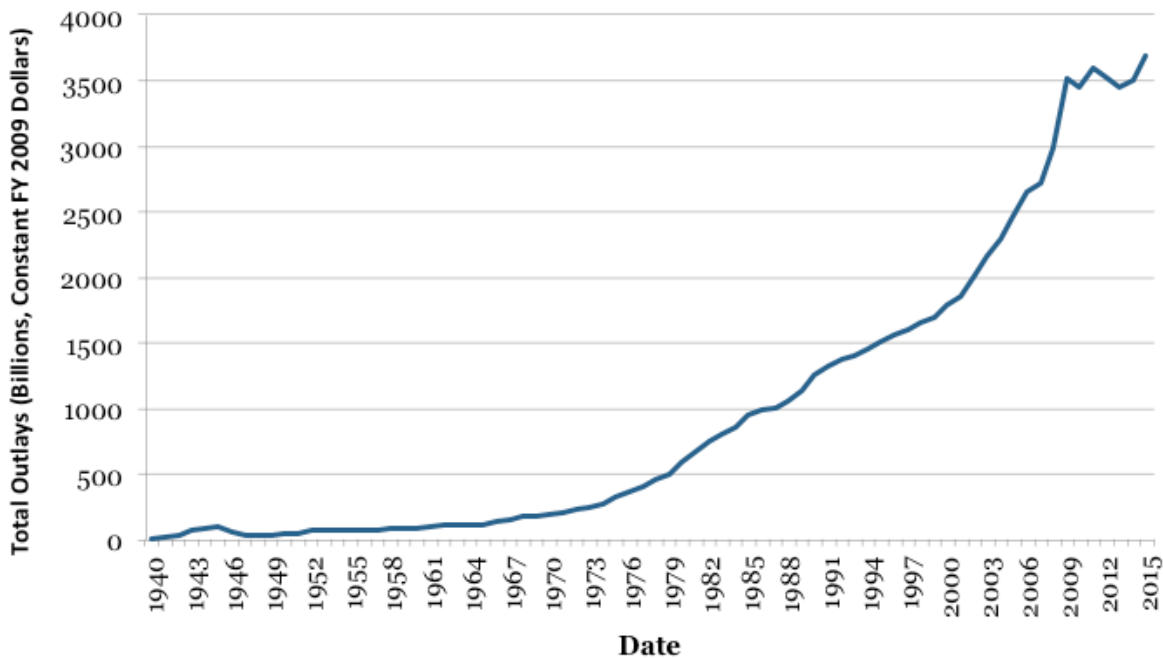
**FIGURE 5:
DO YOU APPROVE OR DISAPPROVE
OF THE WAY CONGRESS IS HANDLING ITS JOB?**



Source: Gallup

Two major Republican Party victories—the 1994 Republican takeover by Newt Gingrich and his allies and the 2010 Republican takeover led by the Tea Party Movement—have not yielded any significant shrinkage in the size and scope of the Federal government. (See Figure 6.) Since 1994, Republicans have held control of the House of Representatives for all but four years (the 110th Congress from 2007 – 2009 and the 111th Congress from 2009 – 2011). Instead of making lasting cuts, Republican majorities have opted for government shutdowns and across-the-board cuts. These tactics have fallen far short of actually shrinking the government. In the end, the cuts end up being reinstated, since they end up cutting things people like along with things they don’t like. In spite of impressive congressional victories on the part of small-government conservatives beginning in 1994, the federal government is not appreciably smaller than it was.

**FIGURE 6:
TOTAL FEDERAL GOVERNMENT OUTLAYS**



Source: OMB Historical Tables, Table 1.3

Why can't conservative majorities cut government? The most straightforward answer is that the devil is in the details and the really expensive things the government does (like provide health care for the aged) are very popular. But the other explanation is that, in the words of former Congressman Barney Frank, "The fat of government is not lying on the top, but is marbled through the meat."¹² Over the years, Congress has created institutions to help members understand, monitor, and sometimes discipline the executive branch. The great irony here is that this expertise is especially important for conservatives who wish to shrink the government. The existing infrastructure that is supposed to help Congress be on top of the executive branch has fallen prey to a mindless dumbing down of Congress which has, ironically, kept Republican majorities from achieving their goals and weakened the overall balance of power that is so critical to the American constitutional system.

CONGRESS NEEDS HELP

The modern executive branch was born on January 10, 1937, with the publication of the Brownlow Committee's report. The report advocated a wide range of reforms that expanded and modernized the presidency. It famously

12 Peter Bollen, *Frank Talk: The Wit and Wisdom of Barney Frank* (Nebraska: iUniverse, 2006), p. 109.

began with the statement, “The President needs help.”¹³ Fast forward to the second decade of the 21st century and it is time to assert that “The Congress needs help.” In recent years every institution created and designed to help Congress conduct effective oversight of the executive branch is struggling.

Congressional staff

Start with what has happened to congressional staff. There are two kinds of congressional staff: those who staff the committees themselves and those who staff the individual members in Washington and back in their districts. There are around 7,203 staffers who work in the offices of the 435 members of the House of Representatives and in the offices of the one hundred Senators.¹⁴ In other words, Congress has 7,203 people to oversee the work of approximately 2.7 million civilians and nearly 1.5 million military personnel. Not exactly a fair fight. And whereas a few decades ago most of these staffers were in Washington, D.C., today more than half of them are in district offices where they are busy fixing individual problems and scheduling tours of the White House for constituents who are taking the kids to Washington for spring break.

The average Hill staffer these days is thirty-one years old. Why so young? Because the pay is low. As Lee Drutman, a Senior Fellow at the New America Foundation points out: between 2009 and 2013, “median pay for House ‘legislative director’ positions declined from \$93,013 to \$81,177 and median pay for House ‘legislative assistant’ positions declined from \$55,643 to \$48,622—down 13 percent.”¹⁵ Similar decreases were seen in Senate staff pay. After the young staffers get some experience they go to work for outside groups that pay them much more money.

The absolute number of staffers is also on the decline. As is evident from the following graphs, the decrease in committee staff is most dramatic in the House, specifically the drop off from 1994 to 1995 of 800 standing committee staff. It is a direct result of the 1994 Republican takeover and the “Contract with America” that stipulated specific changes including a reduction in committee staff by one third. Congressional district and state staff experienced virtually zero complementary dismantling. House district staff, in between 1978 and 2009, rose from 2,317 to 3,377, and increased as a percentage of total personal staff from 33.4 percent to 48.9 percent. During this same period of time, Senate state staff experienced a similar increase, from 816 to 1,589, an increase as a percentage of total personal staff from 25 percent to 40.9 percent.¹⁶ The decrease in committee staff at the expense of personal/political staff means that there are fewer subject matter experts to help members of Congress figure out what’s going on in the executive branch.

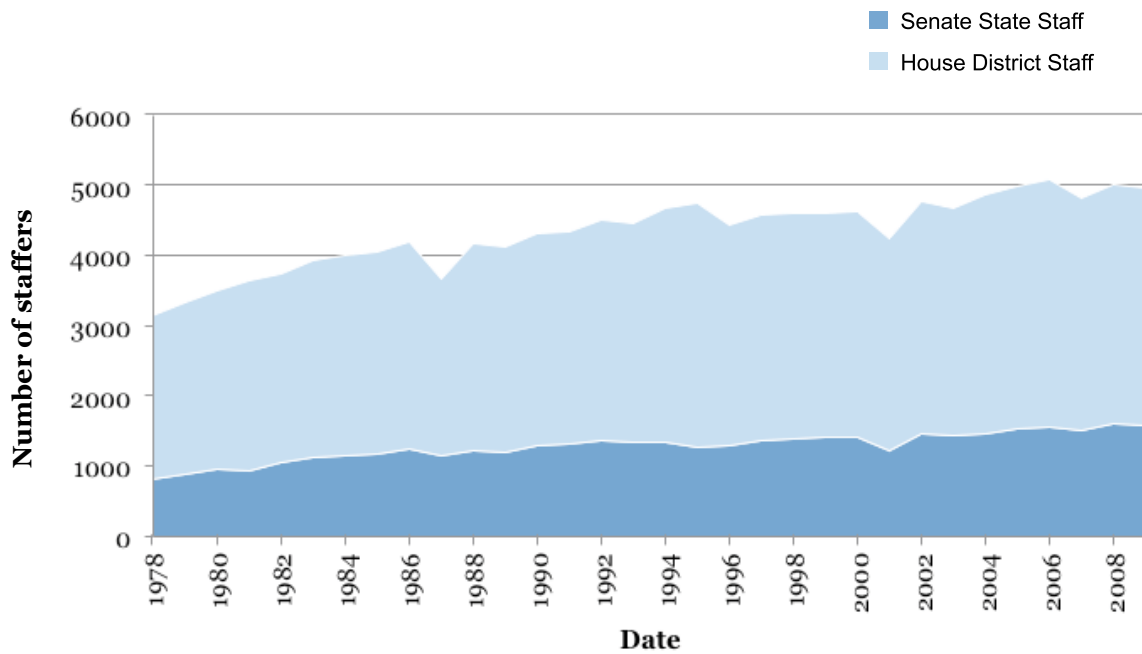
13 The formal name of the Committee was “The Committee on Administrative Management,” created by President Franklin Roosevelt in 1936.

14 Data taken from Vital Stats, found at http://www.brookings.edu/~media/Research/Files/Reports/2013/07/vital-statistics-congress-mann-omstein/Vital-Statistics-Chapter-5--Congressional-Staff-and-Operating-Expenses_UPDATE.pdf?la=en

15 Lee Drutman, “Congress Needs More and Better Paid Staff: Disinvestment results in inexperience, empowers lobbyists,” *Roll Call*, March 21, 2016. Accessed at: <http://www.rollcall.com/news/opinion/congress-needs-better-paid-staff>

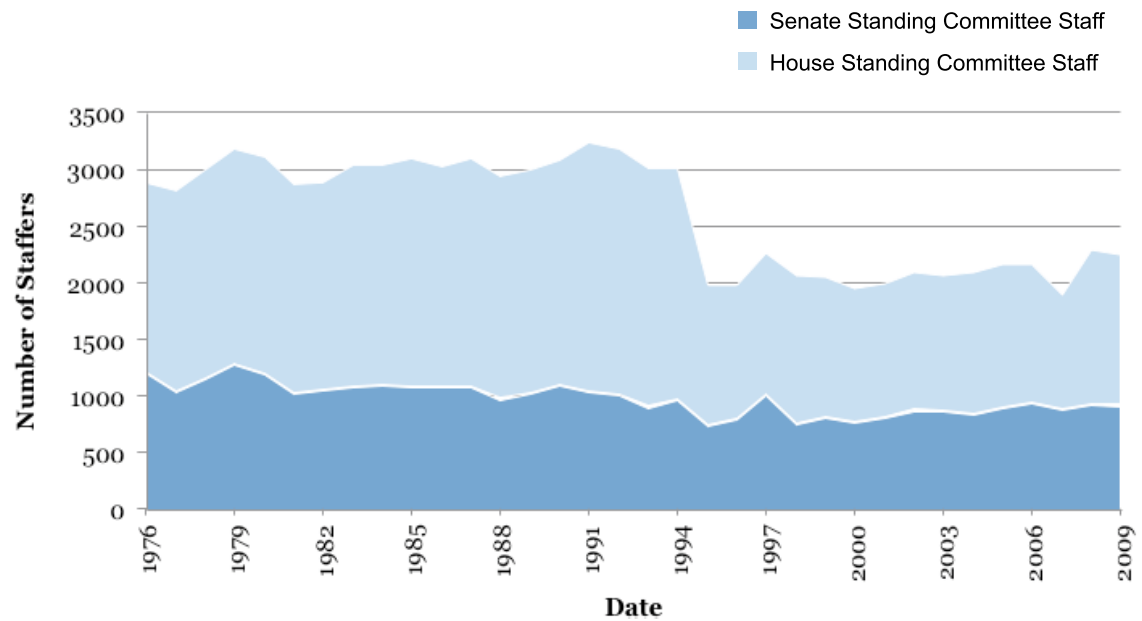
16 For detailed data see Appendix, Table A.

FIGURE 7: HOUSE DISTRICT AND SENATE STATE STAFF OVER TIME



Source: *Vital Statistics*

FIGURE 8: CONGRESSIONAL COMMITTEE STAFF OVER TIME



The Congressional Research Service

In addition to the staff, Congress also has, over the years, created institutions to help it do its job. The oldest of the non-staff institutions is the Congressional Research Service, founded in 1914 as part of the Library of Congress to provide members with information on matters of public policy. Initially, the office conducted mostly clerical searches relating to legislation, but over the years it expanded into a full-fledged think tank dedicated to filling research requests from members of Congress. In response to Nixon's "imperial presidency," Congress grew the Congressional Research Service in the 1970s in order to counter what was seen as executive overreach.

Congress is slow to turn GAO reports into action.

But in recent years, the Congressional Research Service has fallen victim to shrinking budgets. Between 2010 and 2016 they lost 13 percent of their purchasing power while workloads increased.¹⁷ The agency is understaffed. In 2015, there were 651 people employed at CRS—most of them researchers—answering questions from 435 members of the House and 100 members of the Senate. They responded to 60,000 requests from members of Congress.

In addition to a decrease in capacity, the CRS has suffered from the polarization gripping Congress. One former staffer writes, "Despite the agency's effort to stay beneath the radar, partisans kept hitting it year after year. ... It was dispiriting to see Congress treating the CRS's work less as sources of information than as weapons for use in partisan warfare. We were civil servants who tried to render thoughtful assessments about complex matters."¹⁸

The Government Accountability Office

The next office created to help Congress was in 1921—the Government Accounting Office. (Its name was changed to the Government Accountability Office in 2004.) It was created to help Congress get control over financial chaos and big increases in spending following the First World War. Over the years, its mission expanded to include providing Congress with information on how executive programs were working. For instance, in 1967, it was asked to evaluate President Johnson's Great Society programs. In 1974, it was given greater say in the budget process. GAO reports can originate from requests from members of Congress, from mandates placed in statutes, or from their own investigation into federal programs.

In particular, the GAO's focus on management means that it has, over the years, unearthed many of the problems we've come to hear about in the executive branch. For instance, in March 2013, the GAO reported on the serious problems in scheduling and backlogs at the Veterans Health Administration. It stated that the VA could not provide "a plan that met established criteria for sound planning, such as articulating performance measures for each initiative, including their intended impact on the claims backlog." The report also documented increases in the average length of time necessary to complete a benefits claim—"from 161 days in fiscal year 2009 to 260 days in fiscal year 2012"—

17 "Library of Congress Fiscal 2017 Budget Justification," p. 135.

18 "Why I Quit the Congressional Research Service: How Congress's Dysfunction has degraded its own in-house think tank," by Kevin R. Kosar, *Washington Monthly*, January/February 2015. Accessed at: http://www.washingtonmonthly.com/magazine/january-february_2015/features/why_i_quit_the_congressional_r053467.php?page=all

and that the number of “backlogged claims” (those pending for over 125 days) had more than tripled since 2009.¹⁹ But action on this report was far from immediate. It took another full year, the industrious digging of journalists, and the sad story of a veteran named Barry Coates, whose cancer went undiagnosed, to spur Congress into action.²⁰

As is evident, Congress is slow to turn GAO reports into action. In 1990, the GAO began issuing its “high risk list”—agencies that were facing big problems. The list was meant to be a diagnostic tool drawing attention to problems in the executive branch. But a funny thing happened along the way; as the political scientist Don Kettl points out, in the twenty five years since the creation of GAO, only about two dozen agencies or one-third of those identified have successfully moved off the list.²¹ This means one of two things; either the problems are so intractable that they are endemic to the architecture of the programs or Congress doesn’t pay attention to the fundamentals of management until an agency blows up in its face. The two are not mutually exclusive and are related to Congress’s preference for “fire-alarm” oversight over the tough job of actually fixing the dysfunction (sometimes statutory) that keeps agencies on the list year after year.

The Congressional Budget Office

In 1974, Congress decided it needed help dealing with the executive branch on budgetary matters and they enacted legislation which founded the Congressional Budget Office (CBO). The legislation was the direct result of congressional confrontations with President Richard Nixon who had withheld money from federal agencies that Congress had appropriated. The “impoundments” as they are known, were seen as destabilizing the supposed balance of power between the executive and the legislative branches, and Congress responded by passing the Congressional Budget and Impoundment Act. Senator Edmund Muskie (the first Chairman of the Senate Budget Committee) described the backdrop to the Act as follows: “During the past half century, the Congress has witnessed a steady erosion of its control over the budget. In contrast, we have seen a consistent escalation of executive influence over budget and fiscal policies.”²²

The Congressional Budget Office was tasked with providing Congress an independent source of macro-economic analysis about the economy, taxing and spending. The goal was to give Congress independent analysis from that which was produced by the White House Office of Management and Budget. In the years since its creation, CBO has become one of the most powerful organizations that no one has ever heard of. While it has not always helped balance budgets or restrain spending, it has provided economic forecasts, judgments on baselines and other economic analyses of importance to the budget process. Of special importance is the role CBO plays in “scoring” proposed legislation—a term of art that refers to estimating the actual costs of legislation. The latter has been the source of much inside the beltway controversy, most recently over the concept of “dynamic” scoring.

19 <http://www.gao.gov/assets/660/652979.pdf>

20 Dennis Wagner, “Deaths at Phoenix VA hospital may be tied to delayed care,” *Arizona Republic*, April 10, 2014; Scott Bronstein and Drew Griffin, “A fatal wait: Veterans languish and die on a VA hospital’s secret list,” *CNN*, April 23, 2014. Accessed at: www.cnn.com/2014/04/23/health/veterans-dying-health-care-delays-response/index.html.

21 “The Odds of Getting Off GAO’s High-Risk List Aren’t Good,” by Charles S. Cook, *Government Executive Magazine*, May 12, 2015.

22 Quoted in James A. Thurber, “The Dynamics and Dysfunction of the Congressional Budget Process: From Inception to Deadlock,” page 5 accessed at: <https://www.american.edu/spa/ccps/The-Dynamics-and-Dysfunction-of-the-Congressional-Budget-Process-From-Inception-to-Deadlock.pdf>

Creation of the Congressional Budget Office has provided Congress with the expertise to deal with macro-economic questions and the costs of proposed legislation but it is not tasked with conventional oversight of executive departments. That has fallen to other organizations in Congress.

The inspectors general

Inspectors general were created by the Inspector General Act of 1978 with the purpose of investigating waste, fraud, and abuse within executive agencies. There are currently 73 inspectors general in the U.S. federal government. They are statutorily independent and report to the Congress. And yet, their investigative role within the government as a whole has been controversial almost since the beginning. As John Hudak and Grace Wallack, my colleagues at Brookings, have stated in a recent paper, “OIGs are often viewed quite skeptically within government. Congress laments that they are politicized arms of presidents, interested more in cover-ups than transparency. Agency officials, at times, have rocky relationships with OIGs, seeing them more as an executive branch version of a ‘rat squad.’”²³ While some IG’s uncover actual crimes that make headlines and end up at the Department of Justice for prosecution, others are considered to be hindrances to executive flexibility and efficiency. Like some other parts of the government created to help Congress fulfill its oversight role, IG budgets have been stagnant.

In summary, the United States Congress has five sources of expertise that they can draw upon to exercise their constitutional duty of checking the executive branch: committee staff, the Congressional Research Service, the Government Accountability Office, the Congressional Budget Office, and the inspectors general. Except for committee staff, these offices employ civil servants whose job is entirely or in part related to providing members of Congress with effective oversight. And yet, Congress misses important stories. A short summary of the resources available to Congress to assist them in oversight follows. As can be seen in the following table, the Congress is vastly outgunned—to the extent that its constitutional role is in danger. It employs a mere 17,272 professional staff to oversee an executive branch consisting of 4.2 million civil servants and uniformed military. Moreover, the Congress spends around \$3.42 billion dollars a year to oversee a government that spends \$3.9 trillion dollars a year which amounts to approximately .0877 percent of spending. Cutting resources needed to oversee an entity as large as the modern day executive branch is a perfect example of the old adage “penny wise and pound foolish.”

23 “Sometimes cutting budgets raise deficits: The curious case of inspectors’ general return on investment,” (Washington, D.C., Brookings) April 2015, page 4.

FIGURE 9: A SUMMARY OF CONGRESSIONAL OVERSIGHT

Office	Full-time Employees	Budget (millions)
CRS	651	106.945
GAO	3005	531
CBO	235	465
Committee Staff	1992	295.6
OIGs	*11389	*2024.91

Sources: CRS, GAO, and CBO FTE and Budget numbers from respective budget justifications and websites. Committee staff budget from CRS report “Legislative Branch: FY 2016 Appropriations.” Committee staff FTE from Sunlight Foundation. OIG FTE and budget taken from OPM, OIG, and agency FY 2017 budget justifications. * - Includes only cabinet OIGs, special OIGs housed within cabinet, and selection of larger independent agencies. For detailed data, see appendix, Table B. OIG Budget is 2015 outlays, including offsets.

THE SOLUTION: HORIZON-SCANNING AND EARLY WARNING AS PART OF PROSPECTIVE OVERSIGHT

One of the consequences of the fact that their supporting institutions are understaffed and under-budgeted is that Congress cannot anticipate trouble—they mostly react. Although some of their supporting institutions have oversight in their mandates, when resources are scarce, the longer term research and thinking gives way to the daily pressure of answering inquiries from members. Even if, however, the current supporting institutions were given greater capacity, the congressional architecture for oversight does not include the sort of activity that would allow for leadership and the avoidance of failure.

Although the executive branch is now in its third decade of creating performance measures pursuant to GPRA (the Government Performance and Results Act of 1993, amended in 2011), Congress is not utilizing the metrics to monitor the executive branch.²⁴ There are many reasons for this including the fact that executive branch metrics are often (intentionally or unintentionally) obscure, and therefore useless. In addition, when an organization is in real trouble, people often lie about and/or manipulate the metrics—reminding one of the adage about there being three kinds of lies: lies, damn lies, and statistics. Building “dashboards” and tracking data are certainly valuable tools in trying

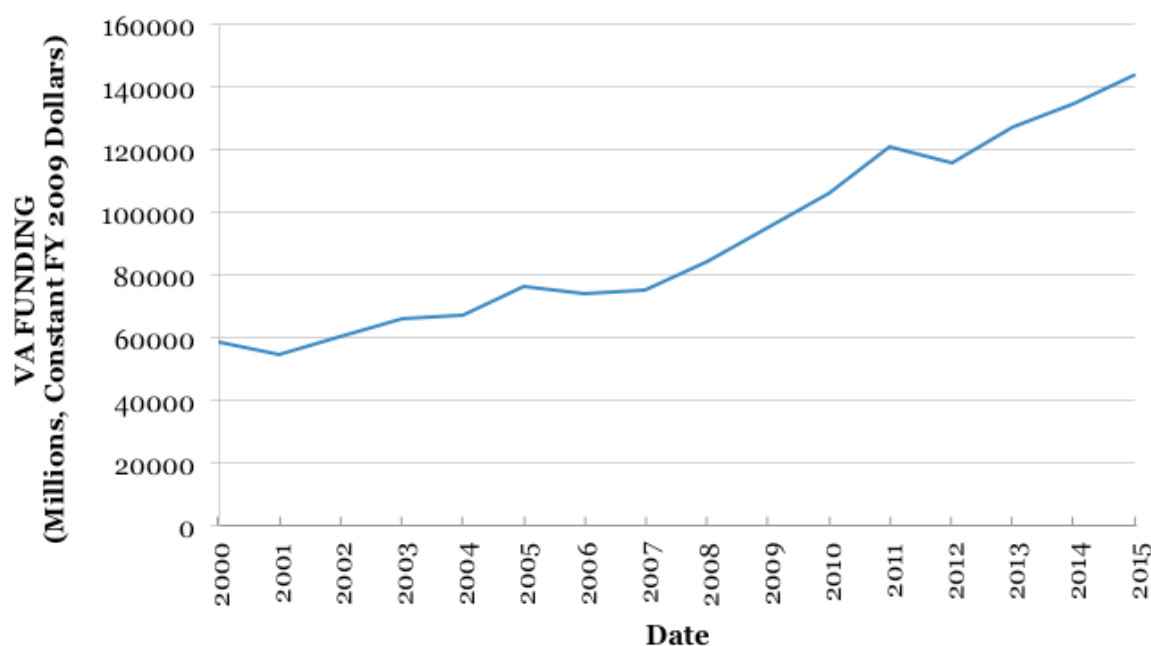
²⁴ See, Cory Bennett, “Two years after GPRA update, government still lacks clear metrics, information,” in *fedscoop*, June 26, 2013.

to understand the performance of large organizations, but they have not prevented government failures. And used alone, they can build a false sense of security.

But the other reason Congress falls short in its oversight responsibilities is its obsession with budgeting. The Congressional year is dominated by the budget cycle and performance is not always the same thing as budgeting.

Take, for instance, the scandals in the veterans health care programs that burst into the national consciousness in 2014. Although the GAO wrote reports indicating that something was wrong at the VA, it took investigative journalists to bring it to the attention of the President and the White House. But the VA scandal was the sort of thing that “police-patrol” oversight could have prevented and a perfect example of how money does not necessarily mean strong performance. Have a look at the following chart.

FIGURE 10: DEPARTMENT OF VETERANS AFFAIRS BUDGETS, 21ST CENTURY



Source: OMB Historical Tables, Table 5.2

As the chart illustrates, the upward trend of spending in the Bush administration accelerated during the Obama administration, to an average annual increase of +8.09 percent through 2015. In 2015, the Department of Veterans Affairs received \$144,115,080,000 in budget authority. Between 2000 and 2015, VA budget authority increased by \$85,504,870,000—an increase of roughly 146 percent. Most of the budget increases were made to take care of the returning Iraq and Afghanistan War vets. And yet, in spite of robust budget plus ups, the VA in 2014 was failing in its mission of taking care of veterans.

So the first thing Congress should do is to properly staff the agencies it already has and to stop nickel and diming and degrading its own capacity. There is nothing inherently liberal or conservative about admitting the need for expertise in checking the executive branch. But the second thing Congress needs to do is to construct an early-warning system—a "systems of systems"—that uses the existing organizations and creates an ongoing capacity to monitor performance in the federal government. The creation of an organization in Congress charged with evaluating governmental performance *before* there is a crisis fits nicely with a new theory of governance articulated by Leon Fuerth, the former national security advisor to Vice President Al Gore. Fuerth calls this "anticipatory governance," which he defines as:

"A systems-based approach for enabling governance to cope with accelerating, complex forms of change. Anticipatory governance is a 'systems of systems' comprising a disciplined foresight-policy linkage, networked management and budgeting to mission, and feedback systems to monitor and adjust. Anticipatory governance would register and track events that are just barely visible at the event horizon; it would self-organize to deal with the unanticipated and the discontinuous."²⁵

This system, let's call it the "Congressional Oversight Office," should be staffed by implementation professionals who can gather the signals from all the other oversight organizations annually and in sync with the budget cycle. But it should not be part of the Congressional Budget Office. As in the case of the Veterans Administration, bureaucratic failure is often not related to levels of funding but to systemic problems and/or to bad management. If performance is constantly evaluated by budget staff the executive branch will go to great lengths to hide performance problems. Second, chronic agency problems often stem from organizational design embedded in legislation that can be contradictory and make administration difficult. A key function of an organization charged solely with looking for trouble on the horizon would be to suggest to authorizing committees the kinds of legislative reforms that could keep organizations in the executive branch off the high risk list and improve their performance.

A Congressional Oversight Office should consist of civil servants tasked with finding signs of trouble in the executive branch and alerting the relevant authorizing committees. It should be done in sync with the budget cycle so that management challenges are surfaced along with appropriations requests and forwarded to the committees. Unlike the inspectors general it should not be solely in search of bad behavior, rather it should be in search of issues coming from bad management or from underlying structural problems.

Congress needs to get back into the business of better and more productive executive branch oversight. It was one thing when the executive branch was largely a government of clerks. But that is not the case any longer. Today's executive branch is involved in highly complex matters—from regulation of Wall Street to the approval of new life saving technologies. Congress needs the political will and incentives for members to get involved in oversight in meaningful ways and increased organizational capacity to conduct its constitutional duties.

25 Leon S. Fuerth and Evan M. H. Faber, "Anticipatory Governance: Winning the Future," *The Futurist* 47, no. 4 (2013) (www.wfs.org/futurist/2013-issues-futurist/july-august-2013-vol-47-no-4/anticipatory-governance-winning-future).

APPENDIX

TABLE A: SIZE OF CONGRESSIONAL STAFF

YEAR	SENATE STATE	% OF PERSONAL STAFF	HOUSE DISTRICT	% OF PERSONAL STAFF	STANDING COMMITTEES, SENATE	STANDING COMMITTEES, HOUSE
1976	N/A	N/A	1943	28.00%	1201	1680
1977	N/A	N/A	2058	29.60%	1028	1776
1978	816	25.00%	2317	33.40%	1151	1844
1979	879	24.40%	2445	34.60%	1269	1909
1980	953	25.40%	2534	34.40%	1191	1917
1981	937	25.80%	2702	36.10%	1022	1843
1982	1053	26.10%	2694	35.80%	1047	1839
1983	1132	27.90%	2785	36.60%	1075	1970
1984	1140	28.90%	2872	38.90%	1095	1944
1985	1180	28.80%	2871	38.10%	1080	2009
1986	1249	33.10%	2940	43.60%	1075	1954
1987	1152	28.30%	2503	33.00%	1074	2024
1988	1217	30.60%	2954	39.60%	970	1976
1989	1200	31.30%	2916	38.50%	1013	1986
1990	1293	31.10%	3027	40.40%	1090	1993
1991	1316	30.69%	3022	41.50%	1030	2201
1992	1368	32.20%	3128	41.20%	1008	2178
1993	1335	32.30%	3130	42.30%	897	2118
1994	1345	32.00%	3335	45.10%	958	2046
1995	1278	30.10%	3459	48.10%	732	1246
1996	1290	31.10%	3144	43.10%	793	1177
1997	1366	31.00%	3209	44.10%	1002	1250
1998	1381	32.30%	3214	44.20%	747	1305
1999	1414	33.20%	3192	44.20%	805	1238
2000	1405	34.40%	3216	44.50%	762	1176
2001	1228	30.70%	3004	41.70%	805	1177
2002	1456	36.20%	3302	45.50%	869	1222
2003	1440	36.00%	3241	45.90%	857	1193
2004	1468	39.80%	3392	50.30%	838	1249
2005	1534	39.00%	3450	50.70%	887	1272
2006	1562	39.60%	3506	49.30%	929	1225
2007	1495	39.80%	3314	49.20%	874	1014
2008	1590	40.70%	3418	49.50%	919	1362
2009	1589	40.90%	3377	48.90%	913	1324

TABLE B: SIZE OF OFFICES OF INSPECTORS GENERAL, CABINET-LEVEL AND OTHER AGENCIES

AGENCY	FTE	2015 OUTLAYS (MILLIONS)
Environmental Protection Agency	50	42.52
Treasury IG for Tax Administration	794	156
Small Business Administration	110	18
Social Security Administration	540	31
NASA	213	38
OPM	166	25.72
Federal Housing Finance Agency	155	49.9
SEC	47	10.97
USDA	504	89
Department of Commerce	174	36
Department of Defense	1498	299
Department of Education	226	55
Department of Energy	290	48
Department of Health and Human Services	1566	90
Department of Homeland Security	647	135
Department of Housing and Urban Development	617	125
Department of the Interior	263	47
Department of Justice	459	88
Department of Labor	364	76
Department of State	318	63
Department of Transportation	401	86
Department of the Treasury	158	31
Department of Veterans Affairs	700	126
United States Postal Service	1129	258.8

Governance Studies

The Brookings Institution
1775 Massachusetts Ave., NW
Washington, DC 20036
Tel: 202.797.6090
Fax: 202.797.6144
brookings.edu/governance

Editing

Liz Sablich

EMAIL YOUR COMMENTS TO

gscomments@brookings.edu

This paper is distributed in the expectation that it may elicit useful comments and is subject to subsequent revision. The views expressed in this piece are those of the authors and should not be attributed to the staff, officers or trustees of the Brookings Institution.

The Brookings Institution is a nonprofit organization devoted to independent research and policy solutions. Its mission is to conduct high-quality, independent research and, based on that research, to provide innovative, practical recommendations for policymakers and the public. The conclusions and recommendations of any Brookings publication are solely those of its author(s), and do not reflect the views of the Institution, its management, or its other scholars.