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SIGNING STATEMENTS AND CONGRESSIONAL OVERSIGHT

Popular and scholarly accounts argue that signing statements are important tools by which presidents shape the implementation of policy. Although signing statements might be important presidential tools, the legislative branch stands in the most immediate and direct competition with the executive for ultimate control of the bureaucracy. In this paper, we assess whether congressional committees react to presidential signing statements with increased oversight. Using a dataset that includes every oversight hearing held by the U.S. House between 1995 and 2007, we find evidence that the House is less sensitive to signing statements themselves and more sensitive to the number of objections raised in signing statements. As the President uses signing statements to object to a larger number of provisions in laws, the affected House committees respond with more oversight.
INTRODUCTION

Recently, scholars have devoted considerable attention to the ways in which presidents use signing statements (e.g., Garber and Wimmer 1987; Cross 1988; Cooper 2002; 2005; Bradley and Posner 2006; Kelley 2006; Kelley and Marshall 2008). Though many presidents have issued signing statements, President George W. Bush’s use of signing statements generated considerable discussion and controversy in both popular and scholarly accounts (e.g. Cooper 2005; Pfiffner 2009; Savage 2006; Sonnett 2006; Tribe 2006; Specter 2009). The American Bar Association even questioned whether Bush’s extensive use of signing statements was an abuse of power (Savage 2009; Weisman 2009). Pfiffner (2009, 254) argued that the “Bush administration used them with the clear purpose of expanding executive power at the expense of Congress and the courts … to accomplish goals it could not accomplish through the legislative process.” Although as a candidate, Barack Obama spoke against the abuse of signing statements, as president he too has used signing statements in a fashion to frustrate Congress (Savage 2009; Weisman 2009). One Democratic House member stated “It’s outrageous. It’s exactly what the Bush people did” (Weisman 2009, A6).

The scholarly literature suggests that signing statements are powerful tools at the president’s disposal as the president competes with Congress for control over policy implementation. To date, however, no one has assessed congressional reactions to signing statements. We argue that the effectiveness of presidential signing statements as instruments of presidential control over policy depends on the actions of the other branches in government. If signing statements direct bureaucratic implementation, then congressional committees can use signing statement directives to guide their own oversight activities.
In the following sections, we explore some of the relevant scholarly literature, including work on signing statements, congressional oversight, and presidential control of the bureaucracy. Our main hypothesis is that presidential signing statements trigger congressional oversight. To test our hypothesis, we developed a dataset that includes the oversight activity by month for all House standing committees from 1995 through 2007 to test the effects of signing statements. We find that congressional committees respond to presidential signing statements with heightened oversight activity in the months following a signing statement as the number of objections in signing statements to specific provisions of law increases.

SIGNING STATEMENTS AND POLICY IMPLEMENTATION

Signing statements are written presidential pronouncements regarding a piece of legislation that are issued at the time the legislation is signed by the president. In addition to offering presidents an occasion to thank Congress for passing the bill or to criticize Congress for being penurious (or excessively generous), signing statements provide opportunities for presidents to articulate their view of specific provisions of the bill. The specific comments may raise, among other issues, policy concerns, exhortations for future legislative activity, guidelines for the implementation of the law by bureaucratic agents, or constitutional objections.

Recent literature suggests that signing statements enhance presidential powers, especially in the executive-congressional competition to control bureaucratic agencies. For example, Sala argues that signing statements afford presidents “the last chance to frame legislative intent for bureaucratic action” (1998, 261). Cooper writes that signing statements were used to “reposition and strengthen the powers of the president relative to Congress” (2005, 515). “[T]he administrators [have] their marching orders, regardless of the language of the statute…” and they
“must respond or face the wrath of the White House” (Cooper 2002, 212). Pfiffner (2009, 251) extends the theme: “signing statements … provide authoritative guidance to … subordinates in the executive branch as to how they should carry out and execute the law.” In the context of the highly salient 2005 Detainee Treatment Act, Kelley and Marshall note that “…where the president could not get Congress to budge, he used the signing statement to turn a policy loss into a win” (2008, 2) by directing agency implementation without regard to congressional preferences. In addition to privileging the president in policy disputes with Congress, Cooper (2005) argues the use of the signing statement influences judicial actors as well. Thus, in the canonical view of the literature, the signing statement is an effective device available to presidents to rein in bureaucratic drift, move policy closer to presidential preferences, influence future judicial decisions, and ultimately assert presidential power in the coordinate construction of the constitution (c.f., Halstead 2008).

There might be nothing that Congress can do to limit a president’s use of signing statements. For instance, Pfiffner (2009, 253 and 254) states that “there appears to be no easy way for Congress to compel … [the president] to stop.” Indeed, “there is not much the other branches can do if he [the president] is not acting in good faith” and “the only remedy seems to be self-restraint on the part of the executive” (Pfiffner 2009, 254). Concern about the aggrandizement of executive power has generated numerous responses in the popular press and among social scientists (e.g., Savage 2006 and 2008; Pfiffner 2009; Tribe 2006). In addition, many members of Congress, like Senators Leahy (D-VT), Arlen Specter (then R-PA), and Representatives Barney Frank (D-MA) and David Obey (D-WI) have voiced their frustrations with presidential signing statements (U.S. Congress 2006, S8189-8190; Savage 2009).
Given the claims in the extant literature, the cumulative effect of the hundreds of signing statements issued can be reasonably understood to expand the scope of executive power as long as other political actors accept the declarations within signing statements as beyond the reach of institutional checks and balances. Even in scenarios ostensibly so favorable to the president, agency responsiveness to presidential preference may be limited by the “watchful eye” of the congressional committees charged with executive branch oversight (Aberbach 1990; Halstead 2008). Indeed, as congressional preferences diverge from those of the implementing bureaucrats, we might expect Congress to “place tighter constraints on the use of delegated authority” (e.g., Epstein and O’Halloran 1996, 374). No one, however, has assessed congressional sensitivity and responsiveness to signing statements.

**LEGISLATIVE-EXECUTIVE INTERACTION AND POLICY IMPLEMENTATION**

A great deal of scholarship explores the tension between congressional and presidential control of agency decision-making. The presidential control literature suggests that in conflicts between the executive and Congress over issues of institutional design, presidents are favored in the “politics of structure” (Moe 1989, 1993; Moe and Wilson 1994; Howell 2003). The congressional dominance literature, however, emphasizes congressional effectiveness in achieving desired policy results from the exercise of oversight, the design of administrative arrangements, and congressional budgetary authority (e.g. Epstein and O’Halloran 1999). Some of the most recent scholarship in the area finds that control mechanisms attached to one branch might still yield a positive sum benefit for both branches. In his model of the White House’s OIRA reporting and review requirements, Wiseman (2009) finds that there are instances in which both the White House and Congress benefit from the OIRA review.
In the competition between the legislative branch and the executive branch for control over policy, Moe and Howell argue that the president retains important residual decision rights that reflect the centralized control and unilateral action that presidents enjoy (Moe 1993; Howell 2003). Similarly, Huber and Shipan (2002) consider the president to be a privileged actor with respect to Congress, while Lewis (2003) and Howell (2003) note the advantages presidents have over policy outcomes because of their ability to shape the design and guide the actions of agencies.

Though many scholars emphasize presidential influence over bureaucratic implementation, others highlight the multiple means by which Congress can attempt to rein in bureaucratic drift. Senate confirmation of presidential nominees, appropriations, and reauthorizations may each serve to limit bureaucratic discretion in policy implementation. In addition, McCubbins, Noll, and Weingast (1989) suggest that ex ante controls may secure bureaucratic compliance with congressional preference. Procedural requirements and statutory limitations within the 1935 Federal Register Act, the 1946 Administrative Procedures Act, notice and comment requirements, the 1966 Freedom of Information Act, and numerous amendments tied to these acts as well as reporting requirements increase the costs of non-compliant behavior on the part of the agency. By insulating policy, the enacting coalition of legislators is better able to ensure bureaucratic compliance with current legislative preferences (Bawn 1995; MacDonald 2007).

In addition to ex ante oversight, McCubbins and Schwartz (1984) argue that ex post oversight activities may serve to limit bureaucratic drift. They argue that police patrols and fire alarms permit Congress to restrict the scope of agency divergence. Although police patrols entail costly monitoring, the fire alarm approach to oversight shifts the monitoring costs from
legislators to those individuals and groups most directly affected by agency actions. Presidential signing statements and congressional oversight are both connected to the political control of bureaucracies. We propose that congressional sensitivity to presidential signing statements leads an oversight committee to regard the particular objections noted by the president as an invitation for an agency to disregard congressional preferences. Consequently, the committee may choose to hold hearings to impose costs on bureaucratic noncompliance preemptively.

Clearly, there are other means Congress may employ to limit bureaucratic compliance with presidential signing statements, including the introduction of new statutory language to respond to the president’s intentions. For example, when Congress passed the Postal Accountability and Enhancement Act (Public Law 109-435), President Bush (2006) issued a signing statement in which he signaled that:

> [t]he executive branch shall construe subsection 404(c) of title 39, as enacted by subsection 1010(e) of the Act, which provides for opening of an item of a class of mail otherwise sealed against inspection, in a manner consistent, to the maximum extent permissible, with the need to conduct searches in exigent circumstances, such as to protect human life and safety against hazardous materials, and the need for physical searches specifically authorized by law for foreign intelligence collection.

Three weeks later, Sen. Olympia Snowe (R-ME) and six cosponsors responded to the president by introducing S. Res. 22 which proposed to reject “any interpretation of the President’s signing statement on the Postal Accountability and Enhancement Act that in any way diminishes the privacy protections accorded sealed domestic mail under the Constitution and Federal laws and regulations” (Library of Congress 2009).

Although we do not explore the statutory response by Congress to presidential signing statements, responses such as this are reflective of a heightened sensitivity of Congress to presidential attempts to move policy implementation closer to presidential preference. Explicit statutory reactions are rare and Snowe’s attempt ultimately failed. Rarer still, are resolutions of
disapproval that nullify agency rules under the Congressional Review Act of 1996 (Gormley and Balla 2008, 55). Congress, however, is not indifferent to unilateral presidential actions. We expect that given the difficulty of crafting new statutes to explicitly limit bureaucratic drift, Congress is much more likely to exercise ex post oversight subsequent to the issuance of a signing statement that runs counter to congressional preference. Congressional oversight does not automatically negate presidential influence, but it does indicate congressional sensitivity to presidential declarations.

Congressional sensitivity to bureaucratic drift as a consequence of Bush-era presidential signing statements may be lessened under the Obama presidency. Reduced sensitivity is not simply due to a shift in the partisan control of the executive; rather, the Obama administration has issued a directive to executive agents to “seek the advice of the Attorney General before relying on signing statements issued prior to the date of this memorandum as the basis for disregarding, or otherwise refusing to comply with, any provision of a statute” (Obama 2009). Since the target of this directive seems to be signing statements issued by President George W. Bush, we could anticipate that congressional oversight targeting the implementation of Bush era signing statements would diminish.

HYPOTHESES

Most contemporary scholarship suggests that the use of the signing statement privileges the president in bureaucratic policy making. Regardless of the extent to which signing statements might enhance executive control of bureaucracies, Congress may choose to respond to signing statements with additional oversight. Congressional oversight might be spurred by any number of partisan, ideological, and institutional factors (Aberbach 1990; Ogul 1976). For instance, ideological and partisan differences between the legislative and executive branches may
lead to more oversight. Signing statements are not the sole engines for oversight. For us, the question is whether—after controlling for a wide range of factors that might lead to more congressional oversight—signing statements still play a role.

With the issuance of a signing statement the president has revealed sincere preferences and “shown his hand” to Congress. Information and expertise asymmetries have long been linked to the abilities and incentives of legislators to engage in effective oversight (e.g., Rourke 1960; Ogul 1976). Legislators also remain sensitive to monitoring and transaction costs as well as credit claiming opportunities (e.g., McCubbins and Schwartz 1984). As Congress comes to a collective judgment about how to spend resources to constrain bureaucratic drift away from congressional preference, signing statements provide important clues about executive branch implementation efforts. As Halstead (2006, 24) argues, signing statements may “alert Congress to the universe of provisions that are held in disregard by the Executive branch, in turn affording Congress the opportunity not only to engage in systematic monitoring and oversight…” but also to “assert its prerogatives to counteract the broad claims of authority…” Consistent with the Halstead (2006) argument, a 2008 Governmental Accountability Office (GAO) report found that bureaucracies implement public policy in a manner that is largely consistent with the preferences of Congress, not the president.

In light of our thesis and the relevant literature on congressional-executive interactions and presidential signing statements, we offer two hypotheses. First, we predict heightened legislative oversight by House committees with legislation that has been subjected to a presidential signing statement. Second, the more detailed the objections in the signing statement, the more information the president relays to bureaucrats and to Congress. Therefore, the longer
the signing statement and the more objections within a statement, the greater the number of subsequent committee oversight hearings.

**DATA AND METHODS**

Our dependent variable is a measure of all House committee oversight activity, by committee and month, from 1995 through 2007. Using Lexis-Nexis Congressional, we identified all oversight hearings held by every committee in the House during each month of every year from 1995 through 2007. Our committee oversight data most certainly include hearings that are disconnected to signing statements. Any number of issues, including secular trends, may affect the underlying levels of committee oversight. Our question is whether signing statements demonstrably alter this pattern of committee oversight hearings. We, therefore, aggregated the data, by month, year, and committee.\(^1\) In this way, we created a time-series, cross-sectional dataset with 2,688 observations. All data are summarized in the Appendix.

The total number of congressional oversight hearings during our period of study was 2,347, slightly less than one hearing per month by committee. However, this average number of hearings held by committee per month is deceptive because no oversight hearings were held in approximately 2/3 of our observations. Given this large number of zeros in our data, we ran a Vuong (1989) test, which strongly suggested a zero-inflated model.\(^2\) We employ a zero-inflated

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1 We exclude the House Administration, Rules, and Standards of Official Conduct committees from our analysis because these committees do not perform executive branch oversight. The Standards of Official Conduct Committee never held any oversight hearings during the period of our study. The House Administration and Rules committees tend to oversee matters that are internal to the House of Representatives. This decision leaves us with seventeen committees for this analysis.

2 The zero-inflated adjustment focuses on the zero counts. The large number of zero counts dovetails with the longstanding impression that Congress rarely engages in oversight (Ogul 1976; Ogul and Rockman 1990).
Poisson model to test our hypotheses, since the mean and variance of our dependent variable are close in value.³

Zero-inflated Poisson models include two estimations. One accounts for the zeros and acts as a selection model for the second. The independent variable in the zero-inflated portion of the model is the number of days in session, since committees in the U.S. House cannot engage in oversight activity when the chamber is not in session. The second estimation accounts for the positive counts. For the count estimation, the independent variables include data reflecting the signing statements themselves, the ideological preferences of Congress and the president, institutional factors, and a set of controls. We include committee-based dummies to control for varying levels of oversight across committees.

Signing Statements

To investigate the effects of signing statements on oversight activity, we identified all bills from 1995 through 2007 on which the president placed a signing statement (American Presidency Project, various years). For each signing statement, we identified the relevant public law to which the statement was attached, the number of objections articulated by the president in the signing statement, and the number of words in the signing statement. Using the Legislative Information website (2009), we gathered data on the committee to which each bill was referred.⁴

We recorded the number of signing statements placed on each committee’s bills by month and year. We anticipate that oversight hearings are more likely as presidents use a higher number of signing statements. For example, H.R. 2361, the Department of the Interior,

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³ The dispersion coefficient in a zero-inflated negative binomial model indicated that the Poisson model provided a better specification.
⁴ For those bills that were referred to more than one committee, we used the primary committee that had responsibility for the bill. For multiply referred bills during this time period, the Speaker must designate, “…a primary committee of jurisdiction and may simultaneously refer parts of a bill to other panels, or sequentially to other committees” (Maltzman 1998, 63).
Environment, and Related Agencies Appropriations Act of 2006, was signed into law on August 2, 2005. Upon being signed into law, President George W. Bush issued a signing statement related to that bill. Since this was the only bill from the Appropriations Committee on which a signing statement was placed, the value for the number of signing statements for the Appropriations Committee in August 2005 is one. During other one-month periods, the president might use signing statements on several pieces of legislation from a committee.\(^5\)

To assess whether the contents of signing statements might trigger committee oversight, we read every signing statement and recorded the number of objections included in the signing statements on bills from committees by month and year. We expect that as the number of objections made by a president in signing statements increases, the more active the relevant committees are likely to be. Objections could include policy objections, expressions of dismay at the scope and cost of congressional action, or constitutional concerns. We also recorded the number of words in signing statements, by month and year, since we expect that oversight hearings are more likely as signing statements become longer. There were 387 signing statements issued from 1995 to 2007—257 by President Clinton, and 130 by President Bush—that we use in this analysis.\(^6\) Each signing statement averaged 8.42 objections (4.51 for Clinton; 11.42 for Bush) and 715.17 words (869.17 for Clinton; 486.36 for Bush).

For each of our primary independent variables, number of signing statements, signing statement length, and number of objections, we use one, two, and three month lags. We use these lags since we anticipate that the effect of signing statements on oversight activity occurs in

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\(^5\) Except in five instances, there is one signing statement per bill.

\(^6\) The *Boston Globe* mistakenly reported that President Bush issued over 750 signing statements. See the *American Presidency Project* for more information.
the months immediately after the signing statement is placed on a bill. We also expect that the impact (or triggering effect) of signing statements naturally dissipates over time.\textsuperscript{7}

\textit{Ideological and Partisan Effects}

To measure the policy preferences of Congress and the president, we use the first dimension DW-Nominate scores for each year 1995 through 2007 (Poole and Rosenthal 1997). Using these scores, we compute the absolute value of the distance between each substantive committee median and the chamber median as well as the absolute value of the distance between each substantive committee median and the majority party’s median member. These measures allow us to assess whether committees involved in oversight are representative of the chamber itself or the majority party.

The effects of ideology on oversight activity can manifest themselves in various ways. For instance, the ideological relationship between the president and various actors in the House might affect oversight activity. To test these possibilities, we compute the absolute value of the difference between the president and each committee’s median member. Further, we compute the absolute value of the difference between the president and the majority party median as well as the absolute value of the difference between the president and the minority party median. Finally, we compute the absolute value of the difference between the president and the chamber median. These measures allow us to control for the possibility that oversight activity is more likely as the distance between the president and each of these actors increases (Huber, Shian, and Pfahler 2001).

We use measures of party cohesion within the House in each Congress to account for the effects of party on oversight activity. We measure majority party cohesiveness as the average absolute percentage of the majority party voting “yea” subtracted from the percentage of the

\textsuperscript{7} In well-behaved time-series, the impact of lagged independent variables should dissipate over time.
majority party voting “nay” on all roll call votes within the House in each Congress. During the 106th Congress, for example, the average absolute percentage across all roll call votes of House Republicans voting with their party was 89.45% and the average absolute percentage across all roll call votes of House Republicans voting against their party was only 7.95%. From these figures, the Republicans received a cohesiveness score of 81.5 for the 106th Congress. Similarly, we operationalize minority party cohesiveness as the average absolute percentage across all roll call votes of the minority party voting “yea” subtracted from the percentage of the minority party voting “nay” within the House in each Congress.

Institutional Factors

We consider the effects of divided government, since Mayhew (2005), Aberbach (1990) and others argue that divided government significantly affects the activities in which Congress chooses to engage. If Congress and the president share preferences, we would anticipate that Congress would be more likely to permit the executive broad discretionary authority in the implementation of statutes. Under divided government, however, Congress would likely be less inclined to cede that control (Epstein and O’Halloran 1999; Ainsworth and Harward 2009).

In addition, we test whether counterterrorism policy and the Iraq war affected oversight activity, since a portion of the controversy over the use of signing statements centered on the 2005 Detainee Treatment Act (Kelley and Marshall 2008; Savage 2006). To investigate these effects, we construct a dummy variable for those committees in the post 9-11 period (i.e., Armed Services, Foreign Affairs, and Homeland Security) that considered the bulk of the measures related to counterterrorism policy and the war in Iraq.

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8 Since this variable is a percentage, its values range from zero to 100. A party cohesiveness score of zero indicates a completely non-cohesive party and a cohesiveness score of 100 indicates a completely cohesive one. We acquired data for both measures from Keith Poole and Howard Rosenthal.
We employ three institutional controls in our analysis. First, we control for the number of days the House was in session per month because the opportunities for oversight are diminished as the number of days in session per month decreases. Second, we control for the average number of pieces of legislation that each committee considered during the previous three months. Legislatively active committees have a larger number of opportunities to have signing statements placed on bills because these committees consider more bills. Thus, we suspect that committees that consider a larger number of bills are more likely to hold hearings. We acquired data for this variable through the Legislative Information website (2009). Third, we include a one-month lag of our dependent variable to control for previous levels of oversight activity and account for trends in which committees may conduct their oversight activity. Finally, oversight hearings related to the same bill are unlikely to be fully independent from one another, so we cluster by bill length. Time-series, cross-sectional data often have non-independent observations within clusters and independent observations across clusters. The clustering option ensures robust standard errors.

RESULTS

Table 1 displays the results of our pooled regression model. Since the direct interpretation of coefficients in MLE models is tricky, we include the predicted discrete changes in the dependent variable as changes in an independent variable are made. The baseline prediction for the number of oversight hearings is .51 per month. To compute changes in the baseline, we move an independent variable from its minimum to its maximum while holding all

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9 Lagged dependent variables are mixed blessings. There are small sample problems and often there is a downward bias in explanatory variables. By most standards, our dataset would not be considered small and downward biases work against our claims. See Keele and Kelly (2006).
other independent variables at their means. The figures reported in the right column of Table 1 are the predicted shifts in the number of oversight hearings held.

[Table 1 about here]

For our institutional controls, divided government, days in session, committee activity, and lagged oversight activity are statistically significant. We find that divided government results in .27 fewer days of oversight hearings. As the days in session variable moves from its minimum to its maximum value, we should anticipate approximately 1.35 additional days of oversight hearings. Interestingly, we find that legislatively active committees are less likely to engage in oversight activity, with .50 fewer days of oversight activity when we move this variable from its minimum to its maximum value. It is hard for committees to engage in both more legislative activity and oversight activity. Not surprisingly, our lagged dependent variable is positively associated with additional oversight. One should expect about 1.54 additional days of oversight in the current month as we move from the minimum to the maximum values of our dependent variable in the previous month.

Of the ideological and partisan controls, committee distance from the majority party median, and party unity scores are statistically significant. Those committees whose preferences diverge from the majority party’s median are less likely to engage in oversight activity. As we increase the distance between the majority party’s median and a committee median from its minimum to its maximum, oversight hearings are reduced by slightly over half of a day (−.60). The majority party appears to play a substantial role in constraining committee oversight activity in committees populated with partisan outliers.

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10 Please refer to Long (1997) and Long and Freese (2006) for more information about how these changes are computed.
11 This result and others are considered in more detail in the Discussion.
We find that those committees whose jurisdictions cover bills that deal with counterterrorism and the war in Iraq were more likely to engage in oversight activity subsequent to the September 2001 attacks. When we change the value of this variable from zero to one, we find that oversight hearings increase by approximately .16 of a day for those committees. Although statistically significant, this substantive shift is dwarfed by the effects of other variables. Counterterrorism and the war in Iraq played a minor role in enhancing oversight activity in these committees.

**Signing Statements and Oversight Activity**

Our results demonstrate that presidential signing statements affect oversight activity as the number of objections and statement length achieve statistical significance and have positive overall effects. As we increase the one-month lag of the number of objections contained in a signing statement from zero to its maximum value, we expect approximately 1.86 more days of oversight hearings. These effects amplify when we assess the two-month lag of the number of objections contained in a signing statement. Shifting the two-month lag from zero to its maximum value yields approximately 2.65 additional days of oversight hearings. Given the paucity of oversight hearings, these are very large substantive effects. When we increase the three-month lag of the number of objections contained in a signing statement from zero to its maximum value, we expect only .49 additional days of oversight hearings. Although there is a clear dissipation of impact, as we predicted, the effect enhances the baseline prediction of oversight hearings.

The length of signing statement also affects the propensity of committees to engage in oversight activity. When we change the one-month lag of the length of signing statements from its minimum to maximum values, we expect .48 fewer days of oversight hearings. The
analogous change for the two-month lag is only .35 fewer days of oversight hearings. However, these effects dramatically shift when we examine the three-month lag. Changing the three-month lag from its minimum to maximum values yields 1.54 additional days of oversight hearings. Thus, we find that the length of signing statements decreases oversight activity in the short-term but has a long-term effect of increasing that activity.

*Number of Objections, Divided/Unified Government, and Oversight Activity*

The effects of the number of objections contained in signing statements and the length of those statements are heightened when one considers divided or unified government and the number of days Congress is in session. To perform a more nuanced analysis, we begin with the values in Table 1 for predicted change in oversight activity for the number of objections contained in signing statements, lagged by one, two, and three months. These predicted changes constitute baseline effects, since one computes these values when all other variables are held at their means. However, we know that the effects of divided government, days in session, and number of objections contained in signing statements do not occur in isolation, but rather, simultaneously.

[Figure 1 about here]

The vertical axis in Figure 1 represents the discrete change in the predicted number of oversight hearings. The horizontal axis denotes the effect of the number of objections in signing statements, lagged by one, two, and three months. The numbers for our baseline changes are the same as those contained in Table 1.

To assess the combined effects of divided government and days in session in concert with the number of objections, we consider only divided governments and set the number of days in session one standard deviation below the mean, or approximately four days in session. With

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12 Beyond three-month lags, the effect of signing statement length does dissipate.
divided government and days in session at their set levels, we increase the number of objections in signing statements from its minimum to maximum values. We expect approximately .61, .88, or .16 additional days of oversight hearings for our one, two and three-month lags. In a similar fashion, we consider divided government with the number of days in session one standard deviation above the mean, or approximately sixteen days in session. When we increase the number of objections in signing statements from its minimum to maximum values for our one, two, and three-month lags, we expect 2.83, 4.03, and .74 additional days of oversight hearings.

We perform analogous estimations for unified governments, while holding the number of days in session one standard deviation below the mean (at 4 days). When we increase the number of objections in signing statements from its minimum to maximum values, we expect approximately 1.00, 1.42, and .26 more days of oversight hearings at our one, two and three-month lags. Finally, we consider a unified government with the number of days in session one standard deviation above the mean (at 16 days). When we increase the number of objections in signing statements from its minimum to maximum values, we predict 4.57, 6.50, 1.20 additional days of oversight hearings at our one, two and three-month lags. All of these estimations are presented more succinctly in Figure 1.

*Signing Statement Length, Divided/Unified Government, and Oversight Activity*

When we perform the same sort of estimations for the effects of signing statement length, the results are equally dramatic.

[Figure 2 about here]

Once again, we consider the divided and unified governments separately and set the days in session at one standard deviation above and then at one standard deviation below the mean. The results of these estimations are portrayed in Figure 2. As in Figure 1, the vertical axis is the
discrete change in the number of predicted oversight hearings and the horizontal axis denotes the effect of signing statement length, lagged by one, two, and three months.

We first consider divided government with days in session set at one standard deviation below its mean (at 4 days). When we increase signing statement length from its minimum to maximum values, we predict .16 and .12 fewer days of oversight hearings at our one and two-month lags. For the three-month lag, we predict .51 more days of oversight hearings. For divided governments with the number of days in session one standard deviation above its mean (at 16 days), we perform similar estimations as before. The results indicate .73 fewer days of oversight hearings at the one-month lag and .53 fewer days of oversight hearings at the two-month lag. For the three-month lag, we predict 2.34 more days of oversight hearings.

In a similar fashion, we also evaluate unified governments while setting the days in session at one standard deviation above and then at one standard deviation below the mean. When the government is unified, the days in session is set at one standard deviation below its mean, and signing statement length increases from its minimum to maximum values, we estimate .26 fewer days of oversight hearings at one-month and .29 fewer days of oversight hearings at two-month lags. For the three-month lag, we predict .83 more days of oversight hearings.

The last scenario to consider is a unified government with the number of days in session one standard deviation above the mean. Once again, signing statement length has a negative impact at the one and two-month lags and a positive impact at the three-month lag. As signing statement length increases from its minimum to maximum values, we predict 1.18 and .85 fewer days of oversight hearings at the one and two-month lags. At the three-month lag, we see 3.78 more days of oversight hearings. All of these signing statement length calculations are reflected
in Figure 2. As one would expect in well-behaved time-series, the impact of signing statement length was negligible when we assessed longer, four and five month lags.

We tested our model under a variety of conditions to verify the robustness of our findings. For instance, we removed one year at a time and found that our results do not change significantly. We removed one committee at a time and discovered only minor changes in our results. We evaluated only non-election years but found only minor changes in our results. The model in Table 1 has a large number of independent variables, so we also considered various reduced versions of the model. We ran these models with just one of the signing statement variables (e.g., number of objections) alongside days in session, committee activity, and lagged oversight activity. All ideological and partisan factors were removed from our reduced models. We discovered that our results are largely the same as those we report in this analysis.

Finally, we tested whether presidential effects were driving these findings. To investigate this possibility, we ran models separately for each President: Clinton and Bush. We found that the Republican-controlled House under President Clinton was slower to engage in oversight activity after signing statements. The coefficient for the number of signing statements variable at one and two months was negative and significant, but was positive and significant at three months. The coefficient for the number of objections variable was negative and significant at one month, but not significant at two or three months. The length of signing statements was not statistically significant at one and two months, but was positive and significant at three months.

In contrast to the Clinton era, the Republican-controlled House under President Bush was much quicker to engage in oversight activity. The coefficient for the number of objections in signing statements was positive and significant at one, two, and three months. Further, the coefficient for the length of signing statements was negative and significant at one month, but

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13 The models that we describe in these paragraphs are available from the authors upon request.
positive and significant at two and three months. Finally, the number of signing statements was negative and statistically significant at one, two, and three months. In sum, oversight triggered by signing statements looked very similar under the Clinton and Bush presidencies by the three-month period, but Congress was slower to respond to Clinton signing statements than Bush signing statements.

DISCUSSION

In 2008, the U.S. Government Accountability Office (GAO), an investigative arm of the U.S. Congress, examined whether bills with signing statements that applied to bureaucratic agencies were being implemented in a manner consistent with congressional preferences. Although its study was narrow, the GAO found that executive agencies enacted over two-thirds of the provisions of law in a manner consistent with congressional preference—even though the president had issued a signing statement in each of those cases directing the agency to implement the specific provision differently. Moreover, of the one-third of provisions not implemented according to congressional preference, the study found no evidence that noncompliant behavior by the implementing agency was a result of the signing statement attached to the bill (GAO 2008). That two-thirds of the provisions were enacted consistent with congressional preference over the objections (and instructions) of the president seems to suggest that signing statements, as part of the residual decision rights of executive power (Moe 1989), were more limited in their efficacy as elements of political control than journalists, scholars, and members and senators had expected.

While the GAO (2008) reports general bureaucratic compliance with congressional preferences for a small set of provisions, it does not consider why congressional preferences seem to prevail in the face of presidential counter-pressure. Bureaucratic compliance with
congressional preferences may occur for a number of reasons. For example, bureaucrats may not
share the policy preferences of the president. Political appointees may have “gone native”
(Heclo 1977) or the implementation of the provisions of law at issue may have fallen during a
time of decreasing presidential influence (Light 1982). Similarly, some form of agency capture
(e.g., Lowi 1979) may explain agency contravention of presidential directives. The findings in
the GAO report are also consistent with our finding of increased congressional oversight.

Why would a president use a signing statement if Congress effectively counters
statements with increased oversight and agency policies are not altered? The GAO report
examined fewer than twenty statutes, whereas we examine over 350. The findings of the GAO
report may or may not be more widely applicable. Even if the GAO report is accurate, there are
still many reasons for a president to issue signing statements. For the president, signing
statements have little or no associated costs. The signing statement requires little individual
effort, whereas congressional oversight requires coordinated, collective effort. Signing
statements force members of Congress to engage a collective action problem, which by
definition is costly for members.

Of course, the purpose of signing statements is to affect agency behaviors and perhaps
judicial interpretations of those behaviors. The agency directives in signing statements may
establish some stickiness in the agency. If the collective efforts within Congress fail to counter
presidential directives, agencies are left with only presidential directives and those directives are
likely to be implemented. Signing statements may also affect judicial branch interpretations of
agency actions (e.g., Cooper 2005). Finally, signing statements may be an instance of a positive
sum tool (Wiseman 2009). Tools of bureaucratic control that appear to favor one branch can
under various circumstances benefit both the executive and legislative branches. Presidents
secure a firmer grasp of agency reins and Congress gains more detailed information about presidential directives.

Most studies of congressional oversight focus on annual activity. We know of no large-N studies of oversight activity focused on monthly committee activity. Given that so many scholars now accept the importance of trigger mechanisms inherent in the fire-alarm analogy for oversight activity, the annual assessments seem ill-suited for assessing potential triggers. Triggers suggest more immediate responses. Case studies often focus on a particularly unique trigger spurring congressional oversight. For instance, 100-year floods, record-breaking market collapses, and unprecedented terrorist attacks all prompt congressional oversight. Our monthly assessment of oversight activity allows us to assess congressional committee responses to another sort of trigger mechanism. Objections in presidential signing statements provide clues about executive branch noncompliance, which congressional oversight is meant to correct or preempt. Our results fit nicely within this framework because we uncover evidence that the number of objections contained in signing statements act as an oversight trigger, particularly in the months immediately after the issuance of the offending signing statements.

We also find that the effect of that triggering mechanism dissipates over time. Congressional sensitivity to the number of objections is heightened in the first two months subsequent to the issuance of a signing statement, but by the third month, the level of a congressional response diminishes. Interestingly, as the length of a signing statement increases—presumably also increasing the complexity of its challenges—the triggering effect is delayed, as congressional committees do not take positive action until the third month. It appears that the longer the signing statement, the more time it takes for the challenges in it to “penetrate” and become actionable by Congress.
For some readers, our most challenging result is the sign on the divided government variable. There are three issues to keep in mind. First, our observations are by committee and month. Any number of variables might operate differently if we evaluated oversight by year or by congress. For instance, we find that signing statements are triggers of immediate, short-term oversight but they may have less effect from year to year or congress to congress when compared to other variables. Although the committee-month unit of observation is well-suited for assessing the ability of signing statements to trigger oversight, it may not be as well-suited for other variables related to other kinds of oversight.

Second, one might consider how the issuance of a signing statement is interpreted under divided or unified government. During periods of divided government, members of Congress may be so ideologically removed from the executive branch that a signing statement is hardly unexpected and provides little new information. A signing statement during unified government, however, is unexpected and therefore triggers a congressional response, as we found during unified government under President G.W. Bush, for example. Perhaps not coincidentally, those legislators most often quoted in newspaper articles about signing statements are complaining about a president from their own party. For instance, there are multiple examples of Senator Snowe (R-ME) complaining about George W. Bush’s use of signing statements and Representative Frank (D-MA) complaining about Obama’s use of signing statements.

Third, the extant theoretical and empirical results related to congressional oversight have failed to settle many debates. Many scholars lament the perceived lack of congressional oversight (e.g., Ogul 1976) or suggest that we fundamentally misunderstand the incentives behind congressional oversight (McCubbins and Schwartz 1984). McCubbins and Schwartz (1984) argue that police-patrol oversight is costly and offers few rewards. Responding to fire
alarms allows for greater credit claiming and entails fewer monitoring costs. How do police patrols and fire alarms dovetail with executive-legislative relations? The executive branch plays a silent role in the police-patrol and fire-alarm analogy as if members of Congress choose an oversight strategy without regard to executive branch actions. Of course, executive-legislative relations are at the root of congressional oversight and many scholars, including Aberbach (1990) and Ogul and Rockman (1990), argue that a wider set of institutional relations deserve attention. Signing statements provide the sort of bridge between the branches that Aberbach (1990) and Ogul and Rockman sought (1990). How do signing statements dovetail with the police-patrol and fire-alarm analogy? The objections contained in signing statements reduce the costs of congressional oversight by reducing the information asymmetries between the branches. Monitoring and information gathering costs make police patrols less attractive but the objections in signing statements reduce those costs.

**CONCLUSION**

The stark differences between portrayals in the popular press, the GAO report, and the recorded frustrations in the U.S. Congress reveal something of a puzzle. The common presumption has been that signing statements, per force, are powerful tools for the president—but no one has explored congressional responses to signing statements. After controlling for a large number of factors that potentially affect congressional oversight, the number of objections in signing statements and signing statement length have statistical and substantive importance.

Of course, signing statements are not the sole engines for monthly measures of congressional oversight. Opportunities and resources remain important for congressional oversight.

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14 Many scholars overlook the screening costs inherent in the fire-alarm approach. Not all alarms are worthy of congressional response.
oversight. Days in session provide an essential resource—time. However, the model in Table 1 demonstrates that the number of objections in signing statements one or two months prior to the occurrence of oversight activity has more of a substantive impact than days in session. We also observe tradeoff effects between legislative activity on the part of a committee and oversight activity since more legislatively active committees are less likely to engage in oversight. Finally, we recognize that some of our controls (which often dominate in other studies of congressional oversight) may show greater statistical and substantive importance in annual assessments of congressional oversight activity. Annual assessments, however, are not well-suited for uncovering the immediacy implied by trigger mechanisms linked to oversight.

Typically, trigger mechanisms have been linked to fire-alarm oversight. In this work, we have uncovered the signing statement as a hitherto overlooked trigger mechanism for oversight. The canonical view of presidential signing statements—as powerful tools of presidential control over policy—may not capture the totality of the policymaking context for bureaucratic agents. Our findings demonstrate that in the competition over the political control of the bureaucracy, presidential signing statements often trigger congressional oversight.
REFERENCES


Cooper, Phillip. 2002. *By Order of the President: The Use and Abuse of Executive Direct Action.* Lawrence, KS: University of Kansas Press.


Table 1: Signing Statements and Congressional Oversight Activity, 1995 - 2007

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Model</th>
<th>Predicted Change</th>
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</thead>
<tbody>
<tr>
<td><strong>Signing Statements</strong></td>
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<td></td>
</tr>
<tr>
<td><strong>Number of Signing Statements</strong></td>
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<tr>
<td>Number_{t,1}</td>
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<td>Number_{t,3}</td>
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<td><strong>Number of Objections in Signing Statements</strong></td>
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<td>Objections_{t,1}</td>
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Table 1 (Continued): Signing Statements and Congressional Oversight Activity

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<td>Committee Distance from Majority Party Median</td>
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<td>Days in Session</td>
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<td>Committee Activity</td>
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<td>(.019)</td>
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Table 1 (Continued): Signing Statements and Congressional Oversight Activity

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<tr>
<th>Independent Variable</th>
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<tr>
<td>Iraq/Counterterror Committee</td>
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<td>Lagged Oversight Activity</td>
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<tr>
<td>Constant</td>
<td>1.455**</td>
<td>-</td>
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<tr>
<td></td>
<td>(.482)</td>
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</table>

**Zero Inflated**

| Days in Session                      | -.144***| -                |
|                                       | (.011)  |                  |
| Constant                              | .888*** | -                |
|                                       | (.088)  |                  |

| N                                    | 2,481   |                  |
| Log-Likelihood                       | -2723.04|                  |
| Chi-Squared                          | 427664.12|                |
| Prob>Chi-Squared                     | <.0001  |                  |

Notes: The values in parenthesis are robust standard errors, clustered by bill length. Second, we include, but do not report dummies for each committee. Finally, the * denotes p<.05, ** denotes p<.01 and *** denotes p<.001, one-tailed tests.
Figure 1: Number of Objections and Congressional Oversight Activity by Days in Session and Government Type
Figure 2: Signing Statement Length and Congressional Oversight Activity by Days in Session and Government Type

- Baseline Change
- Days in Session 1 SD Below Mean (Unified Government)
- Days in Session 1 SD Below Mean (Divided Government)
- Days in Session 1 SD Above Mean (Unified Government)
- Days in Session 1 SD Above Mean (Divided Government)
Appendix: Summary Statistics for Oversight Variables, N=2,688

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
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<th>Minimum</th>
<th>Maximum</th>
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<td>President-Majority Party Median Distance</td>
<td>.703</td>
<td>.335</td>
<td>.337</td>
<td>1.257</td>
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## Appendix (Continued): Summary Statistics for Oversight Variables, N=2,688

<table>
<thead>
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<td>.558</td>
<td>.124</td>
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<td>President-House Median Distance</td>
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