

Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

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## **Abstract**

Legislative oversight of the executive branch is a significant feature of the separation of powers, and takes on greater importance in a persistent era of divided political control in the United States federal government. Agency theory and oversight theory have served as principal lenses for the design and evaluation of congressional oversight functions. For the purpose of this study, oversight is politically-guided and technically-supported systematic foresight and review by First Branch members over Second Branch members and their activities in furtherance of public value and the protection of private liberties. The 1975-76 reformulation of the congressional oversight of federal intelligence activities offers a research opportunity to contrast the intelligence outcomes of a *laissez-faire* period of oversight (1947-1975) with a second period of active oversight (1976-2004). It also allows for the determination of whether more oversight (Johnson 1980; Zegart 2011) led to improved intelligence outcomes, and could serve as a case study in the *more* versus *less* foreign policy oversight scholarship debate (Olson 1989; Hinkley 1994; Scigliano 1994). The research is multi-faceted and employs mixed methods, primarily content analysis, comparisons of descriptive statistics, and Poisson regressions with time series autocorrelation corrections. The research contributes to our understanding of agency theory by attempting to evaluate several outcomes of an oversight design intervention: the Congress's transition from overseeing US intelligence activities via a few individuals in defense subcommittees to creating permanent standing select committees (with professional staff) in each chamber. The research provides public administration with new datasets focused on intelligence leaks and intelligence outcomes, specifically a record of intelligence failures and unavoids, uninitiated military conflicts involving the United States. It also provides a series of implications and recommendations for theory and praxis.

## **Disclaimer**

The opinions expressed in this paper are the author's alone and do not represent the views of the Central Intelligence Agency or the Office of the Director of National Intelligence. This dissertation has been reviewed by the Central Intelligence Agency's Pre-publication Review Board.

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## Introduction

### Overview of the Study

Legislative oversight of the executive branch is a significant feature of the separation of powers in the United States federal setting. Its successful operation is an important research topic for public administration theory and practice, especially as it relates to the national security functions of government. Some public administration, political science, and economics scholars emphasize agency theory as a useful lens for the design and evaluation of congressional oversight functions. In the US, the separation of powers and divided government give rise to a natural tension between the executive and legislative branches over who is the principal and who is the agent. The matter is further complicated when the Congress and President both view themselves as *the* principal operating over the agents working in (or for) the executive branch. A vast literature addresses the relationship between the President and Congress (Fairfield 1961; Johnson 1988; Koh 1990; Ripley and Lindsay 1993; Peterson 1994; Holt 1995; Dodd and Oppenheimer 1997; Johnson 2004; Kris 2013). While the US Constitution and Supreme Court have given Congress significant and clear powers in many areas, one remains the greater province of the President: national security (Article 2, Sec. 2, US Constitution). A key component of the government resources dedicated to national security is intelligence, both the collection of foreign capabilities, plans, and intentions and counterintelligence to expose the foreign agents and protect national secrets.

Congress established an expanded oversight role only in 1975-76 for reasons that will be explained in due course. Since then a new scholarly debate has surfaced, one best

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described by Amy Zegart (2011) as the “Goldilocks” debate, which focuses on whether Congress’s oversight of intelligence is too little, too much, or just right. Intelligence is not the only policy domain where this question arises. Arguments for more congressional staff, greater committee authority, and the abolition of committee term limits typify the potential ways to “strengthen” congressional oversight. Such recommendations resonate with observers of health care, education, environmental, and banking policies too. One way to make further progress in the debate is to pursue an under-explored aspect of this scholarship: the measurement of the efficacy of oversight systems and regimes.

This dissertation researches a past congressional oversight intervention – the 1975-76 creation of the permanent intelligence oversight committees in Congress – as a vehicle for better understanding the impact and efficacy of adding “more oversight” to a national policy issue. By comparing periods of time before and after the intervention, and by conducting the seminal evaluation of the effect of the intervention on policy outcomes (rather than outputs), this research answers the question: What were the effects of the 1970’s-era reforms of the oversight of US intelligence activities?

According to the Oxford English Dictionary, efficacy is the “power or capacity to produce effects; power to effect the object intended.” When members of Congress or scholars call for “more oversight,” they do so because the oversight is intended to produce a desired effect. The effect may be on constituents in their districts, foreign entities, state governments, or the other federal branches (Fiorina 1989). What effect did Congress seek in creating its standing committees? Did this oversight design intervention achieve the intended effects? How might answering these questions contribute to our

understanding of congressional oversight design, executive-legislative relations, and principal-agent theory?

The research pursues a number of potential goals. First, it summarizes the context and details of Congress's approach to providing oversight to intelligence activities between 1947 and 2004. Second, it explains the theoretical foundations for the congressional oversight of intelligence. Third, it establishes an analytic approach for identifying and evaluating the positive and negative outcomes of a regularized and structured approach to oversight. Finally, it explores the implications of the research findings on theory and practice. To begin, consider the following research question, hypotheses, and definitions.

### **Research Question**

This dissertation explores the following research question and null hypotheses:

*Question: What effect did the mid-1970's oversight reforms have on certain intelligence outcomes?*

- a. Did the 1970's legislative reforms improve the good outcomes for intelligence (e.g., arrests of spies, avoiding military conflicts)?*
- b. Did the 1970's legislative reforms remove bad outcomes for intelligence (e.g., leaks of national security information, intelligence failures)?*
- c. Did the Congress's oversight activity play a statistically significant role in the outcomes?*

### **Null Hypotheses for the Panel Periods**

*H<sub>01</sub>: The positive outcomes of intelligence oversight have not improved following the 1970's legislative reforms.*

*H<sub>02</sub>: The negative outcomes of intelligence oversight have not increased following the 1970's legislative reforms.*

*H<sub>03</sub>: Congress's oversight activities do not have a statistically significant relationship to intelligence outcomes, in either direction.*

## **Definitions**

Intelligence – includes foreign intelligence and counterintelligence (*National Security Act of 1947* as amended).

Foreign Intelligence – information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons (*National Security Act of 1947* as amended).

Counterintelligence – information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities (*National Security Act of 1947* as amended).

Covert Action – activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is not intended that the role of the United States Government will not be apparent or acknowledged publicly (*National Security Act of 1947* as amended).

Efficacy – the power or capacity to produce effects (Oxford English dictionary).

Leak – Deliberate unauthorized disclosures of privileged national security information, regardless of the motivation for the disclosure (author's definition).

Oversight – politically-guided and technically-supported systematic foresight and review by First Branch members over Second Branch members and their activities in furtherance of public value and the protection of private liberties (author's definition).

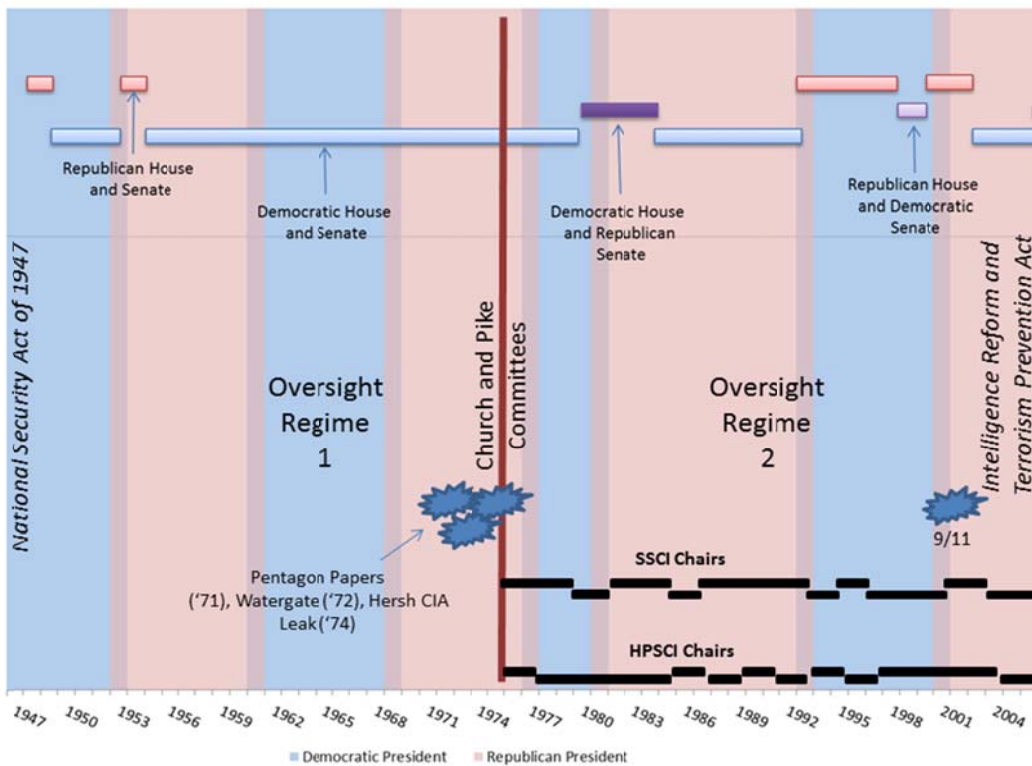
## **Context and Significance of the Reforms**

The oversight of the United States' intelligence activities provides an important case for assessing the efficacy of oversight reform efforts. These policy and oversight

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activities fall in and out of the public conscience. They were drawn into the public square following the terrorist attacks of September 11, 2001 and the inaccurate intelligence basis for the US invasion of Iraq in 2003. These events shattered the public's confidence in the federal government and the Congress's trust in the Intelligence Community (IC).

### Context...Congressional Intelligence Oversight: Two 29-year Regimes



**Figure 1: Context of the Oversight Reform**

These intelligence failures beg a new question: Could Congress be found equally culpable for the state of affairs in the Intelligence Community? Congress was, after all, enjoying unprecedented access to and oversight of the Intelligence Community.

Following the Church and Pike Committees' investigations into US intelligence practices in 1975-1976, Congress had established standing select committees to provide ongoing oversight of and investigations into the Intelligence Community and its practices. As Figure 1 demonstrates, the congressional oversight of the contemporary period, from

1975 up through the Intelligence Reform and Terrorism Prevention Act of 2004 (the reforms in response to 9-11 and intelligence assessments of Iraq's weapons of mass destruction), was significantly different from the *laissez-faire* days of 1947 to 1975. Did the new intelligence oversight approaches from 1976 – 2004 work? Did more lead to better?

This dissertation seeks answers to these questions. To orient the reader to the dissertation, begin with this brief guide. The dissertation starts with the context and setting. It explores intelligence activities as a government function and outlines how Congress provided oversight for this function prior to the middle of the 1970's. Then it explains the events and circumstances that led Congress to change its approach to oversight.

With this context and problem domain established, the dissertation turns to the relevant literatures. Here the research traces principal-agent theory through relevant scholarship, reflecting on some of the normative assumptions that animate agency theory generally. Then, the literature review turns to how agency theory is applied as oversight theory, giving additional scrutiny to the considerable sub-discipline of congressional oversight theory focused on intelligence activities.

Next the dissertation expands on its methods, data, and analysis, including a variety of comparative analyses. It shows data from primary and secondary sources to establish the levels – primarily evidence of *quantity* – of oversight in the pre- and post-reform periods. Then it compares this level of oversight to many other similar policy topics. For example, it compares the oversight of intelligence activities with the oversight of the Federal Reserve and the Internal Revenue Service, among others.

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Once establishing an understanding of whether the amount of oversight materially changed and whether the levels of oversight were consistent with that applied to other government activities, the dissertation defines and describes several accessible outcomes of intelligence oversight. It also identifies a few logical outcomes of the other policy domains. For instance, in the case of the Federal Reserve, the dissertation tracks the changes in inflation and unemployment, the Fed's two key responsibilities. The dissertation then organizes data on these intelligence outcomes, for both evaluation periods, and compares their base rates of observation. The outcomes are measures like the frequency of intelligence failures and leaks. With the data collected and explained, the dissertation compares the changes in the outcomes between the two periods and with a select set of the other policy domains that received similar or heightened congressional attention.

Following these comparative analyses, the dissertation explores a model for evaluating the effects of different variables contributing to the efficacy of intelligence oversight. Employing Poisson statistical regressions, with time series autocorrelation corrections, the dissertation analyzes the efficacy of the new oversight approach. This in turn leads to an evaluation of the overall research findings. The emphasis on quantitative methods is due in large part to the fact that Frank Smist (1990) has already conducted the premier qualitative analysis in his dissertation, which included interviews with more than 250 of the principal executive and legislative branch members between 1947 and 1989. This research is worth reflecting upon.

Smist's research and observations form the basis for describing the earlier oversight period as *laissez-faire* (Snider 2008, 41): one guided by the attitude of letting

things run their course without interference. Smist's research recounts that the Senate Armed Services Committee and the Senate Appropriations subcommittee on the CIA were chaired by Senator Richard Russell, "a man of great talent and ability who had no hobbies, no wife, or no family. His life revolved around the Senate and in intelligence matters he dominated his colleagues regardless of what formal position he occupied in the body" (Smist 1990, 10). Russell successfully overcame challenges to his role.

Likewise in the House Armed Services Committee, chairmen Carl Vinson and L. Mendel Rivers believed there was "no need to dig too far into [intelligence] methods and operations" (1990 14). In the House, Appropriations Committee chairman Clarence Cannon, "dominated the subcommittee [on intelligence oversight] and used hearings as opportunities to swap war stories with Allen Dulles, Director of Central Intelligence" (1990, 15). Smist describes the first era as one of "institutional oversight," whereby the legislative branch rarely cut the President's intelligence budget, warded off any "meddling" by other legislators, and kept no records (1990, 15).

Finally, this dissertation explains its limitations and then outlines its conclusions. This is primarily a quantitatively-driven research effort. As such it has key limitations related to the observations and lessons that are often drawn from interviews and narrative analysis with practitioners. However, the author is a first person observer, having served in the Intelligence Community, responded to congressionally-directed actions, testified before a closed House Permanent Select Committee on Intelligence (HPSCI) subcommittee, and interacted a number of times with HPSCI and SSCI staff. Through secondary sources, the dissertation also incorporates the advice of experts like former Director of Central Intelligence Robert Gates. The concluding chapter includes



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implications of the research for scholars and practitioners. The research tests key tenets from the principal-agent and oversight literatures. It also challenges some of the assumptions that drive the frequent calls for “more oversight” for intelligence. Finally, it offers specific recommendations for Congress and the Intelligence Community in structuring the quantity and quality of their interactions. The research provides new data related to national security leaks and intelligence failures.

### **Intelligence, Oversight, and the 1970’s Reforms**

Intelligence is used for national security policy, defense policy, and homeland security policy in support of numerous government missions: diplomacy, cyber defense, counterterrorism, counterproliferation, counterdrugs, and counterintelligence, among others. In the US government, intelligence is the product of seventeen different bureaucracies. There are two independent agencies: the Office of the Director of National Intelligence and the Central Intelligence Agency. There are three combat support agencies and an office within the Department of Defense: the Defense Intelligence Agency, the National Security Agency, the National Geospatial-intelligence Agency, and the National Reconnaissance Office. There are the military intelligence organizations of the departmental armed services and the Coast Guard. There are intelligence offices and staffs within the departments of Homeland Security, Energy, State, and the Treasury. Finally, the Drug Enforcement Administration and the Federal Bureau of Investigation (law enforcement organizations) also have intelligence functions.

Each bureaucracy brings with it different missions, authorities, and capabilities. They are also subject to different oversight regimes based on their unique situation. For instance, the CIA works directly for the President and the National Security Council. The

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Director of CIA also reports to the Director of National Intelligence. The National Security Agency, in contrast, reports both to the Director of National Intelligence and the Secretary of Defense. Some of the FBI and NSA's collection operations are subject to the Foreign Intelligence Surveillance Act (FISA) Court. It is probably the case that the IC is the only group of entities in the government that the Congress has designated as a community and organized under the leadership of multiple leaders.

Congress has not always provided one constant approach to the oversight of this government function. The proximate cause to the change in the oversight of American intelligence began as a leak. In 1974 Seymour Hersh published a front page *New York Times* article claiming that the CIA was spying on domestic groups protesting the Vietnam War (Haines 1998). These allegations led the White House to investigate and the House of Representatives to create its committee (first the Nadzi Committee but ultimately the Pike Committee) and for the Senate to create its Church Committee (both named after the legislative chairs of the committees.) They conducted their investigations in 1975. While the Church Committee was able to publish its report, drafts of the Pike Committee report were leaked and the committee was unable to finish and release a formal report. President Ford conducted his own commission, unofficially referred to as the Rockefeller Commission. President Ford also signed Executive Order 11905 on February 18, 1976, placing new restrictions on domestic intelligence activities and creating an Intelligence Oversight Board. Because of these actions by both the legislature and the president, it is difficult to distill a singular aspect of the intelligence reforms. In reviewing the committees' recommendations, they sought generally to:

- provide the Congress with greater ongoing insight into intelligence activities

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- reform the National Security Council's organization and processes
- improve the processes for the planning, conduct, and oversight of covert action
- improve the oversight of foreign intelligence generally, especially to prevent abuses such as meddling in US domestic political affairs and violating human rights
- strengthen the Director of Central Intelligence's role as the coordinator of intelligence to produce a single budget and improve the quality and objectivity of analysis
- curb CIA's domestic activities, especially related to counterintelligence
- prohibit the CIA's operational use of certain US institutions and private citizens (e.g., students, journalists, clergy)
- create charters for the IC member elements
- reform and reorganize the other members of the IC, including the FBI, DoD, and NSA, and
- improve citizens' confidence in the IC and Congress's oversight.

Both the House and Senate decided that rather than establish a joint committee for the new oversight of intelligence, they would each have select committees. These committees became the House Permanent Select Committee on Intelligence (HPSCI) (beginning in 1977) with its 21 members, and the Senate Select Committee on Intelligence (SSCI) (beginning in 1976) with its 15 members and 4 *ex officio* members.

Who can serve on these committees? In the House of Representatives, there are limitations on Intelligence Committee service:

Intelligence Committee members are limited to no more than four Congresses in any period of six successive Congresses. There is no term limit for Members

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selected to serve as chair and ranking member. (House Rule X, clause 11). In addition, Democratic Caucus rules say Members may not serve on more than one standing committee, although they may take a leave of absence from service on another standing committee to serve on the Intelligence Committee. (Schneider 2010, 1)

The Senate also has rules on Intelligence Committee service:

Intelligence Committee membership should include two Members each from the Committees on Appropriations, Armed Services, Judiciary, and Foreign Relations. (Schneider 2012, 1)

Majority-party Senators are appointed to the Select Committee on Intelligence on the recommendation of the majority leader, and minority-party Senators on the recommendation of the minority leader. Senators are appointed to this committee from the Appropriations, Armed Services, Foreign Relations, and Judiciary Committees, as well as from the Senate “at large.” The majority and minority leaders, as well as the chair and ranking member of the Armed Services Committee serve on the committee as *ex officio*, non-voting members. The resolution creating the Intelligence Committee provided for a rotation of membership; no Senator could serve on the committee for more than eight years of continuous service. To the extent practicable, one-third of the Senators appointed to the committee at the outset of each Congress should be Senators who did not serve on it in the preceding Congress. Senate Resolution 445, adopted October 9, 2004, ended the eight-year limitation on the Intelligence Committee. (Schneider 2006, 10)

In general, members from both chambers and both parties are able to express their interest in committee assignments. The political parties then use slightly different committee selection processes. These selections often involve negotiations, deference to existing committee members, and are subject to party seniority.

Beyond the members, the committees have added professional staff to assist them in performing their oversight. As of 2007, the HPSCI had 39 professional staff and the SSCI had 34 (Zegart 2011). As on the other oversight committees, the professional staff keeps watch over the intelligence policy domain on a daily basis with few other duties. They help the members conduct good oversight, which according to a recent review (McDonough *et al.* 2006) includes the:

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- Annual Intelligence Authorization Act process,
- Oversight hearings,
- Staff investigations and field studies,
- Program evaluations conducted by committee staff,
- Staff communications with intelligence agency personnel,
- Program evaluations by congressional support agencies such as the Congressional Research Service, Inspector General Reports, and the Government Accountability Office, and
- Program reauthorization hearings.

Why is this configuration appropriate? Are these oversight practices best? To understand these questions, one can turn to the literatures that have informed these practices. Further, one can examine and weigh them to understand if they are effective. Here the dissertation turns to overviews of the relevant literatures – first principal-agent theory and later oversight theory as it relates to Congress and the intelligence activities in the US federal setting. As the literature will demonstrate, these choices about configuring intelligence oversight – structure and practice – are rooted in the best available doctrines. Putting them into practice has been politically difficult, and the empirical record shows how applicable concepts like punctuated equilibria (Eldridge and Gould 1972; Jones and Baumgartner 2005) and policy streams (Kingdon 1984) are.

In reviewing these theories, it also becomes obvious that there are specific deeply-rooted normative preferences operating in theory. One scholarly tradition is to look back to the preferences of the previous generations. There is an inherent assumption that they have experience and therefore may have arrived at an improved practice. On the other

hand, there are those who believe today's circumstances are unique and therefore yesterday's practices are incompatible. For those interested in past practice, the dissertation includes an excursus (see Appendix A) on the notable role the legislature played in the creation and oversight of intelligence activities during the Revolutionary War and leading up to the ratification of the US Constitution (Knott 2014).

The mid-1970's reforms certainly did not occur in isolation. They were a stage in a long journey of experimentation and reform as the United States government sought to balance the mutual and independent application of the executive and legislative powers. The Cold War brought with it an empowered executive branch, but by the mid-1970's that branch was taking increased security action, including some on domestic soil. Congress and the American people witnessed a calamitous end to the Vietnam War, and they learned that the federal security apparatus viewed certain domestic groups as potential national security threats. This crescendo built into a politically motivating event that led previous reform attempts to successful passage. The reforms were also a quickening eddy in a general legislative power current building speed. Among the legislative accomplishments of a Democrat-led Congress in that decade were the *Legislative Reorganization Act of 1970*, the *War Powers Act of 1973*, and the *Privacy Act of 1973*.

The reforms were also a commentary on Congress's own pattern of behavior. Power had been centralized in committee chairs. However, their members sought a more active role, which led to the expansion of new subcommittees. Among the subcommittees were a series dedicated to oversight. Congress also implemented the Congressional Budget Office to provide it with independent financial assessments of the

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President's budget. To some, Congress was resurgent (Ripley and Lindsay 1993), even in matters of intelligence. DCI Robert Gates summarized the effects:

CIA today finds itself in a remarkable position, involuntarily poised equidistant between the executive and legislative branches. The administration knows that the CIA is in no position to withhold information from Congress and is extremely sensitive to congressional demands; the Congress has enormous influence and information yet remains suspicious and mistrustful (1987-88, 224-25).

**Stewing Theory: a little principal-agent, a dash of autonomy, a pinch of investigative, and two cups of oversight, thicken until mildly institutionalized<sup>2</sup>**

**Literature Review Overview**

The politics-administration dichotomy (Friedrich 1940, Finer 1941) – the struggle between political leadership and administrative professional discretion – is the centerpiece of public administration theory and context. Further, it is the primary lens for evaluating public administration in the American federal setting where the legislature, the executive, public sector employees, interest groups, and citizens interact to plan, design, implement, and evaluate public policy. From among several explanatory theories, public administration scholars use agency theory to mediate some inherent tensions in the policy-administration dichotomy in the federal government setting.

The earliest principles for agency theory were formed in the 1960's and 1970's by economists attempting to understand risk-sharing. Michael Jensen and William Meckling (1976, 1983) provided the principal-agent model, which emerged as a dominant trend in agency theory. While other theories contribute to our understanding of power and discretion—function of the executive (Barnard 1938), fundamentals of management (Davis 1951), access to resources (Mechanic 1962), compliance (Etzioni 1975), and autonomy (Roberts 2009)—agency theory has tended to be a dominant theoretical framework for understanding congressional oversight (Arrow 1971; Weingast 1984; Laffont and Martimort 2002; Worsham and Gatrell 2005). Because of its wide-ranging

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<sup>2</sup> The author thanks Professor Joe Rees for drawing attention to the “thick” and “thin” analogies for institutionalism.



application in the unique context of the federal setting, contributions that enhance understanding of agency theory—especially its utility—are important.

Much attention has been given to agency theory's principal components and normative assumptions, which this dissertation will further outline. Briefly though, theorists have considered the formal models of agency theory including the degree of complexity in the design (e.g., single principal-single agent), the degree of trust among the parties (e.g., power and delegation), the fiscal nature of the relationship (e.g. budgetary models and game theory), and the openness of the system (e.g. interest groups, oversight transparency).

These examinations have also highlighted some normative assumptions of principal-agent theory that seem one-sided and are curiously at odds with other normative traditions in public administration. For example, among the former are the assumed noble aims of the principal<sup>3</sup> and the ignoble ones of the agent. The agent is assumed to shirk responsibility, seek undue resources, and hide information from the principal, leading the principal to create information reporting methods to overcome the asymmetry

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<sup>3</sup> Scholars have long attempted to understand the motivations and inner workings of the Congress and its members. Different explanatory models emerge over time. Richard Fenno's studies of congressional committees (1966) demonstrated variability, with no unitary model explaining the independent behaviors different committees exhibited against their chambers or against their party leadership. Forest Maltzman attempts a synthesis of the competing principles manifest across three models for explaining congressional committee behavior: chamber domination, party domination, and independent committee (1997).

Before this synthesis, however, Douglas Arnold (1990) explained the logic of congressional action through a much smaller unit of analysis – the individual member of Congress. The logic, the political calculus Arnold outlines, helps explain the behaviors of individual members and leaders at the committee, party, and chamber levels. The logic of congressional action theory seeks to reconcile two views: the tension between congressional members seeking narrow, parochial views highly correlated to their perceived constituents' interests and those same members also seeking diffuse, general, unorganized interests with an indirect or indiscernible relationship to their constituents. By Arnold's estimation, "if reelection is not at risk, [congressional members] are free to pursue other goals" (1990, 5), including enacting their own visions of good public policy or achieving influence in Congress.

in the oversight relationship.<sup>4</sup> The latter normative tradition is exemplified in the writings of public administration theorists like Woodrow Wilson (1887), who envisioned responsible, competent administrators who do not require the oversight by what he termed an “irresponsible” minister (221). His vision:

Our duty is, to supply the best possible life to a federal organization, to systems within systems; to make town, city, county, state, and federal governments live with a like strength and an equally assured healthfulness, keeping each unquestionably its own master and yet making all interdependent and co-operative, combining independence with mutual helpfulness. The task is great and important enough to attract the best minds. (221)

Another assumption in the former normative tradition of agency theory is that more oversight is expected to be better oversight, especially in the national security domain. Jennifer Kibbe (2010) provides a recent example of the typical refrain: congressional authorizing committees need more authority over budgets; the committees need more information; and the agencies (in this case intelligence agencies) should provide more information. Unexplored, however, is whether this assumption – more is better – is empirically supportable and generalizable.

Not enough attention has been given to evaluation of different oversight regimes and their efficacy. Where evaluation has occurred, the tendency is to evaluate the outputs of discrete policies, but this analysis is typically focused on the inner-workings of the policy organization and disconnected from its legislative oversight. Oversight design structures seem to be governed much more by institutional isomorphism (DiMaggio and Powell 1983) than by empirical research. The few attempts to quantitatively evaluate intelligence oversight itself tend to focus on who has power, who has information, or who

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<sup>4</sup> This sentiment does not completely eclipse public administration theory. There is also literature promoting public administration professionals (Bertelli & Lewis 2013) who have greater specialization than many politicians and therefore may deserve more discretion and delegation.

has the resources. Some scholars have evaluated the productivity of oversight and they tend to conclude that more is needed (Zegart 2011). This is, however, an under-explored aspect of public administration theory and praxis. Almost none of the analysis critically evaluates whether a change in oversight (for example *increased* oversight) led to the intended benefits and policy outcomes. This is the gap in the intelligence oversight literature that the dissertation examines.

Of course the *intelligence* oversight literature is also affected by the broader *congressional* oversight literature (Cary 1967; Fenno 1973; Ogul 1976; Dodd, Oppenheimer, ed. 1977; Mitnick 1980; Wilson 1980; Weingast 1981; Weingast, Moran 1983; McCubbins, Schwartz 1984; Lazarus 1991; Wood, Watheman 1991), especially as its scholars interpret and reinterpret principal-agent theory. Gary Miller (2005) astutely summarizes the political evolution of principal-agent theory. Here are a few of his key observations that relate to this study.

Miller notes the emergence of Weingast and Moran's (1983) effort to reconcile bureaucratic discretion and congressional control, and how follow-on studies ushered in a new era of quantitative analysis of outcome-incentive regimes for congressional oversight. Weingast (1984) goes on to enumerate Congress's incentives and disincentives – budgets, appointments, investigations (Mayhew 1991). The same year McCubbins and Schwartz (1984) observe that members of Congress do not actually have to provide active oversight; rather, they merely need to pay attention to constituents and determine what issues and situations they “pull the fire alarm” over.

Miller also highlights Terry Moe's (1984, 1987) contributions in expanding principal-agent theory to the multiple principals context. Miller summarizes Moe's work

and the literature it catalyzed: “Congress’s influence is marginal, stylized, and shared with the President” (212) (and the bureaucracy for that matter). In response to the limitations of their incentives and to the potential for the bureaucracy to organize and mobilize interest groups against the Congress (Moe 1987; Wood 1988; Cook and Wood 1989), McCubbins *et al.* (1987) argue that Congress responds with a series of procedural requirements that force transparency on bureaucratic processes to enable Congress’s supportive external interest groups to be an additional check and balance and thus “stack the deck” in Congress’s favor.

The aforementioned views represent the congressional dominance wing of the oversight community of scholars. Another important wing to contrast with is the imperial presidency wing. Some scholars who focus on imperial presidency root their arguments in the caustic conditions that defined US politics in the late 1960’s and early 1970s (Hult and Walcott 2003). Others tend to focus on the post-9/11 presidency of George W. Bush.

Rudelavige (2005) provides keen insights into the period leading up to Watergate, beginning with his report that Arthur Schlesinger is the first to characterize the Nixon presidency as imperial (Rudelavige 2005, ix). Rudelavige recounts several episodes that reveal how the Nixon administration began down a slippery slope of incrementalism that ultimately drew several agencies of the Intelligence Community into democratically- and politically-costly domestic intelligence operations.

The backdrop for these operations is the administration’s desire, as John Ehrlichman (chair of President Nixon’s domestic council) put it, to “strengthen the President’s hand versus the bureaucracy” (2005, 61). How the executive branch went from mere strengthening to the following activities, is troublesome:

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- Nixon directed the IRS against “some eleven thousand organizations” (2005, 64)
- Nixon expanded the FBI’s domestic counter-intelligence program (COUNTELPRO) (2005, 65)
- Nixon established the NSA’s domestic wiretapping program (Project MARINET) (2005, 66)
- Nixon approved the CIA’s domestic activities program (CHAOS) (2005, 66)
- Nixon ordered the creation of a Special Investigations Unit (aka Plumbers) to stop leaks in his administration; this group was caught in the Watergate break-in (2005, 71-74).

Nixon insiders pointed to two general problems as justifying their actions. The first is the lamentable “everyone does it” excuse: President Lyndon Johnson had bugged Nixon’s campaign plane (2005, 67).

The second has slightly more legitimacy. In essence, the violence of the late 1960s required a firmer security response by the president. Looking back at the government’s commission on the matter, the period was chaotic. In 1967 there were 167 civil disturbances across 128 cities (National Advisory Commission on Civil Disorders 1968, 113). The disturbances resulted in 83 deaths and 1,897 injuries (1968, 115). In Newark, New Jersey, for example, 1,029 establishments were looted and damaged. From 1969-1970 there were 37,000 real or threatened bombings resulting in 41 deaths, with 167 bomb threats at Rutgers University in 1970 alone (1968, 67). The Nixon Administration justified its invasive intelligence activities on the basis of such violence and the need to infiltrate any groups organizing and planning future violence. Illegitimately, though, they expand these practices to mere political opponents.

Concepts emerging from the imperial presidency thesis include the potential for tension between the president and the bureaucracy, as well as between the president and the Congress. Imperial presidents focus on the centralization of power and the circumvention of opponents. The Nixon administration demonstrates how a president,

unchecked, can lead the bureaucracy into abuses, corruption, and political warfare. The Church and Pike committees provided just such a check. As did the reforms culminating with the 1980 Intelligence Oversight Act and the Hughes-Ryan amendment requirements, which required the intelligence committees be “fully and currently informed” of *all* intelligence activities (Rudelavige 2005, 123).

This brief literature introduction highlights an adversarial pursuit for control over policy outcomes and the inner-workings of the bureaucratic process. As an examination of the literature shows, this space can grow even more complicated, with multiple principals and multiple agents mobilizing various tools to moderate their interactions. Further, as the literature review will show, not all scholars view this field as contested space, leaving open the potential for cooperation and delegation between principals and agents. Whether through cooperative or adversarial means, however, oversight is not pursued for its own sake. Ideally, it is employed because public servants seek good public policy outcomes, delivered through efficient and effective public programs, and demonstrating good public values. However, members of Congress occasionally have other priorities – reelection, party standing – that guide their day-to-day behavior, even as it relates to their oversight duties. For oversight to matter though, for these theories about principals managing agents and Congress overseeing the bureaucracy to show any practical value beyond mere control and partisanship, there should be some positive effect on policy outcomes.

The mid-1970’s intelligence oversight reform presents an opportunity to explore this proposition, to determine if the interventions of a principal in fact led to better oversight of the agent(s). It is a case that illustrates an increase in oversight. It has two

comparative periods. It involves normative design choices. The critics of the design choice warned of unintended consequences, and the proponents sought specific new outcomes for the policy issue. With the benefit of hindsight, it is possible to determine if the design was implemented, if the unintended consequences came about, and explore whether the intervention changed the performance outcomes of the relevant policy domain. In essence, it is possible to examine whether more oversight necessarily led to better oversight and if better oversight led to better outcomes.

### **Agency Theory Origins and Adoption by Public Administration**

In the public administration and public policy literatures, congressional oversight is rooted in two major theoretical conversations (among others): agency theory and resource dependence theory. The proponents for agency theory and resource dependence theory (Pfeffer and Salancik 1978) have spent the recent decades synthesizing these two major theories into three essential dialogues: the role of information in power dynamics (knowledge and power), the role of politics and partisanship in power relationships (power and interests), and the potential for cooperation through delegation (shared power). These conversations are summarized below.

#### *Knowledge and Power*

Bendor, Taylor, and Van Gaalen (1985) explore the theoretical models of how bureaucracies (agents in the principal-agent relationship) might influence their political oversight (principals) through the systematic exploitation of the information asymmetry

in the relationship. The foundational model they present is a production function typical of public organizations (See Figure 2).

Budget → Intermediate activities → Programmatic output

**Figure 2: Production Function of Public Organization**

With this model, the authors explore various types of information uncertainty that can be created when the bureaucracy attempts to control the policy agenda with their oversight organizations. The basis for believing in information asymmetry is reinforced by the assumptions the authors give to political oversight (in this case the US Congress).

Among the assumptions are Congress's ability to control the bureaucracy's budget, the ability to avoid negotiating an all-or-nothing budget, and the ability to implement monitoring and reporting systems to overcome information asymmetry with the executive branch. These monitoring systems involve costs and probabilities of successfully discovering a bureaucracy's attempts to withhold, hide, or manipulate information about the production functions that enable their intermediate activities and programmatic outputs.

Another assumption in agency theory is the expectation that both workers and bureaucracies tend to pursue a strategy of shirking their responsibilities any time their managers and oversight are not looking. Bendor *et al.* express this assumption clearly when they assume that "budget-hungry" bureaus will disguise their true costs and outputs in order to create slack resources that can be applied to nonproductive activities. This possibly institutionalized assumption of fraud, waste, and abuse leads the principal to invest in monitoring systems to discover what is assumed to be there. James Wilson



offers an alternative to this view, though. The other rivals to Congress offer appeals and direction to agencies that focus them on other programs and expenses. The President, executives in the agencies, staff in the agencies, and the courts all levy additional expectations on bureaucracies (Wilson 1989, 255). Indeed, the US Constitution “makes the president and Congress rivals for control of the American administrative system” (1989, 257).

Bendor, Taylor, and Van Gaalen also view risk aversion as a variable in the agent’s behavior. If there is uncertainty in the demand for a bureaucracy’s services or uncertainty in the penalties levied for providing incorrect information to the principal’s monitoring system, then only a high degree of ingrained risk aversion reduces the potential for information asymmetry. Understanding a bureaucracy’s risk aversion helps the Congress decide where to apply its monitoring systems to generate the best marginal improvement in knowledge. Congress is able, ostensibly, to understand the risk profiles of the different bureaucracies because they have generated reputations for trustworthiness.

#### *Power and Interests*

Terry Moe’s 2005 critique of agency theory reintroduces the concept of power and interests, namely the agent’s interests. He examines the recent history of economic research, with its focus on agency theory and repeated games, and concludes that an underlying assumption for these theories is the voluntary exchange—or cooperation—inherent therein. Moe observes that whether one speaks of transaction cost economics or

agency theory, information asymmetry remains an immovable force within the theory, and the only way to mitigate it is through the exercise of power.

Having challenged his fellow researchers to give power sufficient room in the organizational theory debates, Moe turns to the potential for uncooperative behavior by an agent in the principal-agent theory. He expands the power of the agent to include not only an ability to control information, but also political power. Moe observes that classical principal-agent theory assumes the public agent is powerless against its political masters. The reality, especially as he demonstrates through a case study on a public union, is that the agent can organize sufficiently to overcome and replace a principal. Congress prohibits the Intelligence Community from exercising such power through limitations imposed by the Hatch Act. This situation only makes the scholar's task of reconciling power and interests in the Intelligence Community all the harder. In other policy analyses, it is now conventional to measure the activity or resources of public interest groups, labor unions, issue advocacy groups, foundations, and other political actors to determine if one side or the other of a policy issue has "stacked the deck" sufficiently to get their policy. These policy evaluation methods are one-sided, for while there can be an issue advocacy group focused on reducing the Intelligence Community's authority to operate, there is no Intelligence Community union vocalizing support for or against the IC's methods. There are associations (e.g., Intelligence and National Security Alliance) and a cadre of former senior leaders who speak out, though. Perhaps the next and final dialog provides an amicable solution.

*Shared Power*

Bendor, Glazer, and Hammond (2001) survey models of delegation and then critique the core assumptions in the models, namely the notion that the subordinate and the boss do not share common goals, that the subordinate will deny information to the boss, and that the principle of forming an alliance built on shared goals cannot work between a boss and a subordinate. The authors then explore how delegation models perform in situations where there are repeated interactions or problems with commitment. Intertwined throughout their analysis is reliance on game theory to explain the multiple interactions between principal(s) and agent(s).

Bendor and his fellow authors identify two types of models of delegation. In one type, the boss deliberately delegates authority about a policy-making choice to a subordinate. In the other type, the subordinate moves first and brings information to the boss that confronts them with a choice of retaining a policy-making decision or delegating it. In this latter case, the assumption is the boss has already delegated a monitoring and reporting function to the subordinate, which is the basis for them alerting the boss. In assessing whether national security organizations resist change, Roberts (2009) compares this kind of delegation to autonomy, which Daniel Carpenter (2000, 124) defines as when “elected authorities see it as in their interest to either (1) defer to an agency’s wishes for new policy or (2) grant a wide range of discretion to an administrative agency over an extended period of time.”

Bendor also identifies signaling models of delegation. In signaling, the boss selects a subordinate to conduct information gathering about the policy choices. As the

subordinate reports the findings of this research, the boss gains insight into whether the subordinate's policy preferences match the assumptions that the boss has about the situation. The principal seeks allies from among the agents, and signaling becomes a method for understanding these preferences. Baron (2000) has criticized the signaling approach because agents with different interests in the policy choices could limit the information reported on unwanted choices. In response, Baron proposes screening, which requires the principal to request additional, more voluminous, and more meaningful justifications about policy choices. Lengthy justifications can ensure the information reported by the agent is fully informative, even in cases where the preferences differ.

Bendor and his fellow authors highlight another aspect of delegation that is relevant but not unique to congressional oversight, and it is the concept of repeated contexts and its attendant problems for commitment. In repeated transactions, the boss and subordinate are able to deter each other from cheating because of the expected opportunities for retaliation (Diermeier 1995). The repetition moderates individual rationality to the advantage of collective cooperation. This model assumes of course that the boss is willing to delegate repeatedly, which is usually the case with the legislative and executive branches. Although problems do arise when there is a change in the party affiliation of the legislature's leadership and the party disagrees with the executive's priorities or methods.

### **Observations and Analysis of the Literature.**

Bendor, Moe and their colleagues provide a deeper understanding of power in the context of agency theory. The major concepts related to knowledge as power, the

influence of interests on power, and the opportunities for shared power through delegation highlight the broader dimensions of agency theory.

Agency theory must be tempered by an acknowledgement of contingency theory too (Woodward 1958). Agents have both information power and political power at their disposal. Some scholars celebrate such independence (Woll 1963), claiming that the bureaucracy is more representative than Congress (1963, 172) and that although “the American Presidency is a great institution ... the President is not in fact ‘Chief Administrator’” (1963, 173). For Woll, American bureaucracy is an independent force, and from its independence it draws much of its strength and prestige (1963, 174); it is an equal partner with the President, Congress, and the judiciary (1963, 177).

Indeed, contemporary examples show how Fannie Mae used its lobbying powers to hold Congress’s initiatives to change the federally-backed mortgage market at bay and how Bernie Madoff used the power of false information to prevent financial oversight agencies from developing useful insights into his illegal operations. Similarly, not all principals are mistrusting of agents. Some principals could be delegating on purpose to show their commitment to a specific policy or their comfort with cooperating with the agent(s). Starting with a basic assumption of mistrust, either on the part of the agents or the principals, may doom the relationship to a damaging power struggle.

Agency theory acknowledges the potential for multiple agents and multiple principals, which may tend to complicate cooperation and increase the potential for power plays and conflict. The first example is drawn from Bendor’s production function (Figure 2) (Bendor, Taylor, and Van Gaalen 1985). An underlying assumption in the

function is that the principal(s) want the programmatic output and that they agree with the methods employed as intermediate activities. There have certainly been cases in the federal government context where the congressional oversight committees (or specific members of Congress) have objected to government programs, policy objectives, and the choices made about what intermediate activities are warranted to accomplish those objectives. The expanded view of agency theory gained from Bendor still only assumes that principals seek knowledge so they can root out waste within a program. In reality, some principals want to abolish specific programs (e.g., National Public Radio, Planned Parenthood, the Environmental Protection Agency) or specific methods of governance (e.g., active foreign policy, military commissions, domestic wire-tapping).

Another concern some principals have is that there are too many or the wrong agents performing the intermediate activities. Recent examples include the decision to take Sallie Mae out of the school loan financing role, returning it directly to the Department of Education. Another disagreement regards the use of private security contractors instead of federal employees. Disagreements between principals over who the right agents are offer new opportunities to analyze power and conflict in the public power setting. Also, the idea that repetitive context domesticates the principal and agent is alluring but probably unrealistic. What is more likely is that oversight changes through the repetitive context, and is complicated by numerous changing actors both among the principals and the agents at regular and irregular intervals. Notwithstanding the real potential for agency capture, this theory also ignores the fact that these institutions are composed of individuals who change from decade to decade, individuals who bring their own perspectives, biases, and experiences with trust and oversight.

*Toward a Synthesis of the Dialogs*

What all of these dialogs deal with in some degree are parameters affecting the design of the principal-agent relationship. In the author’s estimation, the most notable parameters relate to: *transparency, composition, reliance, activity, and performance outcomes*.

<b>Parameter</b>	<b>Definition</b>	<b>Literature</b>
Transparency	The degree to which a policy issue and its oversight system are explicitly visible and accessible to the public	Meyer 2000; Lester 2009; Meijer 2009; Heald 2012; Hall and Jennings 2012; Roberts, A. 2012
Composition	The number or combinations of principals and agents involved in a policy issue	Roness 2001; Whitford 2002; Knott and Payne 2004; Blom-Hansen 2013
Reliance	The degree of trust that exists between the principals, agents, and the public for the policy issue	Jones and Barrett 1992; Anonymous 2007; Locher 2008; Langbein 2009)
Activity	The frequency, depth, and duration of oversight efforts the principals, agency, and public engage in for the policy issue	Khademian 1995; Baranowski 2001; Bourdeaux and Chikoto 2008; Brandsma 2012
Performance Outcomes	The irreducible purpose of the policy issue	Ruhil and Teske 2003; Moynihan 2006; English, L. 2007; Mintrom and Norman 2009; Eichenberger and Schelker 2010

**Table 1: Five theoretical dialogs**

On the transparency scale, the policy domain is either open or closed to the public, meaning citizens have thorough and complete access to its deliberations, or as in the case of national security, access is more circumscribed or closed. In the composition parameter, the oversight system is either simple, such as a single principal and a single agent, or complex, where there may be multiple principals and multiple agents. High and low levels of trust characterize the reliance parameter. As to activity, the principal’s efforts may be thought of as *laissez-faire* or more interventionist and persistent. The

cumulative effects of these oversight parameters may lead the policy domain to enjoy high levels of performance outcomes or low ones.

Current discussions of *transparency* in the relationship between the government and the public continue to underscore its importance (Lester 2009, 99), but also show that its conceptualization must be more sophisticated than mere rhetorical support (Heald 2012). At its core are fundamental issues of trust (Meijer 2009), with proponents debating the relationship between trust and openness, especially with the advent of computer-mediated policy debates. Other discussions focus on the cultural and political characteristics (Hall and Jennings 2012) that affect public accountability systems such as those implemented as part of the American Recovery and Reinvestment Act (ARRA) or unsanctioned revelations via efforts like WikiLeaks (Roberts, A. 2012). These discussions demonstrate how transparency remains an important component of understanding oversight approaches. The obvious design choices for transparency are oversight regimes that are either open or closed. By open, in the United States context, the conditions might include unclassified congressional hearings, full jurisdiction of the Government Accountability Office (GAO) over the program's operations, and broad application of the Freedom of Information Act (FOIA). By closed, the program would have some protection from GAO's and FOIA's jurisdiction, as well as the ability to hold closed, classified hearings before Congress. This question of openness is a perennial issue for national security and intelligence, but it is not unique. For example, the Federal Reserve and the Department of Justice's Public Integrity Section are given more latitude from Congress to ensure no perceived politicization or impropriety (Meyer 2000). This variable is clearly tailored to context.



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Perhaps not surprisingly, organizational design figures prominently on questions of oversight *composition*, and there is a literature focused on the implications of composition. In the legislative oversight context, the composition or arrangement of oversight can be simple, as in one agent and one principal. It can also be complex, with multiple agents and multiple principals. Recent work has focused both on centralization and decentralization, including a) a case of complex legislative oversight (comitology committees) of other legislative oversight of the executive (Blom-Hansen 2013) in the European Union; b) the possible positive effects on policy outcomes of decentralized and less powerful oversight structure in the higher education setting (Knott and Payne 2004); c) a contrasting case of the loss of political control in nuclear regulatory oversight following the devolution of oversight from a national to regional level (Whitford 2002); and d) the occasional reluctance of the legislature, in this case a parliament, to provide an organizational framework for administrative reforms (Rones 2001).

*Reliance*, or the degree of trust that can be generated in an oversight relationship, is largely a function of the principal's confidence in the agent. Since the beginning of the 93rd Congress, the amount of formal oversight conducted through congressional hearings has increased dramatically (Jones and Barrett 1992), showing the legislature's trend-breaking and systemic commitment to enhanced oversight. It is possible to view this sea-change in oversight as warranted, given the scale of the administrative state (Anonymous 2007) and the fact that sometimes the executive and the legislature may disagree, which leads to general conditions and specific periods where street-level administrative autonomy can flourish (Durant 2009). Yet little research has examined the consequences of Congress's willingness to delegate (Langbein 2009) or reform (Locher 2008).

Reliance – trust – enhances administrative autonomy or a lack of it restricts the bureaucracy at a cost to the legislature (increased information reporting systems), which means reliance must be examined in any oversight structure.

Oversight may be passive or active. Thus *activity* is another worthy variable for study. On the one hand, legislative oversight activity can lead to enhanced legislative professionalism. A recent study suggests that increased legislative capability of more professionalized legislatures may make them better able to influence agencies (Baranowski 2001). On the other hand, different studies suggest that citizen legislatures are associated with better administrative practices than professional legislatures and that the quality of legislative involvement may be more important than its quantity (Bourdeaux and Chikoto 2008). Other studies have focused on the role of available information (Brandsma 2012) to enable legislative activity, whereas others have highlighted the potentially harmful effects for administrative entrepreneurship when the legislative branch is too active (Khademian 1995).

This is theory. How does it look in practice? To help improve the professionalism of oversight, the Congressional Research Service (CRS) published a manual (2011, 1-3) on congressional oversight. It explains that the purposes of congressional oversight are to:

- Ensure executive compliance with legislative intent
- Improve the efficiency, effectiveness, and economy of governmental operations
- Evaluate program performance
- Prevent executive encroachment on legislative prerogatives and powers

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- Investigate alleged instances of poor administration, arbitrary and capricious behavior, abuse, waste, dishonesty, and fraud
- Assess agency or officials' ability to manage and carry out program objectives
- Review and determine federal financial priorities
- Ensure that executive policies reflect the public interest
- Protect individual rights and liberties

The guide also offers the following as Other Specific Purposes:

- review the agency rulemaking process;
- monitor the use of contractors and consultants for government services;
- encourage and promote mutual cooperation between the branches;
- examine agency personnel procedures;
- acquire information useful in future policymaking;
- investigate constituent complaints and media critiques;
- assess whether program design and execution maximize the delivery of services to beneficiaries;
- compare the effectiveness of one program with another;
- protect agencies and programs against unjustified criticisms; and
- study federal evaluation activities.

Finally, the CRS manual lists the components of the oversight process as: budget, authorization, appropriation, investigatory, confirmation, and impeachment.

No matter how professionally administered, legislative oversight should also show how it leads to positive policy *outcomes*. There are numerous cases where laws fail to achieve the majority coalition's intended policy outcomes (as much as they can be

understood), such as in immigration (Briggs 2012) and healthcare reforms (Miller 2011). At the heart of outcomes analysis is a positivist emphasis on performance management, whether one approaches from the vantage of new public management (English, L. 2007), cognitive biases (Eichenberger and Schelker 2010; Moynihan 2006), or institutional arrangements (Ruhil and Teske 2003). Also appealing to some is the idea to just let policy entrepreneurs have their way (Mintrom and Norman 2009). They are closest to the problems and are normatively expected to have a better grasp on “real” solutions. These previously identified tensions between empiricism and instinct, and between oversight and entrepreneurial autonomy, continue to shape discussions and approaches related to policy outcomes. They are a necessary aspect of oversight analysis.

For each dialog, there is low and high potential for information in the power dynamics, low and high potential for politics and partisanships, and low and high potential for cooperation through delegation. Depending on these potentials, there is a corresponding effect on the parametric choices one would make for an oversight intervention. As Figure 4 shows the Congress’s intervention in its approach to intelligence oversight attempted to change several of the parameters in each of the three dialog areas. The previously closed domain was to become more open, shifting both from a simple, *laissez-faire* approach to improve the trust and performance in the policy domain.

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		Transparency	Composition	Reliance	Activity	Outcomes	
		<i>Open v. Closed</i>	<i>Simple v. Complex</i>	<i>High v. Low Trust</i>	<i>Laissez-faire v. Interventionist</i>	<i>High v. Low Performance</i>	
Potential for:	Information in Power Dynamics (knowledge and power)	high	closed	simple	high	laissez-faire	high
		low	open	complex	low	interventionist	low
	Politics and Partisanship in Power Dynamics (Power and Interests)	high	open	complex	low	interventionist	low
		low	closed	simple	high	laissez-faire	high
	Cooperation through Delegation (Shared Power)	high	closed	simple	high	laissez-faire	high
		low	open	complex	low	interventionist	low

Figure 3: Effects of Intelligence Oversight Intervention on Select Parameters of Agency Theory

### Oversight Theory and Application in US Congress

An assumption was made at the beginning of [this] study that more oversight, even if it is not comprehensive or systematic, is better than less because of its likely impact on administrators' behavior. This assumption, while plausible, is so central to making decisions about reforms aimed at increasing the quantity of oversight that we should find out all we possibly can about its validity. (Aberbach 1979, 513)

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Agency theory and all its recent derivations make great rational sense; however, little of modern day congressional oversight resembles the cold antiseptic of agency theory. This section of the literature review defines oversight, traces several of the prominent contemporary theoretical dialogues, and concludes with a synthesis of the salient features of congressional oversight for intelligence. The discussion also highlights the apparent strengths and weaknesses of the oversight literature as it applies to an outcomes-based assessment of oversight.

### *Defining Oversight.*

Joel Aberbach (1979) observes that Section 136 of the 1946 Legislative Reorganization Act authorizes the standing committees of the Congress to “exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws.” Where scholars have tended to disagree over the last several decades is on whether oversight is passive (Harris 1964) or active (Ogul 1976). Recall for a moment the approach to intelligence oversight during the 1950’s and 60’s that Smist recounted. To some interpretations, the members providing oversight in that period were active in ensuring no member of Congress provided invasive oversight. Senator Russell and Congressman Cannon possibly felt their “institutionalized” passivity was “right.” Others may view the active patterns post-1976, i.e., dedicated and growing staff, increased hearings, increased reporting requirements, as “right.” Amendments in 1970 to the act embody the debate, wherein Section 136 “Legislative Oversight by Standing Committees” was renamed “Legislative Review by Senate(*sic*) Standing Committees.” Further, the authorizing language changed to:

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each standing committee shall review and study, on a continuing basis, the application, administration, and execution of those laws, or part of laws, the subject matter of which is within the jurisdiction of that committee. (21)

The purpose of this new *continuing* review was two-fold, to assist each standing committee in:

- (1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and
- (2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate, (21)

In 1973, Representative Richard Bolling (D-MO) led the Select Committee on Committees and in 1974 introduced new reforms in House Resolution 988. To wit, the authorization language for oversight (or review) was again expanded and now required:

Each standing committee (other than the Committee on Appropriations and the Committee on the Budget) shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee, and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake futures research and forecasting on matters within the jurisdiction of that committee. Each such committee having fifteen or more members shall establish an oversight subcommittee, or require its subcommittees, if any, to conduct oversight in the area of their respective jurisdiction, to assist in carrying out its responsibilities under this subparagraph. The establishment of oversight subcommittees shall in no way limit the responsibility of the subcommittees with legislative jurisdiction from carrying out their oversight responsibilities. (1974 9068-9069)

The introduction of futures research and forecasting, along with the establishment of oversight subcommittees, made clear a new preference for activism or at least assertiveness (FitzGerald 1976). The new language also provides an ability to determine

whether programs are being carried out not only to the letter of the law, but also in accordance with Congress's intent. Another new activist dimension in the language: the necessity of determining whether programs should be altered or eliminated. Of particular interest to this study is the assignment of responsibility for "intelligence activities relating to foreign policy" (9071) to the committee on foreign affairs, an assignment not discussed in previous oversight reforms.

Aberbach (1979) concluded oversight was congressional review during or after, and that "usually more is better" (495). As such, he set out in his analysis to examine how to increase quantity (incidence) of oversight and distinguish between "factors subject to planned manipulation and those which are basically beyond our control" (495). Aberbach identified numerous potential factors affecting both quantity and quality of oversight. The factors affecting quantity are diverse, and can be organized into two proactive categories and one reactive one. The first proactive category relates to political interests. Split partisan control between Congress and the presidency influences how many oversight hearings and actions there are. Similarly, if external interests groups seek to change the application of law or policy from one administration to the next they may seek more or less oversight from Congress. Also, members of Congress may desire to protect favored agencies or programs, and could even initiate oversight actions in an effort to preempt political opponents.

The second proactive category relates to structural matters. Besides seeking re-election, members of Congress represent their constituents, and with that responsibility comes a certain amount of casework – the representation of constituents to the various agencies and bureaus. Depending on the circumstances and how the members have



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organized their offices, these cases can consume significant time, time that could be spent exclusively on oversight hearings. On the other hand, casework is a form of oversight. It provides the members with live feedback of how the administration and executive branch is implementing a policy or program. If an agency is not implementing a program consistent with a member's intent, then casework can help surface these instances, which in turn can form the foundation for additional oversight actions, such as letters to an agency head, a request for a report, or questions for a future hearing.

Beyond casework, the committee and subcommittee structures and the attendant staff assigned to a member's office or committees can further enable a member to organize and sustain congressional oversight activities. Committee assignments provide a member both with jurisdiction – enhanced standing, that is – and the resources to dwell on a problem or program. In the 1940's Congress authorized only four staff members per committee. During the legislative reorganizations in the early 1970's, Congress increased the staff assistance to six staff per committee. The Congressional Research Service (CRS 2010) summarizes the availability of staff in the recent era:

Between 1977 and 2009, the number of House staff grew from 8,831 to 9,808, or 11.06%. Change in House staff has been characterized by slight but steady growth in two periods (1977-1994, 12.03%; and 1997- 2009, 12.53%), separated by a brief period of sharp decline (1995-1996, -12.17%). In the Senate, the number of staff has grown steadily, from 3,380 in 1977 to 6,099 in 2010, or 80.44%. (4)

These numbers do not provide the fullest picture of oversight, as they account for all staff, including those the members employ in their home offices. Committee staff have ranged from as much as 30 percent of the total staff in each chamber down to 13-20% in more recent times in the House and Senate respectively. The staff assigned to each

committee could be in the dozens to as many as two hundred in the case of the appropriations or government oversight committees (CRS 2010, 20-29).

Aberbach's (1979) final category affecting the quantity of oversight – the reactive one – relates to corruption, crises, and the publicity these cases may garner a member. From Watergate to Iran-Contra to the Iraq weapons of mass destruction investigations, members of Congress can invest in oversight during crises of confidence in the US government, its agencies, and its programs, expecting that these actions pay additional dividends in the political realm. They may also legitimately and objectively improve the efficiency or effectiveness of government, but these aims can possibly be secondary to keeping the assertiveness of political opponents in check.

Quantity of oversight does not provide the full picture though, and Aberbach recognized this, outlining an additional five factors affecting the quality of oversight. The first factor related to the effects that periods of relative resource scarcity can have on oversight. The modern case was the reactions to the General Services Administration (GSA) conferences during the “great recession” of 2008-2012. Upon learning about GSA's gimmicks – bicycle construction projects and a magician – Congress clamped down on all conference attendance and planning (Congressional Record 2012). The hearings commenced quickly with members of Congress questioning bureaucrats about the errors in their judgment, i.e., lavish conference spending, before an American public facing significant unemployment challenges and home foreclosures.

The second factor involves changes in the body politic. Following periods of perceived government abuse, excess, or inefficiency, it is possible that the voters send more oversight-minded legislators to Congress. This influx of skeptical senators and

representatives in an election cycle – think of the so-called “Watergate babies” – can impact agendas and issues with additional scrutiny. A recent example was the Tea Party’s attempts at discontinuing a second aircraft engine program for the F-35 Joint Strike Fighter (Bedard 2011). The newfound zeal these members bring to oversight can ensure it is anything but perfunctory.

Evolutions in program evaluation methods can also improve the quality of oversight. Management science (Taylor 1911), management by objectives (Drucker 1954), case studies (Sorensen 1963), data analysis (Tuftte 1974), total quality management (Peters and Waterman 1982), and other similar innovations each have the potential to affect how deeply and clearly oversight is able to penetrate a situation, program, or agency. Impressing these evaluation methods on the bureaucracy, as in the case of the Government Performance and Results Act of 1993, institutionalizes certain oversight processes and offers Congress fresh data for tracking trends and performance on a regular basis.

Aberbach also observed that reforms in the budget process tended to improve the quality of oversight. Budget reforms (Wildavsky 1992, 1993; Rubin 2007; Posner 2009) and performance management reforms (Moynihan 2013), such as “pay as you go” and agency goals, force programs and their congressional benefactors to live within certain resource caps and take care to ensure the program is effective and efficient. Programs that have performance problems and are not self-sustaining through fees may draw the oversight ire of a political opponent. Here examples include the object of both partisan and non-partisan preferences (e.g., public radio, food stamps, defense weapons programs, mortgages, and student loans). Performance management reforms provide significant

data for oversight discussions and hearings, just as the “scoring” of the Congressional Budget Office provides insight into program affordability. These reforms have generally affected the intelligence budgets too.

Finally, rotations of committee membership may also affect quality according to Aberbach. He is not alone in this observation. From agency capture (Frederickson 1994) to iron triangles (Overman 1986), scholars have sensed the inherent moral hazard in overseers dwelling too long in an assignment. This also holds a conundrum. On the one hand, it is important to have individuals with the expertise to oversee the complex technical domains (e.g., securities, nuclear energy, foreign policy) the government takes interest in. On the other hand, conflicts of interest may emerge and congressional members may grow too close to the agency or too fond of the remunerations they derive for their home districts. These conflicts, this fondness, may cause members to overlook certain norms or outcomes exhibited by the agency or program. Thus is the appeal of rotating members across committees to reduce parochialism and preserve objectivity.

This dissertation uses the following idealized definition of oversight: politically-guided and technically-supported systematic foresight and review by First Branch members over Second Branch members and their activities in furtherance of public value and the protection of private liberties. Just because the ideal type includes foresight does not mean that politicians achieve it. Nor does it mean that their political guidance is pure-minded. It also does not ensure their success in gaining the cooperation of the various departments, agencies, and commissions that make up the second branch of government. This is perhaps why, from time to time, scholars have observed that the

Congress's performance of oversight has ranged from "neglected" (Bibby 1968) to "dysfunctional" (9/11 Commission Report 2004, 420).

*Contemporary Theories and Models.*

If the external observers may be believed, why does Congress seem to have so much difficulty with oversight and what are they to do about it? Some of the prevailing observations focus on the political motivations of the individual (Arnold 1990, Duffin 2003) and party (Fiorina 1989, Mayhew 1991, Binder 2003). Diane Duffin's (2003) work on explaining participation in congressional oversight hearings offers a holistic review. Acknowledging that hearings are but one public instrument, from among many potential tools, for conducting oversight, Duffin identifies the following hypotheses in the literature regarding committee hearing participation:

- Opportunity for a leadership position (Hall 1996)
- Apprenticeship norms (Hall 1996)
- Partisanship<sup>5</sup> (Scher 1963; Aberbach 1990)
- Threats to a program under review (Aberbach 1990)
- Constituent interests (Scher 1963; Ogul 1976; Hall 1996)
- Electoral safety (Fenno 1978)
- Timing of hearings (Duffin 2003)
- Witness' stature (Duffin 2003)

Scholar Jeff Gill (1995) adds to the discussion by providing an overview and categorization scheme for the many attempts at modeling legislative-administrative

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<sup>5</sup> David Parker and Matthew Dull (2009) harken attention to the partisanship hypothesis and observe: "The increasing polarization and cohesion of congressional parties over the last three decades is well documented. These forces have been linked to declining legislative bipartisanship and consensus building (Mann and Ornstein 2006)."

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oversight. He divides the models into two macro-categories: budgetary and non-budgetary. The two bulleted lists below outline the scholars Gill recounted and the themes of their research.

### Budgetary models:

- Niskanen (1971 and 1975) - budgetary relationship between legislatures and agencies
- Romer and Rosenthal (1978) - agenda-setting power and all-or-status-quo ultimatums
- Mackay and Weaver (1981) - multiple agencies and multiple agendas
- Miller and Moe (1983) - agency power derived from technical or functional expertise
- Bendor, Taylor, and Van Gaalen (1985) - effects of deception and monitoring
- Conybeare (1984) - counterfactual conditions
- Bendor and Moe (1985 and 1986) - empirically-driven dynamic model: three-way interaction of bureaucracies, politicians, and issue groups; institutional features in each group; time-series approach; choices with no single optimization; subject to information asymmetry

### Non-budgetary models:

- Migue and Belanger (1974) - managerial discretion focused on increased outputs or changes to the cost of outputs
- Calvert, McCubbins and Weingast (1989) - deviations based on managerial discretion happen later in the legislative-administrator relationship
- Fiorina and Noll (1978) - congressional involvement leads to inefficiency in agencies

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- Weingast (1984) - agencies seek congressional member approval or preferences who in turn seek voter preferences
- Ferejohn and Shipan (1990) - agencies are able to shop for oversight preferences with enhanced knowledge, compared to that of legislative members; but, never gain a perfect position, merely a slightly more optimal one than average, especially when presidential veto and judicial review are added.

While the choices for oversight patterns and practices are numerous, the results of present oversight jurisdictional arrangements are “ironic” according to recent research by Joshua Clinton, David Lewis, and Jennifer Selin (2014). Catalyzed by a special case of extensive oversight, the fact that “108 committees and subcommittees oversee the Department of Homeland Security,” the group surveys nearly 2,000 federal executives serving in 128 agencies and bureaus during 2007-2009 (110<sup>th</sup> Congress) to measure the perceived relative influence of presidential and congressional oversight. Their findings, based on multiple regression models, suggests that the greater the number of committees and subcommittees there are with jurisdiction over a department, agency, or program, the less perceived influence Congress has on the executive departmental leaders relative to the President. Their interpretation is that

increasing the number of committees with access to an agency may simultaneously increase the ability of members to secure electorally valuable private goods for their constituents but undermine the ability of Congress as an institution to respond collectively to the actions of the presidency or the bureaucracy. (399)

This finding is problematic in light of the aforementioned trend towards additional committees and subcommittees for oversight. As Congress adds more oversight bodies, it draws more members into oversight roles. Now, instead of one

powerful committee chair driving an agenda with an agency or cabinet member, there are subcommittee chairs and minority leaders who also compete for oversight time. With limited congressional affairs staff, agencies possibly resort to satisficing by supplying congressional inquiries with stock responses. At a minimum, it stretches out the intervening periods between an executive departmental leaders' visit to a committee as they make the rounds to other committees.

### **Salient Features for Intelligence Oversight.**

Much about this overview of congressional oversight is consistent with the experience of congressional oversight of intelligence. In general, it followed an evolutionary path occasionally punctuated by revolution. As Pat Holt recounts, when it came to the early days of the Intelligence Community, Congress had a "marked lack of curiosity" (1995, 209). With occasional attempts to formalize the oversight of intelligence in 1954, 1956, 1966, and 1972 (Holt 210, 211, 214, 215), the revolutionary steps forward came in 1974 with the Hughes-Ryan amendment covering covert action notifications and the establishment of the Senate and House committees for oversight. Congress even went so far in 1975 to use the power of the purse and terminate funding for covert action programs in Angola (Senate Select Committee on Intelligence 1994, 4).

Looking back in 1994, the Senate Select Committee reflected on its progress. In a report providing an overview of the US intelligence oversight experience, the committee summarized the objectives of the new era of oversight:

the objectives of this oversight would be more than protecting the rights of Americans or judging the wisdom of covert action operations; oversight would also include giving positive support and guidance, as appropriate, to a major



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element in the national security apparatus of the United States. (Senate Select Committee on Intelligence, 1994, 2)

The committee further acknowledged that the oversight structure was adapting to an existing institution.

Thus, congressional oversight was grafted onto an existing and largely accepted intelligence apparatus, rather than being part of a process of radically changing that apparatus or of creating new national security institutions. One of the major lessons of the congressional oversight experience is, moreover, that accountability can be fostered without sacrificing the effectiveness of intelligence institutions. (1994, 2)

Oversight, in practice, improved, but was not complete in the eyes of many reformers who felt more could be done. The committees failed to pass “charters” including the missions and functions of the intelligence agencies (1994, 20). Reliance on a Ford administration executive order to keep the committees “fully and currently informed” soon proved hollow as the Carter and Reagan administrations attempted to rescue the American hostages in Iran and then traded for their freedom. This led Congress to pass the Intelligence Oversight Act of 1980, securing the notification requirements in law (1994, 20).

Additionally, during the end of the 1970’s and into the early 1980’s, the committees established additional budget controls over intelligence. They created programs for intelligence and divided the resources between national and tactical activities (1994, 14). In 1985, Congress amended the *National Security Act of 1947* to ensure funds for intelligence activities were both authorized and appropriated. The committees also got into the habit of marking up the intelligence budget, meaning they would apply their own views to programs and funding levels (1994, 15).

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During the 1980s and into the early 1990s the committees investigated the Intelligence Community's involvement in the insurgencies in Latin America. The Iran-Contra hearings consumed 46 days of testimony across 1987. Congress's angst with the executive branch materialized in the 1991 confirmation hearings for director of central intelligence nominee Robert M. Gates. The Gates hearings included significant review of the analytic processes in the Intelligence Community with emphasis on questions of politicization: "slanted intelligence analysis at the CIA to conform to a particular political viewpoint" (1994, 25). Despite this focused oversight, some scholars described the mid-1980's as the "know nothing era" (Rudelavige 2005, 201).

Following Gates's confirmation, Congress strengthened his role with the passage of the *Intelligence Organization Act of 1992*, which detailed the responsibilities and authorities of the director of central intelligence (DCI). This was also the first time in statute that the Congress used the phrase "Intelligence Community" (1994, 26). A year later, Gates reprised congressional oversight of intelligence in his final speech as DCI. Reflecting upon the legitimacy that came with oversight (1994, 140), he observed the IC had "met more than 4,000 times with Member and staff of the Congress" during 1992, sharing more than 50,000 documents and responding to 1,200 questions (140). He then outlined areas for improvement that are consistent with academic observations of congressional oversight generally:

- "very few members...appear to devote much effort or time to their intelligence oversight responsibilities." (146)

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- Congressional term limits ensure that “just when an interested or concerned member begins to acquire some knowledge and understanding of our work, he or she is rotated off the Intelligence Committee.” (150)
- A trend in unreconciled budgets between the authorizers and the appropriators. (152)
- The troubling “insistence by individual members on funding of pet projects before they will approve [the IC] budget.” (153)

These observations led to his recommendations:

1. End the term-limits. (154)
2. Make the time to learn about the intelligence agencies. (155)
3. Resolve the conflict between the authorizing and appropriating committees. (155)

Given Gates’s concerns about the level of personal commitment on the committees, who was attending the thousands of meetings and reviewing the thousands of documents? The committees were supported by many professional staff members who served across key events like the seizure of the US embassy in Tehran, the Iran-Contra affair, the bombing of the World Trade Center, the Aldrich Ames spy case, the shooting of two employees at CIA headquarters, the controversial construction of the National Reconnaissance Office headquarters, and continued reorganizations of the Intelligence Community to keep pace with the world’s evolving threats. Figure 5 outlines the staff resources supporting the committees in the new oversight era.

While the number of professional staff assigned to the committee seems to meander over the decades, it is a marked increase over the pre-1977 period. A few

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patterns emerge. The staffing cuts to the committee (around 1995) represent the tail end of a longer trend in staff reductions. On the House side, the staff hovered near 35 during the 1980s and then were reduced to a range of 20-25 beginning around the time of the Gulf War. The Senate also goes through a period of staff reductions, but not as great as that in the House. Both chambers reinvested in intelligence committee staff following the September 11<sup>th</sup> attacks. Nonetheless, there are enough staff in the House Permanent Select Committee to support three subcommittees. Similarly, the staff for the Senate Select Committee has supported 1.33 hearings per week for 2013 and the first

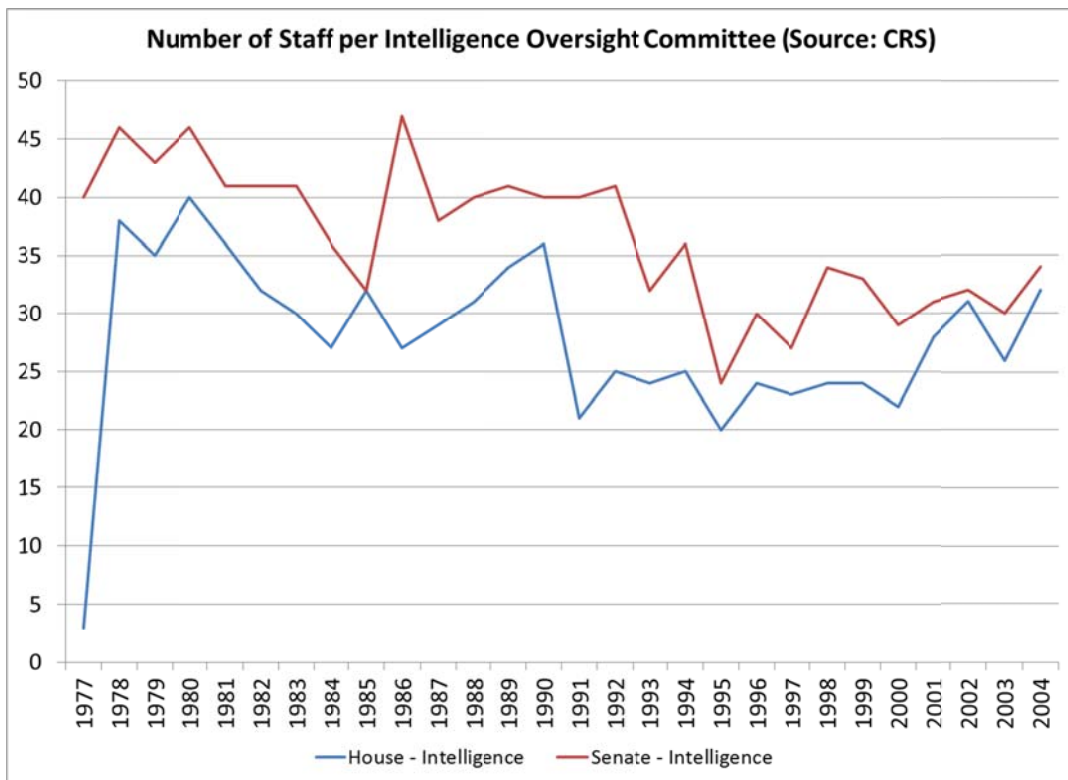


Figure 4: Number of Staff per Intelligence Oversight Committee

half of 2014.<sup>6</sup> This pace of interaction with the IC is conclusively regular and the subcommittee structure enables the topics to be more wide-ranging. Each committee meeting leads to other staff actions and other subcommittee meetings.

In these committees professional staff play an important oversight role on their members' calendars and agendas. Since congressional members' service on the committees provides only limited access to private constituent benefits (save for the occasional construction project or satellite acquisition) and even less constituent "casework," it is up to the staff to advocate for their members' attention and effectively structure their participation in oversight activities. There is, after all, no shortage of other competing claims on their time.

The staff are also important for another reason, which is the high technical complexity of the subject matter. Espionage, counterintelligence, covert action, technical surveillance – these are not subjects common in political science or public administration courses. Granted some members who serve on defense subcommittees may build competence in overseeing weapons system programs, which is comparable to the complexity of intelligence oversight. The oversight of the US financial sector and the Intelligence Community are similarly byzantine, but the interest groups and subject matter bear little resemblance. Here members of Congress may turn to staff to enable their oversight.

The multiple agents in this principal-agent relationship add to the complexity. The number of agencies and overlapping national and military intelligence programs and *quasi* or *de facto* law enforcement authorities make the oversight responsibilities difficult yet compelling. Further complicating the oversight responsibility, for a long time, was

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<sup>6</sup> Based on a June 2014 analysis of <http://www.intelligence.senate.gov/hearings.cfm>

the confederated nature of the intelligence programs. Some reported to the secretary of defense, another to state, others to justice, another to energy, et cetera. Congress's attempts to unify the programs into an Intelligence Community led by a director of central intelligence took time and faced significant bureaucratic friction. The current construction of a director of national intelligence has focused the accountability, yet Congress still sees value in interviewing multiple intelligence leaders when it comes to hearings. The directors of CIA, DIA, NSA, and FBI are frequent co-witnesses with the DNI in hearings.

### **Recent Literature on Congressional Oversight of Intelligence**

There is a special branch of public administration scholarship that focuses on intelligence oversight. It is a branch that continues to search for the “right” level of oversight. The unofficial dean of intelligence oversight literature is Loch Johnson, who served as special assistant to the chairman of the Senate Select Committee on Intelligence (1975-76), as a staff aide on the U.S. Senate Foreign Relations Committee (1976-77), and as the first staff director of the Subcommittee on Intelligence Oversight, U.S. House Permanent Select Committee on Intelligence (1977-79). His works (1980, 1987, 1988, 1989, 1996, 1998, 2004, 2008, 2009) epitomize the arguments for more and stronger congressional oversight in the face of a potentially “rogue elephant” federal intelligence bureaucracy. This argument is rooted in the aftermath of the Church and Pike Committees where the Congress investigated the allegations against the intelligence agencies regarding their domestic operations. More scandalous allegations levied against the intelligence agencies over the years have included a wide range of civil and human

rights abuses (Holt 1995). Echoes of Johnson's theory continue among others under the recent scholarship of Hans Born (2005, 2007) and Amy Zegart (2010, 2011).

Whereas other scholars have sought to qualitatively classify management styles of congressional oversight – police patrol, fire alarm (McCubbins and Schwartz 1984; Aberbach 1990), ostriches, cheerleaders, skeptics, and guardians (Johnson 2008) – Zegart (2011) makes a compelling attempt at a quantitative assessment of the material effects of the new approach to oversight. Zegart systematically explores these styles of oversight and then offers her prognosis. Following the positive methodological example of Evan Ringquist *et al.* (2003), she examines diverse variables and numerous time periods, including legislative activity, legislative productivity, issue advocates, and congressional staff sizes, comparing the oversight provided to intelligence with that provided to defense, economics, foreign affairs and other macro-policy areas.

From her data, Zegart concludes that intelligence is in continued need for more and better congressional oversight. Specifically, Zegart believes that congressional oversight has been weak (2011) and will continue to be because the electoral incentives that legislators seek drive them away from service on the intelligence committees where budgetary and public opinion benefits are often lacking. Channeling the normative assumptions of principal-agent theory, her prognosis is that the executive branch needs to reduce its secrecy surrounding intelligence, the House of Representatives should discontinue its use of term limits on the Intelligence Committee, the intelligence budgets authorizing and appropriating roles should be consolidated in the House and Senate intelligence committees, and the Congress should strengthen the staff capabilities supporting these committees.

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As described earlier, agency theory attempts to explain legislative power in the public administration setting, but in its basic form is incomplete to the task. Even when it is augmented with McCubbins's and Schwartz's helpful twin public servants – the firealarm and policeman – it turns out they do not have the requisite “need to know” for this policy domain. Intelligence involves multiple principals claiming agency: civilian executives, military executives, and the legislature (Waterman and Meier 1998). It also is characterized by a vast number of legislators being denied access to, or knowledge of, its inner workings. This generates one of the great difficulties of intelligence oversight – the apparent contradiction between open government, public hearings, the freedom of information and the secrecy limitations placed on intelligence oversight activities.<sup>7</sup> These limitations reduce the corpus of public information on these government activities. It also sows mistrust, skepticism, and occasional hostility towards the government officials charged with intelligence.

Attaining close working relations between political oversight and intelligence professional is essential, as the professional provides no bureaucratic value other than to enhance the politico's knowledge. The politico cannot go where the intelligence professional goes. As such, he relies on even greater sources of trust. The politico requires knowledge, the ends; the professional controls the ways; together, they must ensure the means; and secrecy underwrites the entire enterprise. Intelligence may be the

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<sup>7</sup> The Articles of Confederation and US Constitution saw value in secrecy. Article 9 of the Articles of Confederation, states,

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy.

The secrecy protection in the US Constitution was broader and more general as Article I, Section 5.3 articulates: “Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such Parts as may in their judgment require secrecy.”



ultimate expression of what Brian Cook (1996, 154) calls “the exercise of responsible political discretion.”

### **Summary**

This dissertation closes the review of oversight with another round of observations by Aberbach, this time from 2002. Providing the other bookend to this contemporary discussion of oversight, Aberbach focused on its problems. In summary, he felt that it is not objective enough, not systematic enough, and lacks continuity (2002, 61). In a somewhat woeful closing, he concludes that “the bureaucracy will continue to be watched by people who consider efficiency and effectiveness but will have much more on their minds than that” (2002, 63). This sounds uncomfortably like Gates’s assessment of congressional oversight twenty years ago. For all the effort of the professional staff, the committee members remain political creatures subject to issue advocacy, party politics, seniority, and the constant refinement of the public interest and the public’s opinion of such interest. Such complexity demands objective assessment in order to optimize the expectations, professional standards, norms, practices, measures, and effects that constitute congressional oversight of intelligence.

The issues Aberbach raises are germane to intelligence oversight. The powers in question are significant, which raises the consequences of the oversight. The members of Congress also bring substantially different views about national security threats and intelligence. The change in oversight of intelligence certainly seems *more* systematic at the outset. Though here again there is debate on whether the measures in places are systematic enough. The continuity of the oversight is also a relevant and prominent theme in debates about intelligence oversight.

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Very few public policy issues have experienced such a stark change in the degree of legislative oversight applied to them as intelligence. Its study is important both for its specific merits as well as its potential for generalizability to other areas of congressional oversight. Like bureaucracies, theories also need some oversight. They must occasionally submit themselves to accounting — justifying their efficiency and their effectiveness.

## **Intelligence Oversight Reforms: Designing a study in contrasts**

There is no absolutely ‘objective’ scientific analysis of culture—or put perhaps more narrowly... ‘social phenomena’ independent of special or one-sided viewpoints according to which—expressly or tacitly, consciously or unconsciously—they are selected, analyzed, and organized for expository purposes (Weber 1949, 72).

### **Research Design Overview**

The logic of this research and analysis is multilayered, but inherently comparative. First, the dissertation compares whether the level of demonstrable oversight activities increased from the first oversight period (1947-1975) to the second (1976-2004). Next, it examines and identifies the focus of that oversight. Then, it contrasts the oversight directed at intelligence with the oversight activities present in a series of similarly complex and risky policy domains, such as that applied to weather forecasting and the US banking system. Following that, it explores several key *outcomes* of intelligence achieved in the two different patterns of intelligence oversight – *laissez-faire* and systematic. It also explores the outcomes for a select set of the similar policy domains to determine whether they had any demonstrable changes. Then it constructs a series of multivariate regression models to understand the interaction between different independent variables on the intelligence outcomes. Finally, it analyzes the findings across all these observations and provides views on the implications of the findings for theory and practice.

The study uses different data for each question. In general, the study focuses on two 29-year periods as the frame for the observation panels. The first time period is 1947

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through 1975. The second period is 1976 through 2004. The *National Security Act of 1947* created and formalized many of the agencies associated with the Intelligence Community today. The Church and Pike Committees' efforts concluded in 1975-76 with the establishment of select committees in each chamber. The second period concludes in 2004, the year of the recent major reform via the *Intelligence Reform and Terrorism Prevention Act (IRTPA)*. These major legislative actions are the symmetrical bookends for this analysis. They also reflect inflection points in time when Congress took stock of its interaction with the administrative state and sought to enhance its oversight. These are logical perspectives from which to make observations because they are exactly the moments when intelligence was salient for Congress and its constituents. First though, there must be clarity in the research questions.

### **Research Questions**

As indicated in the dissertation *Introduction*, the dissertation explores the following research question, its several facets and null hypotheses, which are amplified in each case.

*Question: What effect(s) did the mid-1970's oversight reforms have on certain intelligence outcomes?*

As mentioned earlier, efficacy is about achieving results. The intended results for the reforms were multidimensional. This dissertation cannot project with certainty the full scope of intended outcomes. The Senate's report, while voluminous, likely fails to capture all the individual concerns of their committee and chamber. In contrast, the House's Pike Committee failed to officially agree on and publish a report. The will of

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that committee and chamber are hampered as a result. Generally, Congress sought greater political (and more objective) control over intelligence agencies born in war and expanded in the Cold War. Their specific purposes were appreciated in wartime, but lightly documented and therefore potentially available for abuse with the wrong leadership or incentives. Congress also sought greater accountability, both from the agencies and from themselves. They saw that the former *laissez-faire* approach had provided the agencies with independence and autonomy, but that independence could be misguided or misdirected occasionally. Congress also recognized the importance of good intelligence. As the *Pentagon Papers* would reveal, much of the Johnson and Nixon Administration's foreign policies in Vietnam did not comport with the intelligence. That knowledge led to a crisis of confidence sorely magnified by the outstanding accusations of domestic spying. The American people wanted change, and Congress was to deliver it. To answer the overall research question, consider its constituent parts:

- a. *Did the 1970's legislative reforms improve the good outcomes for intelligence (e.g., arrests of spies, avoiding military conflicts)?*
- b. *Did the 1970's legislative reforms remove bad outcomes for intelligence (e.g., leaks of national security information, intelligence failures)?*

These questions provide a classification scheme for making the potentially observable effects of intelligence reform more tangible. They are the kinds of outcomes that a government program evaluator might develop during a brainstorming session.

Intelligence performs a function of government. It can do it well or poorly. In its reforms, Congress was gaining new insight into a secret aspect of the executive branch. More members of Congress would know what the intelligence budget was and where it

was directed. They would receive the products of intelligence and see the value of the reporting and analysis. With this insight they would know if the Intelligence Community was remaining apolitical. They would see whether its collection methods were applied against domestic groups and citizens. In gaining this expanded oversight ability, they also came to bear increased responsibility for ensuring the Intelligence Community improved its service. Measuring the outcomes of intelligence is perhaps the best method for assessing these constituent questions. Seeing if the good and bad outcomes changed, and whether it was for better or ill, illuminates the strength of Congress's intervention, influence, and impact.

*c. Did the Congress's oversight activity play a statistically significant role in the outcomes?*

How can we be sure Congress's intervention was relevant to these outcomes? Perhaps a string of Presidents were more assertive or passive with the IC. Perhaps the IC's leaders were good or bad or never even confirmed. In the second period the budgets changed as the Cold War ended. Understanding how these variables affect intelligence outcomes helps our understanding of Congress's role. A multivariate regression model will shed light on this dimension of the research.

Distinguishing change in these questions is best achieved by the formulation and examination of null hypotheses (Fisher 1935; Shively 2013, 24):

*H<sub>0</sub>1: The positive outcomes of intelligence oversight have not improved following the 1970's legislative reforms.*

*H<sub>0</sub>2: The negative outcomes of intelligence oversight have not increased following the 1970's legislative reforms.*

*H<sub>03</sub>: Congress's oversight activities do not have a statistically significant relationship to intelligence outcomes, in either direction.*

The first two enable the determination of whether there was any change. The third illuminates the degree of relation between Congress's actions and other relevant variables that are identified in the next section of the dissertation.

The next section of the research design focuses on the data collection approach and methods employed against the data. The focus of this section is on explaining the choices involved in the research design. The explanations focus first on legislative productivity and oversight activity focused on intelligence. Next comes the oversight activity directed at a group of similar policy issues comparable to intelligence. Then there is an exploration of the outcomes – positive and negative – for intelligence. Finally, there is review of the choices involved in designing a multivariate model for the efficacy of intelligence oversight in the two periods.

### **Legislative Productivity and Oversight Activity.**

#### *Data.*

Oversight comes in many forms. Thinking back to the review by McDonough *et al.* (2006), it includes the formation and passage of the authorization act, oversight hearings, investigations, program evaluations, staff communications, and program reauthorization hearings. Many of these items build upon one another. Staff communications lead to hearings. Staff communications organize program evaluations. Program evaluations can lead to investigations and then hearings. Hearings contribute to authorizations and reauthorizations. It can probably be safely assumed that if there are

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hearings, then there are other oversight activities also happening in some ratio. The exact ratio is immaterial for this analysis. Suffice to say that if one can consistently count the hearings and their focus, then one has a general approximation of the underlying trends in oversight, especially with respect to quantity. This practice is consistent with the approaches used by other researchers, especially those in the policy agendas discipline (Mayhew 1991; Jones and Baumgartner 1993; Parker and Dull 2009).

Focusing on hearings and using Congress's records becomes an efficient approach to gaining a general understanding of congressional oversight patterns. As with other forms of observation, it is important to have a consistent and reliable vantage point into the subject area. It is also important to observe macro-level changes in the population that could affect the trends in any sample. For instance, if a newspaper did not have a business section for a decade and then added one, the spike in business reporting probably has more to do with the number of reporters focused on business than with the underlying economy. In the case of congressional records there is no doubt that a transformation was underway in this period. The general prevalence of typewriters, word processors and computers alters the ability of staff and witnesses to prepare comments and supporting materials for a hearing. The trend is best characterized by the following graphic, which shows the total page count of the *Congressional Record* in the period under observation. There is an obvious increase in legislative record keeping that spikes in the middle of the observation period and then begins to slowly wane, punctuated by occasional spikes in legislative attention. Or perhaps more accurately stated, the *Congressional Record* corpus declines in years with elections, as members focus their attention to their local offices rather than their Washington, DC offices.



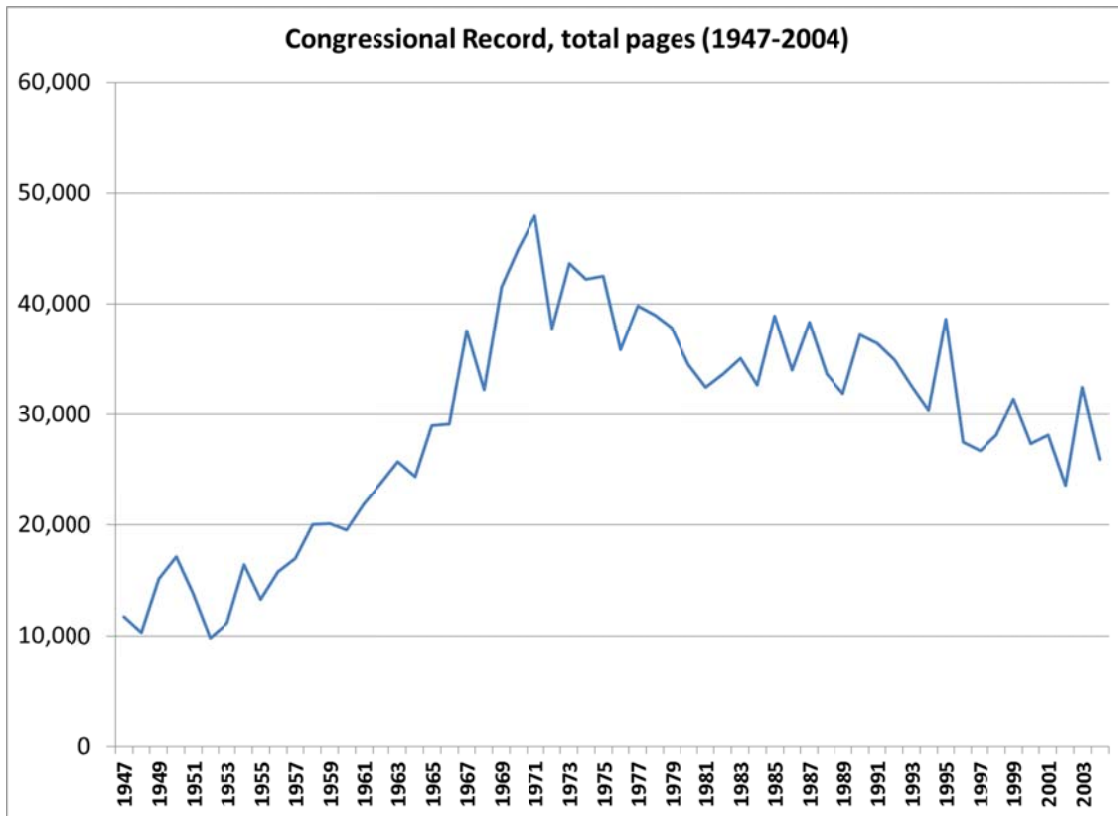


Figure 5: Congressional Record, total pages (1947-2004)

Another trend relates to changes in Congress’s oversight approach. A significant change that affects the focus of this study is the rise of subcommittees. Beginning with the *Legislative Oversight Act of 1946*, according to one study (Fiorina 1989), the number of House and Senate subcommittees grew between 1955 and 1973 from 83 to 125 and 79 to 128, respectively. This sounds like the potential for more oversight, yet we know that one of the criticisms of the *laissez-faire* period of congressional oversight of intelligence was the iron triangle (Adams *et al.* 1981) that seemed to emerge as a few subcommittee chairs gave an appearance of agency capture (McCraw 1975). Consider, for instance, Representatives Clarence Long’s (D-MD) and Charlie Wilson’s (D-MD) joint quest to deliver General Dynamics-built (Pamona, CA Division) Stinger missiles to Afghan freedom fighters during the Reagan administration (Vartabedian 1985, Kuperman 1999)

as one example. Was their activism good oversight or agency capture? Was it easier to push the Stinger because President Reagan had been the governor of California?

Any review of congressional oversight must also be mindful of divided government and the political motivations that also amplify or attenuate not only congressional actions but also investigations (Parker and Dull 2009). The Iran-Contra hearings and calls for investigations into human rights abuses in America's support for counterinsurgency programs in Central America in the 1980's are examples of how the investigation trend manifest in intelligence oversight.

To determine if the level of intelligence oversight changed and what its focus and locus were for the inter-period comparison, the study uses the *Congressional Record* (HeinOnline 2013) as the observation source.<sup>8</sup> For each year in the two panel periods, the dissertation employs a series of searches on key words and phrases to document the number of returned observations. The key phrase choices included a combination of intelligence failure (e.g., domestic spying), general interest items (e.g., covert action) and call to action phrases (e.g., the Director of National Intelligence shall) representative of the entire Intelligence Community.

These key words and phrases broadly reflect the core lexicon professionals use to describe the craft of intelligence, its principal bureaucratic components, and the shorthand for negative outcomes. Also explored was the phrase "propaganda," however this phrase appears too frequently in the *Congressional Record* as part of *ad hominem* attacks and is not a reliable indicator of intelligence policy debate. Similarly, "espionage" was

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<sup>8</sup> PolicyAgendas.com does have an intelligence category, which is employed later. However, for this data collection the study used new searches in the *Congressional Record* to serve as an independent approach that was possibly using a more liberal coding strategy than *Policy Agendas* might have used inasmuch as its mandate to code all policy issues is much broader.

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explored, but is probably more indicative of personnel shortcomings in individuals in society rather than systemic bureaucratic abuse or malfeasance within the Intelligence Community. The key phrase choices include:

“domestic spying”

“intelligence failure”

“covert action”

“counterintelligence”

“foreign intelligence”

“the Director of National Intelligence shall”

“the Director of Central Intelligence shall”

“the Foreign Broadcast Information Service shall”

“the Open Source Center shall”

“the National Intelligence Council shall”

“the Bureau of Intelligence and Research shall”

“the Defense Intelligence Agency shall”

“the National Imagery and Mapping Agency shall”

“the National Geospatial-intelligence Agency shall”

“the National Reconnaissance Office shall”

“the Intelligence Community shall”

“the Central Intelligence Agency shall”

“the National Security Agency shall”

The list of key phrases is efficient and robust though not all encompassing. For example, it does not include the FBI, the Departments of Energy, Homeland Security,

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and Treasury; nor does it include the intelligence components of the military service departments. While the FBI has long had a counterintelligence and domestic wiretapping mission, it only gained a significant foreign intelligence collection and analysis role after the creation of its National Security Branch in 2005. DHS was only established in 2002. The Department of Energy has an Office of Intelligence and Counterintelligence. However, presumably the majority of the congressional oversight for this function is probably contained in the oversight activities related to atomic and nuclear weapons, the oversight for which was carefully managed by the Joint Committee on Atomic Energy before it was parceled out to approximately 30 other committees and subcommittees in the 1970s (Schwartz 2008). The Treasury Department's Office of Intelligence and Analysis was not created until 2004. The intelligence functions of the military service departments (Army, Marines, Navy, Air Force, and Coast Guard) are overseen by the Armed Services Committees, which also held responsibility for intelligence oversight for the first half of the panel periods. The broader phrases like "foreign intelligence" would capture those oversight activities. There is a persistent divide between the "national" intelligence needs and the "departmental" intelligence needs. This divide is more pronounced in the military services. They need the collection resources that national agencies possess, but their departmental needs (e.g., "how thick is the armor on a Soviet T-72 tank?") have lower priority than presidentially defined "national" needs (e.g., "which nation will test a nuclear weapon next, when, where?"). This remains a source of tension in the intelligence priority process. Since this dissertation is primarily about the oversight of our national agencies, the data collection also is focused there. Despite these shortcomings, the key phrase list generally encompasses the mainline intelligence

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agencies for the period of analysis. A later section includes the descriptive statistics of the data returned by these searches.

### *Methods.*

The results of the data collection efforts are monthly count data. The data are counts of the number of times a key phrase appears in the *Congressional Record* each month. The data are not samples. They should closely approximate the entire population. This brings greater importance to the rules (or frames) that generate the observations. The evaluation method focuses on detecting changes between the base rates of evidence of attention to intelligence matters in each panel period. Because they are monthly count data they will likely demonstrate some degree of seasonality.

It is difficult to define how much “more” is when the hue and cry of “more oversight” is uttered. Is the ideal change an order of magnitude? Is it a positive percentage increase? A doubling? How quickly? There is no objective expectation of the kind of change to expect. Subjectively, an order of magnitude change might best discern a difference. Certainly a doubling of effort or evidence would be interesting.

The evaluation includes a) visually inspection of a graph that summarizes the trend in the data; b) plotting a trend line on the graph to measure the slope of the line when the trend is not obvious; and c) preparing summary statistics for each panel period consisting of the mean, median, mode, standard deviation, kurtosis, skewness, maximum, and sum for the count data.

The visual inspection and trend line should demonstrate an increase across the two panel periods and the increase should be represented as a linear slope greater than zero. The closer its slope is to .0826, the closer it is to an order of magnitude change as

$1.0826^{29} = 9.99$ , thus changing a 1 into a 10 over 29 periods (years in the case of the panels).

The descriptive statistics should also see increases, especially in the mean, mode, median, maximum, and sums for the second panel period data. The more these changes are noted, the more definitively the dissertation can conclude that the degree (quantity) of oversight materially increased after the congressional intervention. These comparisons are presented in the *Analysis* section of the dissertation.

As is visible in Figure 6, there is no doubt seasonality to congressional behavior. Congress takes breaks during the session to enable members to work from their home offices. There is also greatly reduced action during election years as portions of the membership and thus their subcommittees and committees are otherwise engaged in electioneering. The dissertation attempts to correct for this seasonality.

### **Comparing Oversight Activity with Other Policy Domains**

#### *Data.*

On the question of whether the oversight applied to intelligence was equitable with other policy domains, the study now turns to the PolicyAgendas.org data (Jones and Baumgartner), specifically the data on the number of House hearings, Senate hearings, and public laws per policy domain per month. PolicyAgendas.org is a richly coded dataset that covers the observation periods operative in this dissertation. It also codes policy domains to a degree of specificity useful for this study. PolicyAgendas.org data are therefore ideally suited for time series comparisons of congressional oversight interest.

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PolicyAgendas.org codes hearings and subjects of bills based on the predominant policy area to which they relate. Intelligence, for instance, is subject to the following coding strategy.

### **1603: Military Intelligence, CIA, Espionage**

Examples: foreign economic espionage, U.S. intelligence reorganization, congressional oversight of U.S. covert intelligence activities, DOD security review commission, intelligence activities of Soviet-bloc diplomats, CIA funds for the support of Nicaraguan rebels, leaks of classified defense information, national intelligence act, CIA estimates of Soviet defense spending, role of the national security advisor, foreign intelligence electronic surveillance, organized subversion in the U.S. armed forces, communist bloc intelligence activities in the U.S., CIA illegal involvement in Chile, testimony of a KGB defector, intelligence reports on the necessity of ABM missile deployment, workings of the Cuban intelligence network, recent Soviet navy and military activities in Europe, CIA employee retirement and disability system, U.S. defense strategies, national security acts, national security council briefings, threats to U.S. interests, Soviet Union and China military capabilities. (PolicyAgendas.org 2014)

Intelligence is one of many broad functions underlying defense and many other policy arenas. It is an agency-level function like logistics, security, or financial management, as opposed to broad policy categories like defense, foreign affairs, homeland security, or transportation. To make realistic comparisons of intelligence oversight to other government functions requires a more focused selection of classification frames. The author chose government functions that are more comparable to the scale and scope of the intelligence function. It is a purposive sample, and while there may be some potential for overlap between topics, it attempts to bracket intelligence with a combination of general functions that a) most Americans appreciate and benefit from but probably rarely reflect upon, or b) represent special powers that can *significantly* (even negatively) affect Americans when misused. The former group is the oversight of:

- Airport Operations and Air Traffic Control
- US Banking System

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- Drinking Water
- Food Safety
- Government Efficiency
- International Finance
- Weather Forecasting.

The latter includes oversight of:

- Federal Reserve<sup>9</sup>
- IRS Administration
- Federal law enforcement agencies (e.g., FBI, DEA).

From the PolicyAgendas.org data, these are comparable topics with similar significance to US intelligence activities. An intelligence failure such as the Japanese surprise attack on Pearl Harbor or the faulty intelligence that informed the 2003 invasion of Iraq can lead to loss of life. Poor air traffic operations, bad water and food, even incorrect weather forecasts can put lives and health at risk. Failures of oversight in the US banking system wreaked havoc on the US economy in the last decade. Though the consequences of US contributions to international financial institutions like the World Bank or general government efficiency are less acute than safe drinking water, these policy domains can have a generally consequential effect on local or international stability.

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<sup>9</sup> Granted, the Federal Reserve has historically sought independence from political influence. However, this independence is not very different from the freedom of politicization we expect from the intelligence services or law enforcement. The fact that poor policies out of the Federal Reserve could ruin the economy or employment makes it a logical and frequent candidate for additional oversight. For these reasons, the study includes it as a benchmark case for evaluating intelligence oversight.



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In contrast, the malfunction of the Federal Reserve can put the entire American society, the value of the dollar (and in turn the world economy), and the stability of the US government at significant risk. Authority and oversight for this specialized institution is similarly complex when compared to intelligence activities. Likewise the special powers of asset forfeiture, detention, arrest, deportation, or even death at the hands of a federal law enforcement officer and the courts raises the stakes of oversight of the IRS and federal law enforcement agencies. The oversight of US intelligence activities, which have comparably fewer of these special powers, should at least maintain parity with these similar government functions when it comes to oversight activity. Even as the proceedings are often secret, the number of intelligence hearings and public laws should be comparable to these other policy domains.

### *Methods.*

To examine the relative level of oversight applied to intelligence activities versus other policy domains, the dissertation employs comparative analysis consisting primarily of descriptive statistics. The analysis compares the volume of House and Senate hearings in addition to the volume of public laws passed for each policy domain. T-test comparisons are also performed. These descriptive statistics focus on the two panel periods in general and may be considered a form of macro-longitudinal statistical analysis (Mintz and Stevenson 1995; O'Neil and Krane 2012; Maguire et al 2013).

First, as a test of the data and methodological results identified during the key phrase search on intelligence oversight, the study examines whether the independent coding strategy employed by the PolicyAgendas.org team also reveals noteworthy, directional changes in the amount of hearings and public laws. Constructing a scatter

plot with ordinary least squares (OLS) trend line ( $\hat{y} = a + bX_i$ ) for each panel period, where the number of hearings and the number of bills introduced for a vote represent the axes, should confirm if the trend of activity changes from one period to the next. This combination of hearings and public laws introduced speaks to the legislative productivity of the new committees among their respective chambers and the degree of activism they adopted.

Second, is an analysis of the comparative policy domains (e.g. Federal Reserve, law enforcement, aviation safety) to determine the degree to which their oversight also changed between the panel periods. This analysis – comparing the mean, median, mode, standard deviation, kurtosis, skewness, maximum, and sum for the count data – reveals both whether the oversight trends in intelligence were consistent with or differed from the oversight in the other domains. It also demonstrates the degree to which the intelligence oversight was “too little,” “to much,” or “just right” strictly on a quantitative basis.

The previously stated concern about precisely measuring “how much” changed and “how significant” the changes are also operative with this analysis. Measuring the precise change is less interesting than the relative change, both within a single policy issue and among them. Where the scales between the policy issues are geometrically different, the log of the changes normalizes the data for straight comparison. For example, the number of leaks per year may be measured in tens and aspects of the US Banking System may be measured in millions or billions. Using the log of each variable makes for an easier graphical comparison.

The study also compares the outcomes (as available) to determine if changes in oversight activity also have a corresponding effect on changes in outcomes. For

example, the Federal Reserve has two macro-policy outcomes – employment and inflation control. The approaches for conducting this analysis are outlined in the section after this next one. First, however, the study must discuss and define the appropriate outcomes for intelligence.

## **Intelligence Outcomes**

### *Intelligence Outcomes defined*

Measuring inputs and outputs of a policy system is somewhat easier in other domains, but this is not the case in intelligence. Scholars only have episodic insight into the budget of the Intelligence Community through a series of authorized and unauthorized disclosures. Other policy domains enable scholars to count outputs, such as the number of people who receive disability insurance or a home mortgage. There is, however, still no public or readily accessible way to count the outputs of intelligence, e.g., reports, agents, broken codes. However, Loch Johnson's 1996 cataloging of selected successes and failures with respect to Soviet weapons development and military capabilities is an analogous prototype (1996, 180). Nor is there a dataset outlining the IC's "near misses," the kind of data other policy domains emphasize for building highly reliable organizations. For example, the aviation industry has shifted its focus from measuring actual incidents to even avoiding "near misses" (O'Neil 2011) – the precursor behaviors that lead to accidents (Perrow 1984). One would have to wait 25 or more years to see the IC's records declassified, which would then offer an ability to count outputs – reports, finished intelligence pieces, briefings to policymakers, etc. These conditions become a blessing because they force the scholar to think of novel ways to understand the

implications of intelligence. Here outcomes become more valuable, for study, than outputs.

The purpose of intelligence is to

gather information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities. (National Security Act of 1947, as amended, 50 USC 401a, Section 3)

There are two potential performance metrics that bear on some of the utility of federal intelligence activities: reported intelligence failures<sup>10</sup> (more direct as a measure) and the prevalence of unavoids, uninitiated, military conflicts the US is drawn into (more indirect as measure). The direct measure is a subjective measure. Intelligence, like all other forms of information, is merely an analytical argument based on incomplete data.

The customers of intelligence – executive and legislative branch leaders – have their own sources of information and their own cognitive biases. For example, when George H. W. Bush learned that Saddam Hussein had invaded Kuwait, he later reported in his biography (Bush and Scowcroft 1998), “I found it hard to believe that Saddam would invade Kuwait.” As intelligence professionals often quip, there are only policy successes and intelligence failures. While there is an intelligence surprise and failures literature (Wohlstetter 1962; Knorr 1964; Handel 1976; Schlam 1976; Shryock 1977;

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<sup>10</sup> It may seem like selecting intelligence failures is tantamount to selecting on the dependent variable. However, we know from previous oversight literature that oversight may be conducted in either a “police patrol” or “fire alarm” approach. If congressional hearings are focused on intelligence failure (e.g., fire alarm), this suggests that Congress has failed in its “police patrol” methods. If the failures continue, then its “fire alarm” methods are achieving only a documentary rather than interventionist effect. Either way, it is a sub-optimal and unintended outcome of oversight. Nonetheless, we know that it is possible to correct statistically for the selection bias via prior correction (King and Zeng 2001) where the newly computed  $\beta_o = \beta_o - \ln \left[ \left( \frac{1-\tau}{\tau} \right) \left( \frac{\bar{y}}{1-\bar{y}} \right) \right]$  where  $\tau$  is the census and  $\bar{y}$  is the sample.

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Betts 1978, 1982; Subcommittee on Evaluation 1979; Ben-Zvi 1979; Chan 1979; Webster 1987; Treverton 1987; Kam 1988; Berkowitz and Goodman 1989, Appendix A; Wirtz 1991; Cigar 1992; Brady 1993; Andrew 1995; Johnson 1997, 1998; Heuer 1999; Davis 2003; Kuhns 2003; Hayden 2005; Johnston 2005; Lowenthal 2006, 2010; Hedley 2007; Zegart 2012; Beebe and Beebe 2013), there is no *complete* academic dataset that catalogs intelligence failures, nor is there a reliable government record. As will be explored in the data section of this dissertation, Congress does discuss intelligence failures in the *Congressional Record*. Without reading every reference, simply using gross search term counts of the *Congressional Record* would be an unreliable source for cataloging unique performance metrics. Therefore, this study constructs an intelligence failure data set by other means, resulting in a new, purposive sample.

The indirect measure of intelligence failure is discoverable (Jones *et al.* 1996), but is also potentially subjective as an explanatory variable for intelligence outcomes. If the United States is unavoidably drawn into a military conflict that it did not initiate, there could be a host of reasons in the intelligence *and* policy domains, many of which are out of the control of US government practitioners. Consider the Hussein case again. The US applied unilateral and multilateral diplomatic pressure prior to Iraq's invasion of Kuwait, but was unable to dissuade Hussein, and may have even inadvertently given him the impression it would not interfere in his border dispute with Kuwait (Walt 2011). Therefore one can only assign partial blame to intelligence for an overall failure in the national security apparatus to achieve its policy objectives.

These two are neither the only outcomes the 1970's era reforms sought, nor may they be the primary ones. As mentioned in an earlier section of the dissertation, Congress

also sought to improve the public's confidence in the executive branch's and IC's adherence to the democratic norms of the day. The Congress also wanted inaction – limits on domestic operations and prohibitions on using certain institutions (e.g., clergy, press) in an operational capacity. Public trust, legal operation, and respect for human rights – these are all worthy outcomes for intelligence too. They are also more difficult to observe. The aforementioned direct and indirect outcomes this research measures are perhaps as prudent, but also more readily observable. In contrast, a review of publically available, national longitudinal polling (e.g., Pew, Gallup) shows uneven treatment of intelligence and intelligence oversight across the decades, i.e., the questions vary in focus or are not included at all in many years. It is difficult to draw generalizable lessons from such episodic data. This is nonetheless a problem familiar to program evaluators: any data always brings with it a measure of uncertainty (Weimer, Vining 2005, 310). Other policy issues, e.g., inflation, get little or only episodic attention too. Benchmarking them to other areas and comparing them via analogy to other case situations helps the analyst understand them better, and may reduce some (but not all) the uncertainty surrounding them.

There are of course logical questions of salience or severity when it comes to intelligence failures or conflicts. Questions such as “how about measuring the deaths of Americans abroad?” and “how about the size and scope of the conflict?” are reasonable. These sentiments are incorporated into the outcome measures to a degree. Before further explanation though, it is important to remember that these are in essence macro-outcomes. The macro-outcomes to compare with intelligence outcomes – aviation incidents, national unemployment, etc. – do not require nuance. We seek *no* aviation

incidents, not merely small ones isolated at rural airports. Nor does the Federal Reserve seek full employment in *some* states. Any further delimitation is somewhat like saying we want to avoid the big fraud, waste, and abuse episodes as opposed to the little ones. The US national security apparatus, i.e., the National Security Act of 1947 agencies and departments, cannot worry about whether only one person is killed or 1,000. In each case it tries to see the attack coming, warn of it, and if authorized in statute, attempt to stop it.

That said, there is an inherent spectrum being applied within these intelligence macro-outcomes. For example, the intelligence failures in Vietnam were numerous, especially at the tactical or operational level. However, only the big failures like the Tet Offensive get called out as intelligence failures on the national scene. Likewise there are innumerable cases of vandalism to US consulates and embassies. There are also thefts of personal property and even kidnappings and murders. Such instances are omitted from observation for a macro-outcome focused principally on nation-state power and national survival, which is the core purpose of strategic intelligence (Kent 1949). This research seeks to establish the base rate of intelligence outcomes and whether the experiential adaptation (March 2010) of the intelligence-policy-oversight system to that environment has affected intelligence performance.

There is another potential outcome. It was one that troubled critics of the 1970's reforms, and troubles the IC through the present day: leaks. When it comes to legislative oversight of intelligence, leaks play a unique role in the power dynamic between the legislature and the executive. Indeed, leaks may be thought of as a measure of the trust and reliance in the relationship, as cooperative parties rarely publicize each other's shortcomings. This section outlines the case-specific and theoretical aspects of

intelligence leaks. For the purpose of this research, intelligence leaks are deliberate unauthorized disclosures of privileged national security information, regardless of the motivation for the disclosure.

Recent literature on leaks centers on a few crucial debates. First there are dialogs on the rights and rightness of

transparency and secrecy (Tant 1995; Kirtley 2006; Birchall 2011, 12-13; Papandrea 2014, 544). Also, authors examine the authority, procedures, and incentives of the government, the press, and the disclosers (leakers, spies, whistleblowers) (Hammond 2005; Anonymous 2009; Lee 2009, 177; Aftergood 2010; Bellia 2012; Larsen 2013). Other research focuses on the effectiveness of the past protections and constraints (Ballou and McSlarrow 1985, 804; Kaiser 1986; Roberts A. 2012, 130; Szilagyi 2009; Ellington 2011). Finally, some authors justify information classification and categorize the

**Example Leak** (*coded as Unknown Source, rather than Administration or Congress*)

U.S. SAID TO ERR ON LEAK SOURCE  
'Banished' Admiral Wrong Man, Anderson Says

By BERNARD GWERTZMAN  
Special to The New York Times

WASHINGTON, Feb. 15 [1972] --- The columnist Jack Anderson asserted today that the Nixon Administration had erroneously concluded that a rear admiral was the source of secret documents leaked to him about the American role in the recent Indian-Pakistani war.

...

Mr. Anderson's columns in December and January carried excerpts not only from [the National Security Council's] Special Action Group's meetings but from secret cablegrams and intelligence estimates during the Indian-Pakistan War.

Source: (Gwertzman 1972).

**Figure 6: Example of a Leak**



intentions of disclosures into classified, declassified, authorized leak, and unauthorized leak, leading to correct knowledge, false knowledge, or misdeeds (Bejesky 2012).

Together, Papandrea and Bejesky offer the best synthesis.

Colaresi's (2014) Democracy Declassified is the most current examination of secrecy and leaks. Coralesi focuses on the "secrecy dilemma" wherein there remain legitimate reasons both for secrecy and transparency in a representative democracy. He outlines the costs for transparency and secrecy, underscoring that trust was key to maintaining public consent. His prescriptions fit well with other recent research, namely continued emphasis on freedom of information laws and processes, congressional oversight bodies with access to both the nation's secrets and secrecy processes, as well as further protections for the freedom of the press. Giving principally qualitative treatment to specific leaks, Coralesi models the relationship between oversight improvements, transparency, and security-related spending.

Not only does the secrecy dilemma play out in a macro context, but also it emerges symptomatically within specific policy streams (Kingdon 1984) where actors within the policy realm struggle to overcome uncertainty and align the readily available policy solutions to emerging or incompletely understood policy problems. Occasionally, surprising revelations and leaks in the policy domain shock and challenge problem-solving approaches. These shocks are thought to punctuate an equilibrium of policy debate or the public's attention (Eldridge and Gould 1972; Jones and Baumgartner 2005), which affects the amount and focus of political power for specific policy agendas. These leaks are used for the express purpose of changing the power quotient in a relationship

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(Snider 2008, 85). Leaks also tend to narrow the participants in future policy discussions (Knott, S. 2004, 26).

Because the purpose of oversight is fundamentally about power over a bureaucracy led by the President, it is worth considering power for a moment.

*"Power" is the probability that one actor within a social relationship will be in a position to carry out one's own will despite resistance, regardless of the basis on which this probability rests. (Weber 1952)*

*"A" has power over "B" to the extent that he can get "B" to do something "B" would not otherwise do. (Dahl 1957)*

*Power means finding the most effective leverage for particular relations. (Clegg 1979)*

Weber, Dahl, and Clegg each paint a stark definition of power and place it in the context of a zero-sum game. Their notions of power imply that policy formulation is a contest of wills. They do not believe that policy creation and implementation are merely random acts of incrementalism. Rather, they expect that policy advocates who have identified a problem and a policy solution will then use all methods at their disposal to ensure that *their* policy solution is the one that is implemented. To them, sometimes the principal wins, sometimes the agent wins, and sometimes an unrelated, *but more powerful*, third party wins.

Where does this contest take place? Kingdon (1984) provides for a stream of problems, a stream of policies, and a political stream. Power, whether used by the principal or by the agent, must be applied in all three streams. Within each stream there is a power contest. Power in the political stream is used to set the agendas that influence the problem and policy streams. Those agendas then drive additional power struggles to see whose problems get priority and which policies are applied to them. When

conventional incentives and methods fail, policy advocates sometimes turn to unconventional methods. Among them are events manufactured to break the balance of power. Information leaks and unauthorized disclosures play such a role in policy formulation.

One of the great concerns the executive branch expressed at the advent of the Congress's proposed more intrusive oversight formulation was the potential for information leaks. Indeed, to investigate the claims about CIA President Ford organized his own executive branch commission "to determine whether any domestic CIA activities exceeded the Agency's statutory authority" and avoid "public controversy and exposure" that "would seriously impair the CIA's ability to function" (Commission on CIA Activities within the United States, 1975, IX). As the argument goes, with more access, members of Congress could resort to leaks any time they disagreed with an intelligence activity or as a penalty against the executive branch for other policy choices. These misgivings seemed legitimate at the time. Indeed, the Pike Committee's confidential files were leaked (Lyons 1976) during the course of its investigation, which only added to the executive branch's concerns about standing committees.

Leaks are not unique to intelligence. Indeed, any time there is a private deliberation about a policy choice, the participants may be expected to keep the matters confidential until the parties reach a decision. It happens, however, that the consequences of leaks in intelligence are perhaps more acute. As such, they get greater attention, including federal statutes that enable the Department of Justice to investigate and prosecute leakers. Given these consequences, the special role leaks play in intelligence oversight is worth more research. Thus leaks are an outcome to count.

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While the aforementioned discussion outlines the idealized case for outcomes, the truth is that it is nearly impossible to collect the positive outcomes. First, the accuracy of intelligence assessments is not systematically scored. Second, if the IC really does make a collection or analysis breakthrough, this is not advertised unless it is leaked or disclosed, which may immediately end the access, turning a success into a new failure. Fortunately, in the course of the research the author discovered a dataset showing the number of Americans arrested for conducting espionage against the United States. As the model below describes, this statistic can be both a dependent variable – a core mission of counterintelligence, which is a core mission of intelligence – and an independent variable – a measure of sabotage harming the intelligence system. This is the one positive intelligence outcome recorded in the models described below.

### *Data.*

*Intelligence Failures.* To construct an intelligence failure data set requires both a definition for failure and a reliable set of sources. The exploration began with initial content analysis across the *New York Times* archives searching for “intelligence failure.” From the returned observations four archetypes emerged. The first was when members of the intelligence apparatus completely missed a development (e.g., 1973 Arab Oil Embargo). The second was when an intelligence agency’s clandestine collection platform was surprised and destroyed or captured (e.g., Pueblo incident). The third type included missed calls, where the Intelligence Community made an incorrect assessment

(e.g., the extent of Iraq WMD). The final type consisted of high-profile attacks on US diplomatic or military facilities (e.g., the Marine Barracks in Beirut).<sup>11</sup>

Covert action (e.g., successful and unsuccessful coups) conducted by the United States is omitted from failure cases because of the normative disagreements surrounding the appropriateness of such efforts. These observations of the archetypes guided a second general search across the *New York Times* archive, declassified intelligence studies, and the intelligence warning and failure literature, which resulted in at least thirty-three failures across both panel periods.

*Unavoided, Uninitiated Military Conflicts.* As discussed previously, there is also an indirect measure for evaluating intelligence outcomes – unavoidable, uninitiated military conflict. Ideally, good intelligence provides advanced notice of threats, opening an opportunity and decision window for policymakers to leverage. Ideally, good intelligence helps policymakers understand the effective levers of change at their disposal. If intelligence fails to live up to these expectations, it is the responsibility of executive and legislative oversight to improve the situation. Using the *Correlates of War* data, it is possible to indirectly observe US intelligence performance. The data reveal thirty eight conflicts across both panel periods where the United States is drawn into a conflict it did not initiate.<sup>12</sup>

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<sup>11</sup> To be sure this particular type of failure is problematic. There have been other attacks on diplomatic personnel, including kidnappings. There have also been spontaneous reactions to perceived situations where a mob breaks out and opportunistically attacks diplomatic facilities. What differentiates the cases used is the premeditated and symbolic nature of the attack by known foreign terrorist organizations that were the object of US intelligence scrutiny. Also, one must never ignore a successful attack on a navy destroyer.

<sup>12</sup> The *Correlates of War* data includes a field regarding who initiated the conflict. In this case, the study uses the conflicts the US was involved in but was not listed as the party initiating the conflict.

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To support international relations and peace studies research, the *Correlates of War* has evolved its typology for conflict over the past twenty years. The typology originally focused on interstate and civil wars involving the deaths of at least 100 or the arrests of at least 1,000. The expanded typology now includes 9 types: inter-state wars, extra-state wars (colonial or imperial), intra-state wars (civil wars, regional internal, or intercommunal), and non-state wars (in non-state territory or across state borders) (Sarkees, 2011, 10). Researchers subsequently recoded the data following the release of the new typology.

This is potentially a new application of the *Correlates of War* data in ways not originally envisioned. This data collection results in 696 monthly observations between January 1, 1947 and December 31, 2004.

*Leaks.* To explore the research question of national security leaks the study again uses the electronic archive of the *New York Times* and employs a key word search strategy to gather data. The search terms look for news articles based on the following Boolean construction (specifically looking for Congress's role):

*leak AND congressional OR intelligence activities OR classified information*

One cannot simply use “classified” as it may trigger other unrelated policy issues, like weather – “the tornado was classified as an F4.” Likewise, selecting “intelligence” could also trigger a variety of education and medical policy discussions. The searches examine news articles between January 1, 1947 and December 31, 2004. The resulting sample includes news articles that mention a leak or unauthorized disclosure about national security. Using “leak” in the query captures reactions to an unauthorized disclosure. For example, if the government releases classified information but it does not get called a

“leak” by someone in another story, then it may not be significant. In contrast, things that are called “leaks” reflect a breach of an expected behavioral standard or norm in that time period. Most likely left out of this study’s data are well-known “secrets” such as the location of various intelligence community buildings, contractor relationships, and the identities of senior managers; the sort of details and gossip that circulate the Washington cocktail circuit. The possibility also remains that some journalists may have called something a leak in order to sensationalize the news. Hopefully this is a rare event for the *New York Times*. However, other researchers point to the incentives the media has for leaking, including procedural errors, fear of being scooped, publishing enough details for credibility, failing to check with administration officials, failing to monitor internally, and failing to engage in good faith journalism (Anonymous 2009).

When several articles discuss a single leak, only the earliest comprehensive article is included. Editorial articles are discarded. Follow-up articles are also discarded. Cases of espionage are ignored because of their lack of relevance to executive-legislative relations. Policy reactions to the leaks—employment requirements (e.g., polygraph), punishments and sanctions, propriety and wisdom of the policy options—are also ignored. A single leaked document that contained multiple independent secrets was treated as a single leak. This obviously misses any measure of significance of each leak’s magnitude and remains a limitation of this study.

Further, the data are coded with two additional variables:

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- a variable that identifies whether the leaker was evidently from the legislative branch, the executive branch, or is unknown (this is as granular a distinction as can be made).
- a categorical variable that characterizes the partisan composition of the presidency and Congress – there are six cases: (1) Democratic President, Democratic Legislature; (2) Democratic President, Split Legislature; (3) Democratic President, Republican Legislature; (4) Republican President, Republican Legislature; (5) Republican President, Split Legislature; and (6) Republican President, Democratic Legislature.

The resulting data set enables analysis to determine if the instances of leaks per month increased, decreased, or stayed the same following the introduction of standing committees for intelligence oversight. Monthly observations help determine whether the leaks are happening at regular intervals, are concentrated, or only occur when Congress is in session, for example.

*Arrests.* To explore how the rate of Americans arrested for conducting espionage was affected by the change in congressional oversight, the dissertation uses a coded archive previously developed by another researcher. The data are count data signifying the number of individuals arrested for espionage in a given month. Individuals who negotiate plea agreements with law enforcement in order to avoid arrest and prosecution, as well as individuals wanted for espionage but beyond the reach of law enforcement, are not included in the data. The data do not speak to the severity of the acts of espionage, nor do they evaluate the motivations for spying.



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People's spying may be discovered through various means. The examples constructed by the FBI below are from 1985, the so-called Year of the Spy (FBI 2014), and illustrate this point.

### John Anthony Walker, Jr.



- U.S. government job: U.S. Navy Warrant Officer and communications specialist, 1967 to 1985
- Also worked for: The Soviet Union
- How discovered: A tip from his ex-wife
- Fate: Arrested on May 20, 1985, pled guilty, and sentenced to life in prison

### Jonathan Jay Pollard



- U.S. government job: Civilian intelligence analyst at the Navy's Anti-Terrorist Alert Center in Maryland
- Also worked for: Israel
- How discovered: Co-workers grew suspicious
- Fate: Arrested along with his wife Anne on November 21, 1985, outside the Israeli Embassy; both pled guilty the following year, with Jonathan Pollard receiving a life sentence.

### Larry Wu-tai Chin



- U.S. government job: Chinese language translator/intelligence officer for CIA, 1952 to 1981
- Also worked for: China
- How discovered: Not revealed
- Fate: Arrested on November 22, 1985; convicted at trial but committed suicide before sentencing.

### Ronald William Pelton



- U.S. government job: Communications specialist, National Security Agency
- Also worked for: The Soviet Union
- How discovered: Information provided by a KGB defector
- Fate: Arrested on November 25, 1985, convicted, and sentenced to life in prison

Figure 7: Examples of Espionage Arrests

*Methods.*

The data collected as a result of the aforementioned processes are count data, which are coded to individual months and years. While intelligence failures, leaks, espionage cases, and conflicts may be slowly developing events, they come to light in a single moment. They are thus generally observable in a single month and may prompt more or less oversight depending upon the situation. These kinds of observations and relationships would be less obvious if the observations were grouped into congressional terms or years.

Another consideration is the representativeness of the data. For the intelligence failure data, leaks, and arrests, these observations are more likely to be a sample than the population. In contrast, wars are a more visible condition in the historical record. Also, the considerable scholarly effort of historians and the international relations community provide a dataset in the *Correlates of War* that is nearly approximate of the population. Despite these differences, this study's comparative method remains unchanged.

The methods for examining the leaks data are predominantly content analysis (Krippendorff 2013) and statistical analysis, both descriptive and linear regression. Content analysis will be employed to determine the degree to which leaks and intelligence failures are present in the two panel periods. The content analysis for leaks looks specifically at cases where the *New York Times* stated that the person disclosing the information knew that it was classified because of the claims of anonymity (leaks in the context of "classified information" first appear in the *New York Times* in 1951). The content analysis for the intelligence failures data will find cases where the *New York Times* reports that key political leaders called the incident an intelligence failure

(“intelligence failure” first appears in the *Congressional Record* in 1950 and the *New York Times* in 1951). In essence, the study seeks changes across the observations detectable through content analysis.

In conducting this content analysis, there are at least two issues to be mindful of: changes in media reporting trends and changes in congressional oversight practices. Thanks in part to Doris Graber’s (1997) analysis (among many others) of the politics-media relationship, there is a useful literature to guide content analysis practices related to the news media. One trend that could affect the leaks content analysis is the overall trend regarding the use of anonymous sources, which peaked in the mid-1970s according to one longitudinal review (Duffy and Williams 2011). One must also be concerned about the corrections rate (Nemeth and Sanders 2009) in news articles, which are probably linked with the shrink in subscription revenues and the concomitant reduction in editorial resources or news coverage. Despite these issues, the *New York Times* retains a rightful place of prominence in social science content analysis, helping to illuminate the use of high-publicity investigations by Congress as an oversight tool (Mayhew 1991). It is also the pre-eminent source used in the *Policy Agendas* dataset (Jones and Baumgartner 1993) for newsworthiness, which may be thought of as a form of salience.

The dissertation presents descriptive statistics representing the mean, median, mode, standard deviation, kurtosis, skewness, maximum, and sum for the count data. Visual inspection and comparisons of charts and accompanying trend lines help determine whether any increases or decreases exist across the two panel periods. In the cases of intelligence failures and unavowed, uninitiated military conflicts, the clear preference is that the trends decrease. This question is not so simple when it comes to

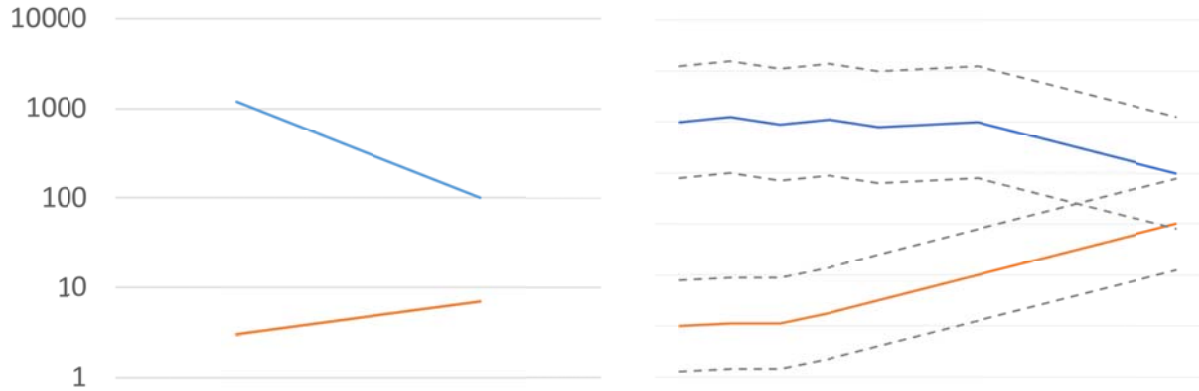
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leaks and arrests. On the one hand, government actors within the intelligence community would prefer fewer leaks. On the other hand, those concerned about the lack of transparency inherent in secrecy may want to see more leaks. Arrests present a similar conundrum. By selecting more loyal, patriotic, and honorable members, the government seeks individuals who will not spy. Thus, seeing the trend in arrests go down may suggest that the espionage threat is abated. However, it may also be the case that with more training and tradecraft, foreign spies could avoid detection entirely, resulting in a more problematic decrease in the arrests trend.

Policymakers and congressional reformers would probably also prefer to see decreases in the mean, mode, median, maximum, and sums for the second panel period data. The kurtosis and skewness of the second panel would also demonstrate a shorter peak and a diminished right tail respectively than that of the first period. Decreases in the standard deviation from panel one to two would suggest less variance and a more focused signal of the base rate. If, in contrast, the standard deviation increases, then this increased variance suggests an expansionary trend in the data.

An order of magnitude change or no overlap between the standard deviations of the panel periods would make a stronger case that the intervention had a demonstrable effect. Anything less than that may be inconclusive. Figure 9 illustrates the concept of base rate change detection, and displays illustrative data not germane to this study. The figure also shows different scenarios: one where there is clear order of magnitude change, one where there is not, and cases where the changes converge into the same range and could become indistinguishable.

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Example: top line (order of magnitude change),  
bottom line (no order of magnitude change)

Example: at left side of graph there is no overlap  
between  $2\sigma$  (two standard deviation) boundaries  
(dashed) around the mean; at right, there is  
overlap, suggesting the observations are of the  
same condition(s)

**Figure 8: Base Rate Change Detection**

With this understanding and these methods for analyzing the intelligence outcomes data, the study turns to the outcomes in other policy issues. The other policy issues were described in a previous section of the dissertation. This next section outlines the data collection process of selecting outcomes related to these issues and the methods of evaluation.

### Outcomes in Other Policy Topics

This component of the dissertation began as an experimental enterprise. Scholars often find anecdotes, metaphors, and analogies and other indirect comparisons useful in analysis. Not only do they assist with comprehension, but also they serve as useful discrimination tools. Deciding to look at the outcomes in other policy topics was motivated by a desire to have an answer for readers' natural question in response to any claims this study makes about the suitability or efficacy of intelligence oversight: "compared to what?"

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A previous section explained the motivations for choosing the other policy topics from PolicyAgendas.org. The policy topics with readily accessible outcome measures prompt a few reminders. First, there are few directly comparable policy topics inasmuch as the entire ecosystem and framework for policy topics vary so tremendously. Differences in resources, issue advocacy networks, market structure, risk, technology, norms, and values make them different. Second, the degree of control the bureaucracy(ies) may exert over the policy issue also varies. The degree of cooperation among the policy consumers, producers, and overseers changes. Finally, developing any mastery of ten more policy domains is beyond the scope of this research. Simplicity, for the sake of comparison, for triangulation with a few other perspectives and cases, suffices.

Given these issues, the study does not gather policy outcome data for all the areas. Airport operations seems vast and heterogeneous with multiple municipal transit authorities, airlines, unions, and local geographies contributing. Further, the question of what the central outcome for an airport is seems mystifying. Is it fee revenue? Number of lost bags? Throughput? Contributions to tourism revenue? Complaints about noise pollution?

Likewise, the complexity in understanding which bureaucracies and committees oversee the banking system, drinking water, food safety, government efficiency, or international finance seems difficult, even if some of the outcomes appear clear and straight forward. With respect to the IRS, it is difficult to determine what to measure – total voluntary participation, total number of audits, or some other dimension.

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This process of elimination leaves three other choices perhaps most suitable for triangulation. All three have clear policy outcomes, all three have an inherent degree of difficulty and scale comparable to the intelligence policy area, and all three are subject to comparable levels of oversight. Air traffic control (ATC) focuses on limiting fatalities. The data on air incidents are consistent with the second observation period. Of the ten other policy areas, ATC receives the most oversight in both panel periods. Like intelligence, the Federal Reserve and federal law enforcement agencies received more oversight in the second panel period. The Federal Reserve seeks two key outcomes – price stability and employment. These data are available for the second panel period. The federal law enforcement agencies seek to limit crime, especially violent crime and property crime. These data are also available for the second period.

### *Data.*

To examine the outcomes for these three policy areas, the study employs the following indices: US Violent and Property Crimes (per capita), Air Transportation Incidents (thousands), and an Unemployment and Inflation Index.<sup>13</sup> The crimes index (FBI 2013) combines the total numbers of violent crimes and property crimes the FBI tracks in its Uniform Crime Reports (UCR). These data are prepared by the National Archive of Criminal Justice and searchable in the UCR data tool.<sup>14</sup> The reporting consists of eight crimes: murder and non-negligent homicide, forcible rape, robbery, aggravated assault, burglary, motor vehicle theft, larceny-theft, and arson. The data are available for the entire second panel period.

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<sup>13</sup> The index is 100 times the average of the unemployment rate divided by 100 and the inflation rate divided by 100, or mathematically [index = 100 × (((unemployment rate ÷ 100) + (inflation rate ÷ 100)) ÷ 2)]

<sup>14</sup> <http://www.ucrdatatool.gov/Search/Crime/State/RunCrimeStatebyState.cfm>

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The data on air transportation incidents are maintained by the Federal Aviation Administration (FAA) in its Aviation Safety Information Analysis and Sharing (ASIAS) system (FAA 2013).<sup>15</sup> The ASIAS system enables users to perform integrated queries across multiple databases, search an extensive warehouse of safety data, and display pertinent elements in an array of useful formats. According to the system description,

incidents are events that do not meet the aircraft damage or personal injury thresholds contained in the National Transportation Safety Board (NTSB) definition of an accident. For example, the database contains reports of collisions between aircraft and birds while on approach to or departure from an airport. While such a collision may not have resulted in sufficient aircraft damage to reach the damage threshold of an NTSB accident, the fact that the collision occurred is valuable safety information that may be used in the establishment of aircraft design standards or in programs to deter birds from nesting in areas adjacent to airports.<sup>16</sup>

The data cover most of the second panel period, beginning in 1978.

The combined Unemployment and Inflation Index (BLS 2013) is a combination of data. The first series is from the labor force statistics from the Current Population Survey.<sup>17</sup> This study uses the unadjusted unemployment rate, expressed as a percentage of the labor force (age 16 and over). The inflation rate is calculated from the Consumer Price Index for urban areas (CPI-U) by the Bureau of Labor Statistics (BLS). It uses 1982-84 as the base and expresses CPI-U as an annual rate.<sup>18</sup> The data cover the entire second panel period.

### *Methods.*

To determine how the outcomes of the other policy issues contrast with the intelligence outcomes, the dissertation employs an ordinary least squares (OLS) linear

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<sup>15</sup> <http://www.asias.faa.gov/pls/apex/f?p=100:12:0::NO::>

<sup>16</sup> [http://www.asias.faa.gov/pls/apex/f?p=100:15:0::NO::P15\\_REGION\\_VAR:1](http://www.asias.faa.gov/pls/apex/f?p=100:15:0::NO::P15_REGION_VAR:1)

<sup>17</sup> <http://data.bls.gov/timeseries/LNU04000000>

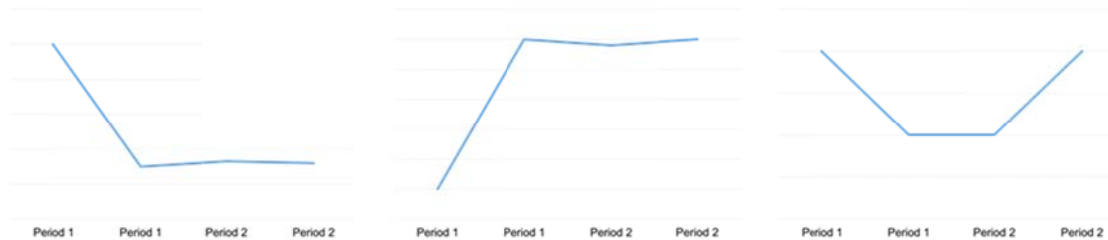
<sup>18</sup> [http://inflationdata.com/Inflation/Inflation\\_Rate/HistoricalInflation.aspx](http://inflationdata.com/Inflation/Inflation_Rate/HistoricalInflation.aspx)



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regression to compute an intercept and a coefficient. This equation, plotted with the data in a chart, will show a trend line with a positive, negative, or neutral slope. Comparing the slope of this trend line is the principal method of analysis for this task.

There are previously noted limitations to this analysis. First, it is a smaller dataset since only three other policy issue areas are being analyzed. Second, the dissertation is missing data from the first panel period for each of the policy issues. The only trends being analyzed are in the more recent 29-year period. What is lost is how much the issue outcome differs from the previous period. It is obviously connected in time, but the broader trend is lost. As Figure 10 demonstrates, there are multiple scenarios where a focus on the most recent data (the “Period 2” data in each graph below) misses the overall trend from period 1 to 2.



Three scenarios of how focusing on a 2<sup>nd</sup> period leaves a misimpression of the overall trend.

**Figure 9: Three Trend Scenarios**

Because of these data limitations and the limited methods available for correcting the situation, the primary analytic task is not to read too much into the findings from this area. The best insights that can be drawn are approximate impressions of whether the experience in the intelligence outcomes area is generally consistent or inconsistent with the experiences in the other policy issues. That said, it is the case that these data represent 29 years of bureaucratic experience. In 29 years there are slightly more than seven presidencies and fourteen sessions of Congress. The period of time under consideration

is long enough for a person to join an agency and have a considerable career contributing to the outcomes sought in these policy areas. Despite all the aforementioned weaknesses in this analysis, the general trend over 29 years is meaningful for understanding the effects of the systems governing the issue.

### **Modeling the Efficacy of Intelligence Oversight**

This section reflects systems thinking, inspired general systems theory (von Bertalanffy 1968), and explains a model of evaluating aspects of the efficacy of intelligence oversight. First, it discusses the variables involved in the model and explains the data collection approach for each variable. Next, it presents the analytic method employed on the data. Finally, noting limitations throughout, it defines the potential sources of uncertainty and error while striving for a model that improves understanding of the systemic interactions between the policy environment, actors, and subject matter. *Variables.*

To understand the efficacy of the new intelligence oversight regime, this study attempts to model both the exogenous influences and what Terry Moe and Brian Cook refer to as the endogenous core (Moe 1985; Cook 1989). There are many potential explanatory variables that contribute to the exogenous influences for the intelligence policy issue, just as there are many factors that could be in the endogenous core.

Consider the rationale for the defining boundaries between the exogenous and the endogenous. The endogenous core includes factors much more under the control of the system actors. These actors include the president, the Congress, the congressional committees, congressional staff, the bureaucracies, and their bureaucratic leaders. Under their control are resources, work processes, policies, and technology. The president and

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Congress select or confirm leaders who are given agencies and capital to engage in the policy process and act. The president and Congress provide policy guidance and increasingly shared oversight. Their mutual interactions—both cooperative and conflictive—form the endogenous core.

There are also actors among the exogenous influences. The citizens elect a unified or divided government. Foreign actors stir up trouble or sue for peace. The international community demands diplomatic action on an issue or ignores it. Their interactions lead to influences on the international affairs domain and its overall complexity, which in turn affect the pace and scope of intelligence activities and the endogenous core. The scope, scale, and complexity of the international environment, and the general economy, combine to affect the demand for intelligence and the resources needed to supply it.

There is also an intangible component that is both an exogenous influence, but also a trait of the endogenous core: norms and values. In human relations there are expectations and tolerated behaviors. They evolve. Public opinion is shaped by and shapes the bureaucratic environment. Appreciation for public goods ebbs and flows. In periods of war, intelligence is valued greatly. As peace takes hold, the perceived value of intelligence wanes. Other policy topics like economic fairness and social justice may take on renewed prominence. These norms and values affect how policymakers, the president and Congress alike, resource and attend to intelligence.

Another intangible can be thought of as corrosiveness in the system, whether self-generated or catalyzed by an external force. For intelligence this may include abuses of power, corruption, espionage underwritten by foreign powers, and accident. These

corrosive influences affect the intelligence policy issue by undermining trust in the system. This corrosion triggers oversight, influences public opinion, curtails or redirects resources, and distracts bureaucratic leaders from their agency's primary purpose.

Corrosiveness is thus both exogenous and endogenous.

Having explained the rationale for the decomposition of the intelligence policy issue, the study now explains the available variables for examining intelligence oversight through statistical modelling. For each variable the study discusses the hypothesis of why the variable may matter. Next it defines the variable, including a classification of whether it is treated as part of the exogenous influences or the endogenous core. Finally, this section outlines the sources for the data.

Beginning with the endogenous core, the first variable is *Leadership Gap*. Leadership vacancies are bound to happen, especially around the time of a change in presidential administration. The leadership role may have grown so complex as to challenge a president's ability to find a candidate. Disagreements between the executive and legislative branches may materialize as a hold on a nominee. Extended vacancies can be problematic for the bureaucracy and may also underscore other problems. The approval of or changes to key policies may be delayed. Other senior leader assignments or rotations may stall. The *status quo* may override otherwise useful changes to program budgets. Bureaucratic misbehavior or abuse by assertive middle managers may not receive swift and firm rebuke. These delays, friction, and stasis may have longer-term effects that undermine the proper and lawful operation of intelligence activities.

For the Intelligence Community during this period of study, the Director of Central Intelligence was the president's principal intelligence advisor and head of the

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Intelligence Community; notwithstanding the complicated co-management relationships shared across the Departments of Defense, State, Energy, Treasury, etc. The operationalization of the *Leadership Gap* variable is through a month-by-month coding of whether there is a confirmed Director of Central Intelligence (DCI) or whether the post is occupied by an “acting” official. By evaluating the tenures of the DCIs through primary and secondary sources it is possible to code each month with a vacancy as a 1, those that are the transition month are coded as 0.5, and those with a confirmed DCI are coded as 0. The source of the data is a CIA study of the tenures of its directors (CIA 2013).

The second variable is *Resources*. Like all public programs, the intelligence activities need resources. These resources go to property, equipment, technology, information, education, and personnel. To provide the president, cabinet officials, and the Congress with intelligence about the world, the Intelligence Community needs enough resources to be in the world or gather data about it. This vast problem in turn consumes vast resources, approaching roughly a tenth of the DoD budget. Theoretically, and to some unknown point of diminishing return, more resources leads to more and better intelligence (Pfeffer and Salancik 1978, 2). At least so goes the argument for federal education programs, child safety, climate change research, and law enforcement.

A number of authorized and unauthorized disclosures over the period of observation provide episodic insight into the IC budget. This makes using the intelligence budget as the *Resources* variable difficult, which is unfortunate, especially when the IC budget was reduced “by 22 percent” during the post-Cold War peace dividend and 1990’s budget balancing measures (McConnell 2007). A more accessible

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number are the outlays on national defense, which are published by the White House at the annual level of detail (Office of Management and Budget 2014). If the national defense outlays are declining, then there is fiscal pressure on intelligence. As national defense outlays rise, there is more room in the budget to fund activities and programs like intelligence. Also there is opportunity to improve the technological base of intelligence activities, providing new or broader insights on foreign threats. *Resources* should have some material contribution to intelligence outcomes.

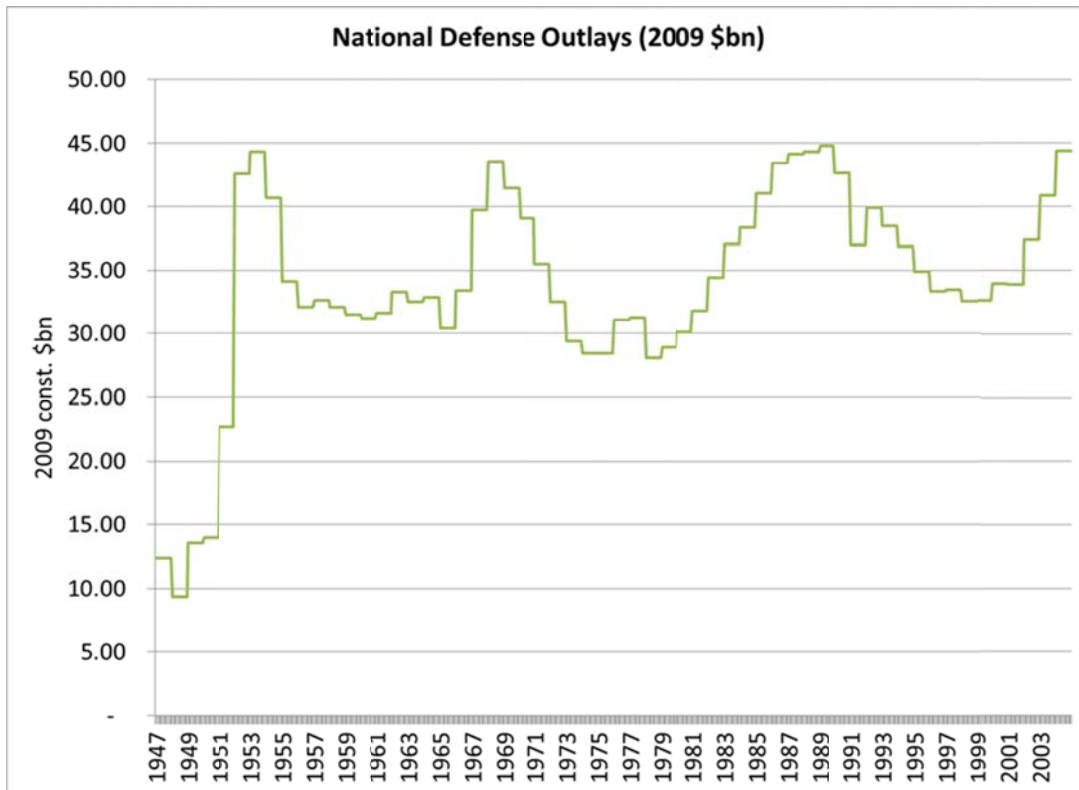


Figure 10: National Defense Outlays (2009 constant dollars, bn)

While the study has previously situated leaks as an outcome of intelligence, it also is important to treat them as a variable. To do so, the third variable in the endogenous core—an indicator of trust—is the measure of national security *Leaks* detected in the *New York Times* in each panel period. Leaks reveal a lack of trust in the system between and among the principals and agents (Baumgartner, Jones 1991,1057). They also damage

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sources (e.g., agents imprisoned, tortured, or killed) and methods (e.g., intelligence targets may fix their vulnerabilities), which can degrade intelligence capabilities, and potentially increase the likelihood of intelligence failures (Hoekstra 2005, 2-3).

Congress has enacted laws to protect classified information and provided channels (e.g., inspectors general, ombudsmen, congressional committees) for government employees and contractors to communicate potential fraud, waste, and abuse. As part of good oversight, the Congress seeks fewer leaks. This is a prevailing opinion of leak opponents. On the other hand, its proponents suggest that without these disclosures, Congress and the American people would have little insight into the IC's so-called "abuses."

As stated earlier in the study, *Leaks* are gathered through a sampling frame of key word searches in the *New York Times* archives. The observations are undoubtedly a sample of a broader population of authorized and unauthorized disclosures. They are only the leaks that drew the attention of one newspaper publishing house. The number of unauthorized disclosures is counted on a monthly basis, focusing only on the earliest article to reveal the leak. Though the approach does not provide a comprehensive access to the population, it should provide an even-handed method for detecting changes to the base rate. While some leaks are more damaging than others, this study does not assess their severity.

The fourth variable is *Arrests* and is measured by examining the number of Americans arrested for espionage against the United States (Herbig 2008). Espionage is a form of sabotage that degrades and disrupts a nation's intelligence activities. Individuals or groups who work against US intelligence efforts compromise capabilities

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and waste resources. This in turn opens up increased potential for intelligence failures as the US no longer has collection capabilities working or its foreign targets develop denial and deception measures that negate the utility of the collection.

This variable is useful, but imperfect for two reasons. First, it does not account for the number of individuals counterintelligence professionals suspect are conducting espionage. Second, it does not account for the actual number of individuals conducting espionage, which could be higher or lower than the arrest data, given that even murder investigations are sometimes inconclusive.

On the other hand, the variable helps explore the effects of the reforms on counterintelligence. While the acts of espionage may have happened well before the investigations and arrests, it is the law and the regulations that guide what investigators are allowed to do. Many counterintelligence activities are conducted domestically to investigate potential US spies. Since the accusations about CIA and FBI domestic activities prompted the Church and Pike Committees, it is prudent to see how the reforms affected these necessary and necessarily domestic counterintelligence operations.

The data for *Arrests* were coded by other researchers. The data are monthly count data from the Defense Personnel Security Research Center (Herbig 2008, Appendix A).

The fifth variable relates to one component of oversight activity: the House and Senate *Hearings* focused on intelligence. *Hearings* is an indicator of the intensity of political attention (Jones and Baumgartner 2005, 244), somewhere between “window-dressing” and focusing events (Ogul 1976, 159) that make up for cases where informal oversight influence is insufficient (1976, 161). For intelligence, they are likely the



dominant vehicle for ensuring the members stay fully and currently informed on classified matters.

They are also a catalyst for more information-sharing. To prepare for a hearing there are other oversight activities that trigger: document reviews, questions for the record, testimony preparation, and other documents. Acknowledging that sometimes hearings are for failures, periods of intense investigation into intelligence activities (warranted or unwarranted) can distract the intelligence leaders and may increase the potential for further failures. Also, a “free hand” from the Congress can lead intelligence professionals and presidential administrations to stray from hallmark principles or miss incremental changes with popular norms and new expectations or beliefs of the citizenry.

Subcommittee leadership and the power of subcommittees changed significantly around the time of these intelligence reforms. As Eric Shickler recounts, “a ‘subcommittee bill of rights,’ adopted in January 1973 by the Democratic Caucus, transferred the power to appoint subcommittee chairmen from the full committee chair to the committee’s majority-party members. This committee caucus would also set subcommittee jurisdictions” (Shickler 2005, 52). Further reforms added full-time staff to the subcommittee chairs and enabled automatic referrals of legislation.

The data for *Hearings* comes from PolicyAgendas.org (2014). They are count data of the number of hearings PolicyAgendas.org researchers coded for intelligence.

Further evidence of congressional oversight, and the sixth variable, is the number of *Public Laws* introduced or signed that relate to intelligence. Laws provide and withdraw authorities and resources to the agencies. If certain resources, authorities, or capabilities are removed, then there can be more potential for intelligence failure. Public

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laws also require more congressional action than committee hearings, as both chambers must take significant procedural steps to prepare bills for individual members to cast votes upon. *Public Laws* data are coded by PolicyAgendas.org (2014) and are count data.

A weakness of the *Public Laws* count data is that it may under-represent other attempts by Congress to communicate its views, such as non-binding resolutions. However, these efforts would very likely be captured in either the hearings data or the next variable, which is focused on salience.

The seventh and final endogenous core variable relates to oversight *Salience* (HeinOnline 2014), and is developed for this study. It is an index constructed from multiple data collected in the study. In essence, it is an index of congressional interest. Issues with salience increase the potential for Congress to act. The variable is computed from the *Congressional Record* data. It is expressed mathematically as:

$$\text{Annual interest rate} = \frac{[(1 \times \rho) + (2 \times \sigma) + (3 \times \tau)]}{12}$$

where

$\rho$  = general interest language count data

$\sigma$  = intelligence failure OR domestic spying language count data

$\tau$  = action language e.g., “the Director of Central Intelligence shall” count data

The rationale for this equation is to weight factors that represent a higher level of concern. By giving more weight to action language over general interest language or problem definition language (e.g., intelligence failure), the salience index enables basic trending and the potential to discriminate changes in the intensity of the interest.

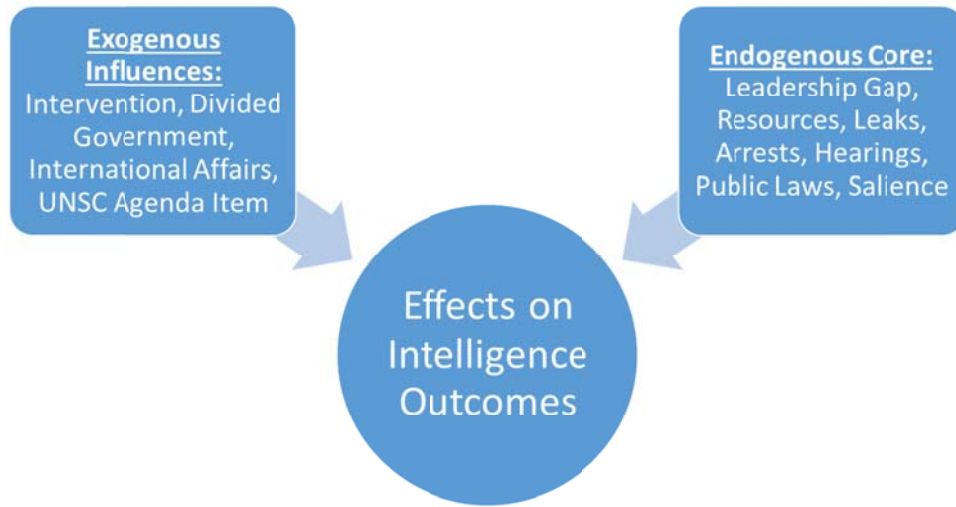
## Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

The first exogenous influence variable is a categorical one reflecting the oversight *Intervention*. The variable divides months between the first panel period and the second. Months in the second period are coded 1; months in the first period are coded 0.

The second exogenous variable is also a categorical one. It codes each month based on the state of *Divided Government*, meaning lack of control of the executive and legislative branches by one political party. Divided government may also demonstrate disagreements in policy or normative approaches to intelligence activities. Unresolved policy disagreements could impact intelligence leaders' time and attention devoted to operational matters, or it could lead to the loss of authorities and resources. Months where one party controls the executive and legislative branches are coded as 0. Months where control of the presidency and legislature is split between parties are coded as 1.

The third and fourth exogenous influence variables relate to complexity. The third is about the general scope and pace of *International Affairs* issues as potential policy agenda items for America government. It is reflected through the *New York Times* international affairs index from PolicyAgendas.org. The data are counts of the number of articles per month that were coded as having the major topic international affairs. The fourth variable – *UNSC Agenda Item* – focuses on those international affairs issues that become so salient that they become a new agenda item introduced to the UN Security Council. These count data were coded during the course of this study and are drawn from United Nations reports (2010). Issues this important have higher potential for conflict if not reasonably resolved. They also put additional burdens on the IC to help inform these foreign affairs deliberations. The overall interaction of the variables is presented in the diagram below. The graphic is not meant to imply that the variables have

equal force on the intelligence outcomes, nor should the reader assume there is zero interaction between or among the exogenous influences and endogenous core. Its main purpose is to help the reader situate the variables without suggesting too much *a priori* about the interaction of the variables.



**Figure 11: Endogenous Influences and Exogenous Variable Interaction**

For analyzing the effects of the new intelligence oversight on intelligence outcomes, the dissertation employs Poisson regression with corrections for the autocorrelation properties present in the time series components of the data. Other regression methods, i.e., ordinary least squares (OLS), logistic regression (logit) (Berkson 1944), skewed logit regression (scobit) (Nagler 1994), heckit (Heckman 1979), and negative binomial regressions were explored and discarded because they did not provide the best, least unbiased estimate. OLS was used as the baseline regression, and was never expected to meet the time-series and rare events components of this problem. Logit and scobit, while suitable for rare events, would have remained appropriate if the

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observations had remained dichotomous. However, as some variables became more continuous (e.g., Resources, Leaks, Hearings), it was more appropriate to look at models suitable to count data. Heckit was explored because of the potential for a non-random distribution of observations. However, because heckit specification is ultimately a probit function, which in turn is focused on dichotomous response variables, heckit became a weaker alternative for this problem’s count data. Negative binomial regression was considered because of its face-value utility in modeling success and failure data. However, its focus on the time interval between successes and failures did not best align with the focus of this research problem. Poisson is appropriate because the independent and dependent variables are largely count data. Poisson regressions also assume any potential probability for a variable has independence from the prior probabilities for that variable. While Poisson retains the independence of the prior probabilities, it also accounts for the known rate of occurrence of events, such as the similar numbers of occurrences of the variables observed in the study’s descriptive statistics.

The tables below summarize the independent and dependent variables and provide initial descriptive statistics for the combined panel periods. The independent variables are:

<b>Independent Variable</b>	<b>Explanation of Potential Significance</b>	<b>Endogenous Core or Exogenous</b>	<b>Variable Type</b>	<b>Descriptive Statistics</b>
<i>Leadership Gap:</i> No confirmed Director of Central Intelligence	Lack of leadership might lead to increased potential for failure. (Lewis 2005)	Endogenous Core	Ordinal (0, 1, 0.5 for the partial confirmation month)	n=696 Range=0-1 Average=0.0359 StDev=0.1742

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<b>Independent Variable</b>	<b>Explanation of Potential Significance</b>	<b>Endogenous Core or Exogenous</b>	<b>Variable Type</b>	<b>Descriptive Statistics</b>
<i>Resources:</i> National Defense Outlays (2009 constant \$bn)	Declining resources lead to declining intelligence activities, which can produce worse outcomes.	Endogenous Core	Continuous	N=696 Range=9.34-44.79 Average=33.90 StDev=7.77
<i>Leaks:</i> National Security Leaks in the <i>New York Times</i>	Leaks reveal a lack of trust in the system between and among the principals and agents; they also damage sources and methods, which can degrade overall intelligence capabilities, and increase the potential for failures.	Endogenous Core	Continuous	N=696 Range=0-3 Average=0.17 StDev=0.47
<i>Arrests:</i> Americans Arrested for Espionage Against the US	Individuals working against US intelligence efforts compromise and waste resources, opening the US up to increased potential for intelligence failure.	Endogenous Core	Continuous	N=696 Range=0-6 Average=0.231 StDev=0.621
<i>Hearings:</i> Congressional Hearings (House and Senate)	Hearings are one visible indication of congressional attention. They are part of the systematic review and oversight of government programs.	Endogenous Core	Continuous	N=696 Range=0-10 Average=0.658 StDev=1.168
<i>Public Laws:</i> Public Laws Introduced or Signed	Laws provide and withdraw authorities and resources to the agencies; if certain resources, authorities, or capabilities are removed, then there can be more potential for failures.	Endogenous Core	Continuous	N=696 Range=0-2 Average=0.079 StDev=0.285
<i>Saliency:</i> Index of the Intensity of US Congressional Interest	Issues with salience increase the potential for Congress to act. It is computed from the <i>Congressional Record</i> as [(1 x general interest) + (2 x intelligence failure OR domestic spying) + (3 x action language, e.g., “the Director of Central Intelligence shall”)] / 12.	Endogenous Core	Continuous	N=58 Range=1-63.667 Average=18.119 StDev=17.846

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<b>Independent Variable</b>	<b>Explanation of Potential Significance</b>	<b>Endogenous Core or Exogenous</b>	<b>Variable Type</b>	<b>Descriptive Statistics</b>
<i>Intervention:</i> Oversight Intervention Categorical Variable	Months in the 1976-2004 period will be coded with this variable.	Exogenous	Binary (0,1)	N=696 Range=0-1 Average=0.5 StDev=0.50
<i>Divided Government:</i> Divided Government Categorical Variable	Divided government may also demonstrate disagreements in policy or normative approaches to intelligence activities; unresolved policy disagreements could impact intelligence leaders' time and attention devoted to operational matters.	Exogenous	Binary (0,1)	N=696 Range=0-1 Average=0.638 StDev=0.481
<i>International Affairs: New York Times</i> International Affairs Index	Periods of high activity internationally distract the intelligence services and can lead to incrementalism, miscues or omissions.	Exogenous	Continuous	N=696 Range=0-29 Average=8.27 StDev=4.500
<i>UNSC Agenda Item:</i> New Agenda Items introduced to UN Security Council	Issues this important have higher potential for conflict if not reasonably resolved.	Exogenous	Continuous	N=696 Range=0-6 Average=0.517 StDev=0.863

**Table 2: Independent Variables**

The dependent variables include: Americans arrested for spying, intelligence failures, unavoids, uninitiated military conflicts, and national security leaks in the *New York Times*.

<b>Candidate Dependent Variable</b>	<b>Explanation of Potential Significance</b>	<b>Variable Type</b>	<b>Descriptive Statistics</b>
<i>Arrests:</i> Americans Arrested for Espionage Against the US	The number of individuals arrested for conducting espionage against the US.	Continuous	N=696 Range=0-6 Average=0.231 StDev=0.621
<i>Failures:</i> Intelligence Failures	The number of surprise attacks, lost intelligence platforms, inaccurate intelligence estimates, and spectacular terrorism attacks (especially on a US diplomatic facility or military base).	Continuous	N=696 Range=0-2 Average=0.047 StDev=0.226

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<b>Candidate Dependent Variable</b>	<b>Explanation of Potential Significance</b>	<b>Variable Type</b>	<b>Descriptive Statistics</b>
<i>Conflicts: Unavoided, Uninitiated Military Conflicts</i>	The number of military conflicts in the Correlates of War dataset where the United States is a participant, but not the initiator of the conflict.	Continuous	N=696 Range=0-2 Average=0.055 StDev=0.234
<i>Leaks: National Security Leaks in the New York Times</i>	Leaks reveal a lack of trust in the system between and among the principals and agents; they also damage sources and methods, which can degrade overall intelligence capabilities, and increase the potential for failures.	Continuous	N=696 Range=0-3 Average=0.17 StDev=0.47

**Table 3: Dependent Variables**  
*Statistical Considerations.*

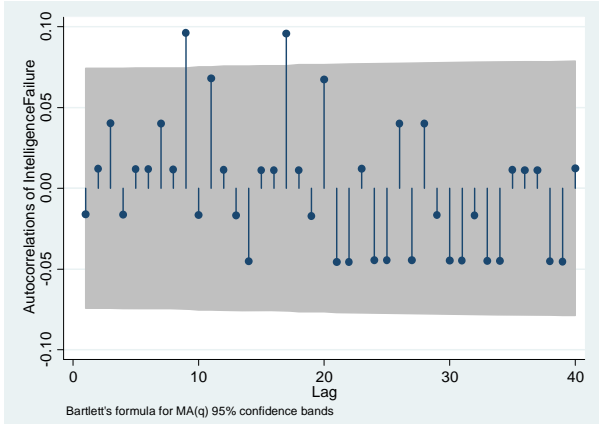
There are three potential statistical considerations to address in this modeling activity. The first is multicollinearity among the *independent* variables, the second is the assumption of independence among the *dependent* variables, and the third is autocorrelation between the dependent and independent variables. Variance inflation factor (VIF) analysis is used to assess for multicollinearity. The VIF scores ranged from 1.01 to 1.07 with a mean VIF of 1.03. This is well below VIF score of >10 rule of thumb (Cohen, J. et al 2003, 423). The analysis assumes independence between the dependent variables. An ordinary least squares analysis via pair-wise comparison showed varying, but not statistically significant coefficients between each dependent variable. The lack of strong correlations is notable, but does not prove conclusively the independence between the dependent variables. Because it is not presently possible to perform seemingly unrelated regression (SUR) (Zellner 1962) and Poisson regressions simultaneously, the risk of unmeasured non-independence among the dependent variables remains. SUR with Poisson distributions and time series adjustments (explained next) may indeed be the best, least unbiased estimate for this research problem. This is because SUR stands to demonstrate the interaction between the dependent variables as nested regression



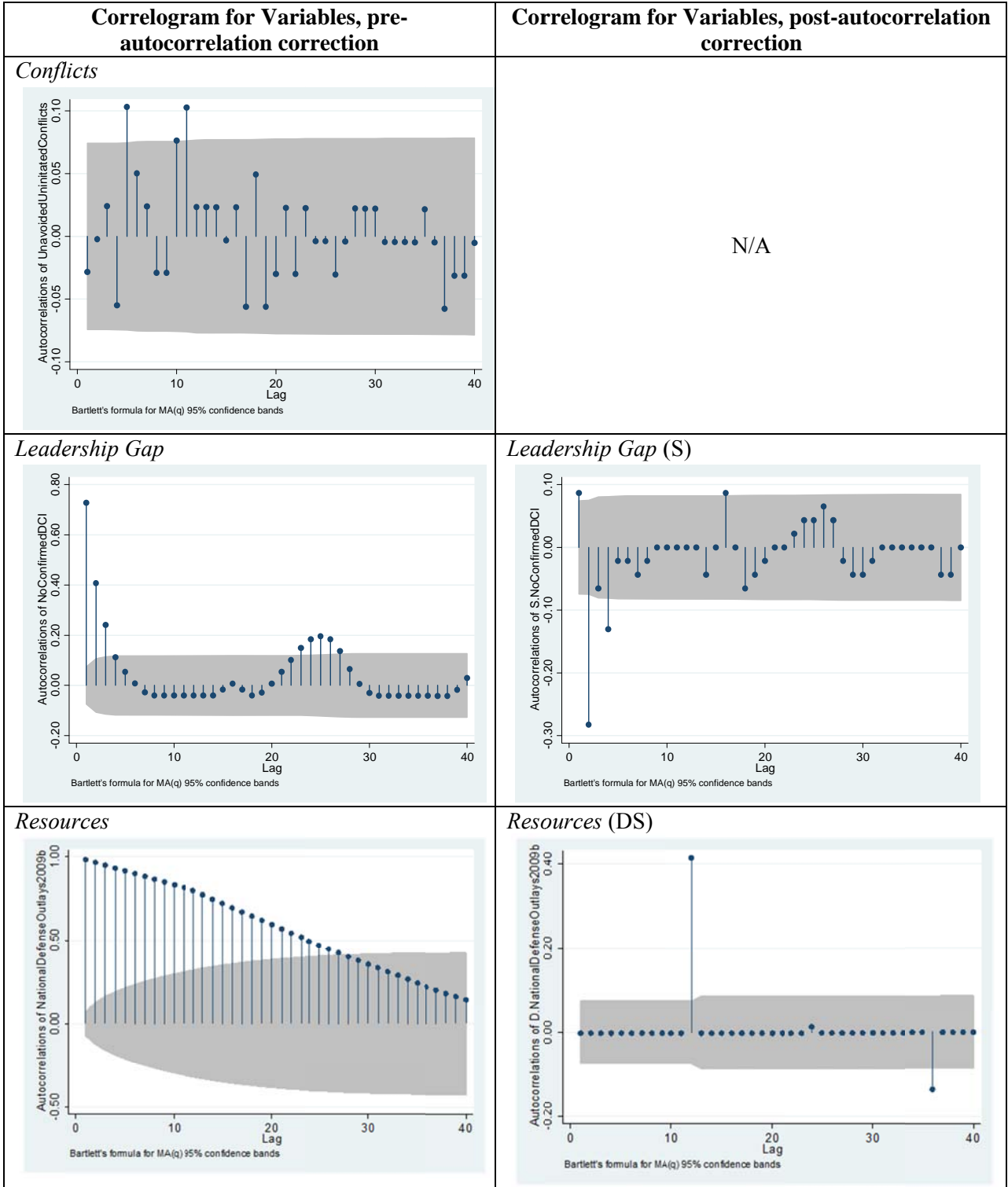
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equations. For example, the regression equation for dependent variable leaks could become an independent variable in the regression equation for intelligence failures. However, present limitations on statistical software packages (and the author) prevent further exploration.

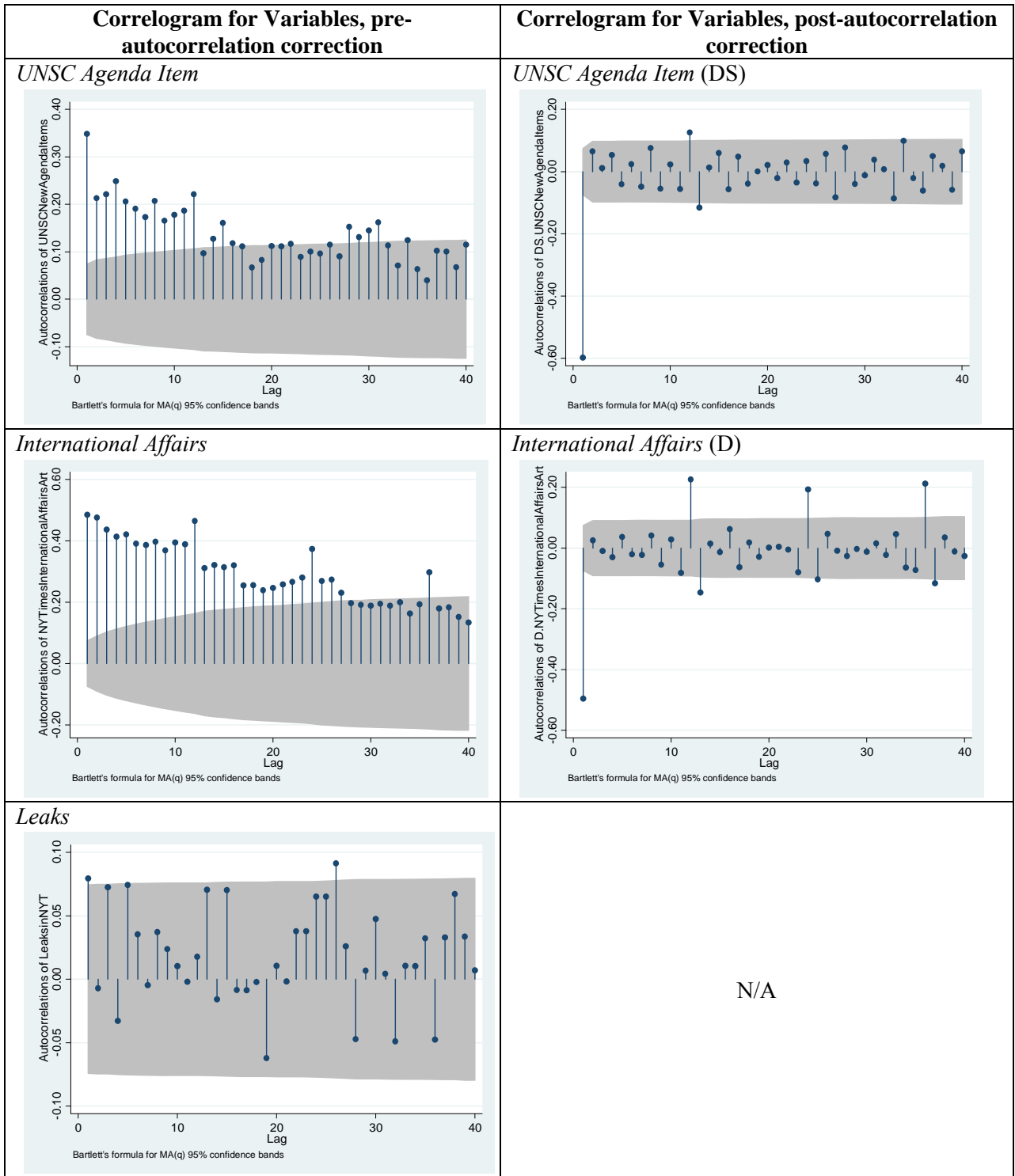
Based on an analysis of the correlograms for the variables, the statistical analysis will have to account for autocorrelation. Below are the correlograms with proposed autocorrelation corrections. The left column presents the correlogram for the variable. The right column shows the corrected correlogram following (D)ifferencing, (L)ag, or (S)easonality corrections, including combinations, e.g., (LDS). Other researchers have successfully employed Poisson regressions with time series corrections, which adds confidence for selecting the method (Kinsella and Tillema 1995; Lindquist, Haire, and Songer 2007; Taylor 2008).

Correlogram for Variables, pre-autocorrelation correction	Correlogram for Variables, post-autocorrelation correction
<p><i>Failures</i></p>  <p>Bartlett's formula for MA(q) 95% confidence bands</p>	<p>N/A</p>

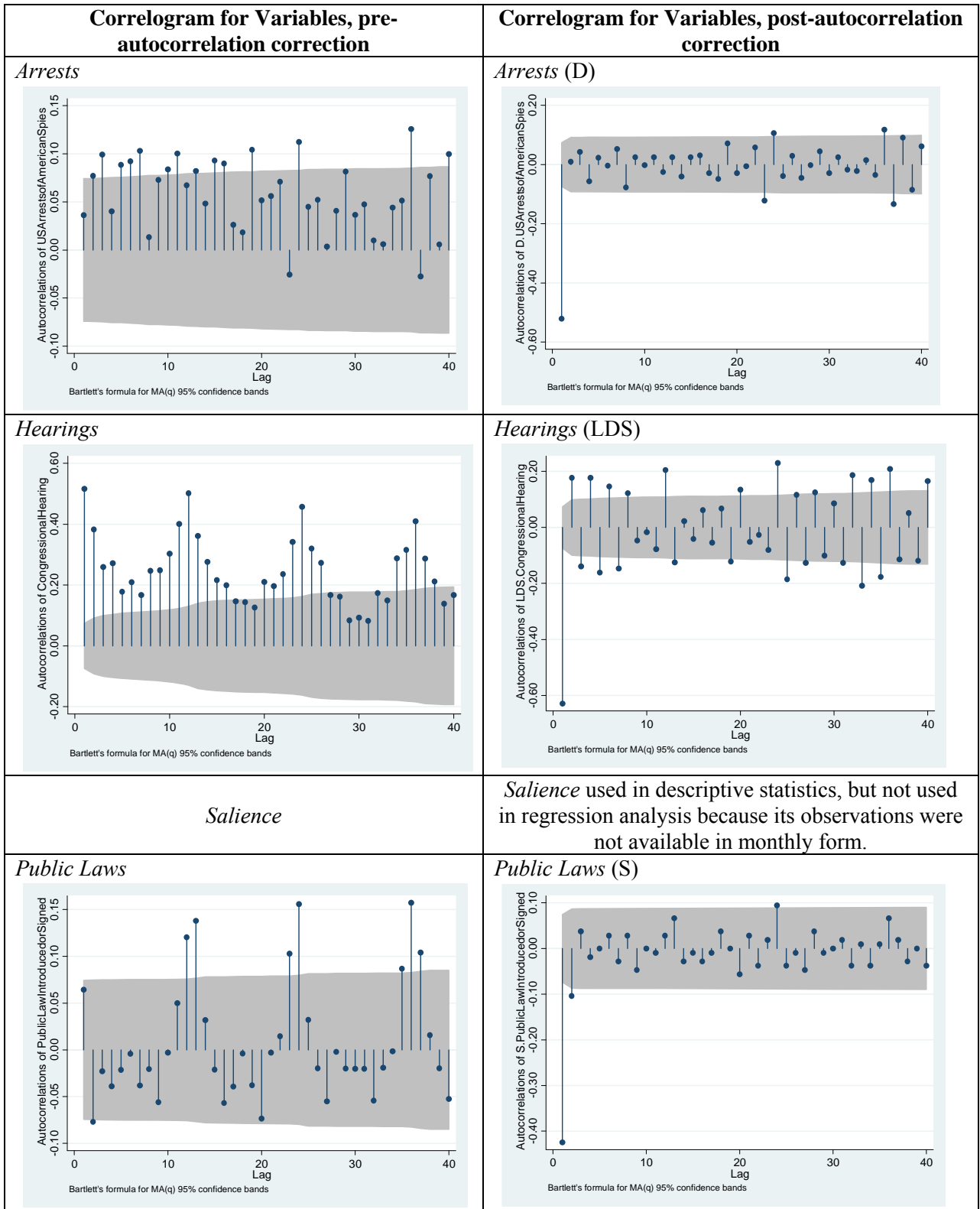
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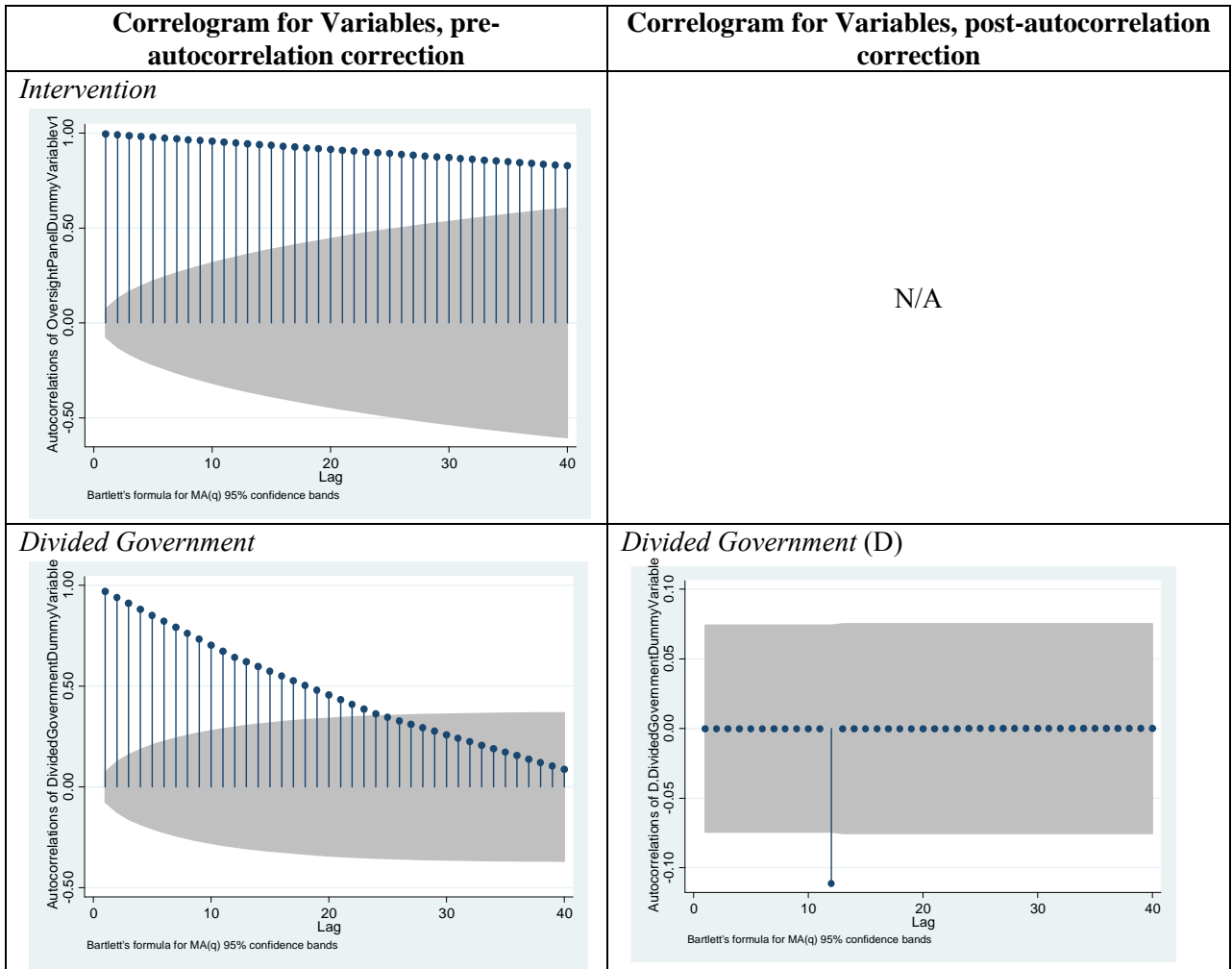


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**Figure 12: Correlograms and Autocorrelation Corrections: Variables**

Sorting out causality can be significantly difficult. The research therefore focuses on the best, least unbiased estimate of correlation between the variables. The goal is to determine if the oversight intervention categorical variable has a statistically significant relationship with the outcomes and what the direction of that relationship is. The interaction between Congress and the IC, regardless of the changes in personalities, is governed by a professional craft and routines. The totality of the interactions can be treated like a system. In 1975-76, Congress sought to change that system. There is a potential for endogeneity, and there is a method for correcting for it. With or without the correction, this study is concerned more with the statistical significance of the oversight

period on the system as a helpful guide to understanding the effects of the intervention on key, observable outcome measures.

Statistical significance matters because it is a scientifically reliable way of quantifying the effect of one set of variables on another. Beyond its mathematical attributes, statistical significance helps discriminate between the varied effects of hypothesis testing. This study is experimental in nature because the effects of the legislative reform intervention are not known prior to conducting statistical analysis. Through conjecture and instinct researchers may have hunches about whether the reforms changed any of the base rate outcomes and may speculate on the direction of the effects. Statistical analysis provides a common method that is repeatable and verifiable, making it potentially more objective than instinct.

### **Changing Contexts**

Even with the aforementioned benefits of objective statistical analysis and hypothesis testing, the changes to intelligence oversight and the performance of the Intelligence Community were not occurring in a vacuum. They must be viewed in the light of significant changing context, such as normative changes in the United States and global changes in the expectations for acceptable and unacceptable practice in foreign affairs and national security. These normative changes undoubtedly relate to shifts in American views regarding security and diplomacy at the end of the Cold War and the dissolution of the Soviet Union and views regarding technology innovations (e.g., satellite television, Internet, unmanned systems).

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The end of the Vietnam War and the collapse of the South Vietnamese government in the face of North Vietnamese military invasion changed US views towards foreign interventions. At the same time, the communist forces in Russia, China, and Cuba continued expansion. This trend continued into the 1980s and pulled the Reagan administration into new counterinsurgencies in Africa and Central America. United States support for government counterinsurgent forces in Guatemala and El Salvador eventually drew critics and political opponents who charged the US was supporting human rights violations (McManus 1995). These assertions and claims of politicized intelligence catalyzed increased pressure on the Intelligence Community and their oversight committees.

The community as a whole was also frequently the subject of study, throughout its existence in fact. This pattern continued after the 1976 oversight reforms. The major studies (Warner 2005) in both panel periods included:

- The First Hoover Commission's Eberstadt Report, 1948–49
- The NSC's Dulles Report, 1948–49
- The Second Hoover Commission's Clark Report, 1955
- The Kirkpatrick Joint Study Group, 1960
- The Schlesinger Report, 1971
- The Murphy Commission, June 1975
- The Taylor Report, October 1975
- The Ogilvie Report, November 1975
- The Church Committee, April 1976
- The Pike Committee, early 1976

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- The Aspin-Brown Commission, 1995–96
- HPSCI's "IC21" Staff Study, 1996
- The Scowcroft Review of Intelligence, 2001

Any effects of the executive branch actions on the Intelligence Community, as a result of these studies, e.g., President's Intelligence Oversight Board, strengthened authority of the Director of Central Intelligence, executive orders, no doubt played a role in intelligence outcomes. Any unresolved issues or unimplemented recommendations, e.g., make budgets public, consolidate or expand oversight, and organizational changes, became the starting points for new studies, including the congressional ones. They are part of the policy streams, but are not specifically coded as quantitative events in this study's models.

With the removal of the persistent threat of nuclear annihilation and the diminution of the power politics of a bi-polar world at the end of the Cold War, the popular views in the United States regarding security and the resulting resources devoted to intelligence and defense necessarily modified. The resources for intelligence were cut in real terms in the 1990s. New political administrations wanted attention on different threats, e.g., environment, terrorism, financial instability, atrocities and genocide, space, weapons of mass destruction, computer attacks.

With the reduction in resources – 17.5% across the board for all personnel (Aspin-Brown 1996, 95) (others cite numbers as high as 22%) the Intelligence Community went through a period of consolidation. The most observable case was the creation of the National Imagery and Mapping Agency. Criticisms of the performance of imagery intelligence during *Operation Desert Storm* combined with fiscal pressures and



technological convergence lead to calls for reorganizing and consolidating the various defense and national imagery organizations.

Technological changes in the latter panel period also provided the Intelligence Community with new opportunities and threats. Terrorism from Islamic groups (e.g., HAMAS), nationalists (e.g., Northern Ireland), and leftists (e.g., Greece), remained a persistent threat. This challenged collection systems that had principally focused on the military hardware of the Soviets. The introduction of computers and networks provided different collection challenges and opportunities. The diffusion of the threat from one main target—Soviet leadership plans and intentions—to a multi-polar world diversified the threats and spread the Intelligence Community’s attention to non-state actors like proliferation groups, drug cartels, and organized crime syndicates. At one point the Clinton administration even considered employing the Intelligence Community against economic and commercial targets (Kober 1996). This policy of economic espionage was eventually withdrawn.

Ideas and stories moved more rapidly around the world as international communications and information technologies evolved. Foreign affairs failures were now on 24-hour news—from Yugoslavia to Somalia to Rwanda to Tiananmen Square. The open sources of information available to governments and the private sector proliferated. Politicians and professional observers began questioning the value of intelligence and secrets when seemingly everything a political leader needed to know about an issue was “on the Internet.” Consider the opening line from a 1996 Council on Foreign Relations report titled, Making Intelligence Smarter: “The U.S. Intelligence Community faces major challenges, including a widespread lack of confidence in its

ability to carry out its mission competently and legally” (Council on Foreign Relations 1996, 1).

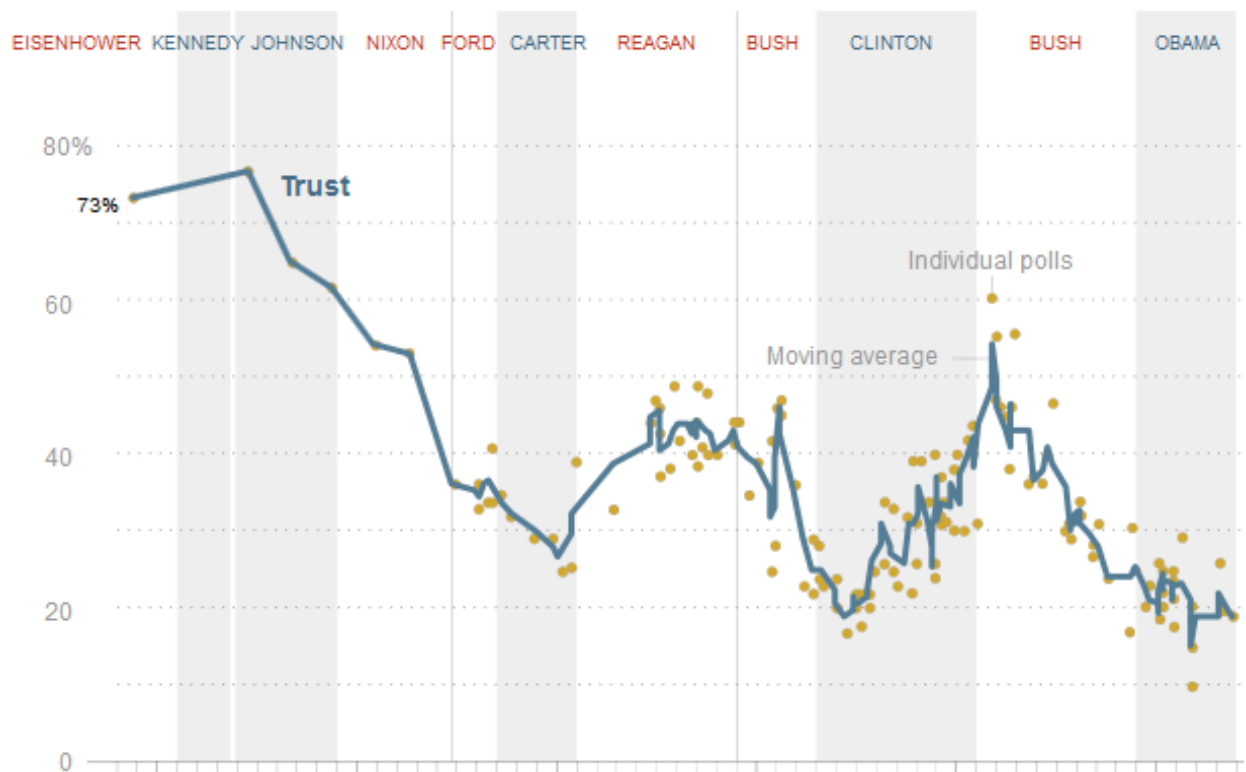
Improvements in transportation, combined with globalization and liberal trade policies, opened societies up. Regional threats (e.g., Hizballah, Iran, Iraq) drew the United States deeper into the Middle East. This led to evolutions in United States defense policy and the need to fight two major regional conflicts. This defense policy resulted in forward-basing, including in Saudi Arabia, which became a grievance that al-Qa’ida exploited to organize its global jihad and terrorism attacks on the United States.

The global war on terrorism expanded the Intelligence Community’s resources and authorities. The broader application of signals intelligence and human intelligence became a mainstay of degrading international terrorism plots. With an active war in Afghanistan and the pursuit of terrorists in various safe haven zones, the United States was once again in a position to need to detain and interrogate enemy combatants. These operations became controversial for a public that was inexperienced with this kind of war and simultaneously terrified of the next terrorism threat. Not since Vietnam did the United States have to directly or indirectly provide for the long-term detention of enemy combatants. (The 1991-1992 Gulf War only lasted seven months.)

All these factors influenced how Americans and the Congress thought about the value of intelligence, the acceptable risks related to it, and the attendant personal and political costs of any infringements on civil liberties as a result of such operations. As presidents made policy choices, Congress and the American people reacted. The reactions of the American people are no doubt influenced by their overall trust in government. During the period this study evaluates, in general, Americans lost

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significant trust in the government across both panel periods, as indicated by the graphics below from Pew’s Center for People and the Press. Admittedly such questions from Pew or other surveys sometimes lack context. It may not be clear if the respondent interprets “trust” or “a good job” as something active or passive. One respondent may “trust” that the CIA is being active in domestic activities, while another is expecting it to do nothing. Nonetheless, the general meme about trust seems a prevailing narrative that gives license to reformers to improve the trust.



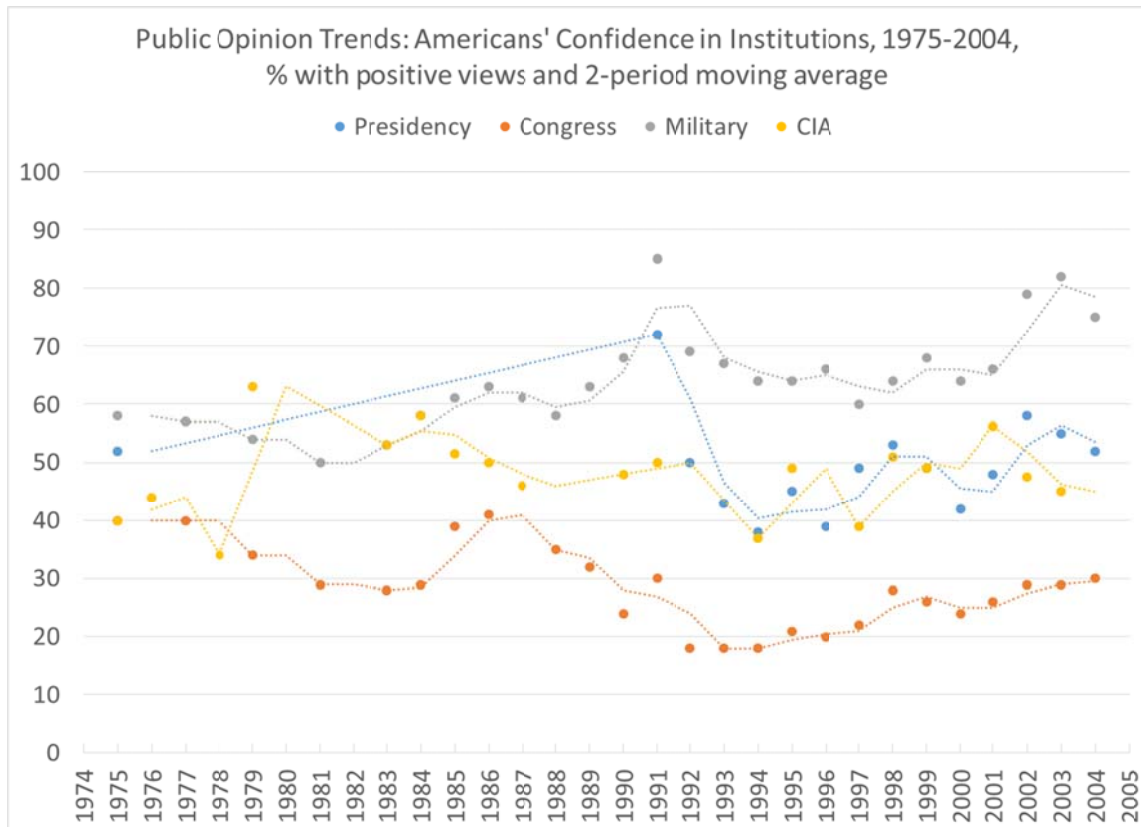
**Figure 13: Public Trust in Government (1958-2013)**

Sources: Pew Research Center for People and the Press, National Election Studies, Gallup, ABC/Washington Post, CBS/New York Times, and CNN Polls. From 1976-2010 the trend line represents a three-survey moving average. For party analysis, selected datasets obtained from searches of the iPOLL Databank provided by the Roper Center for Public Opinion Research, University of Connecticut. Downloaded from <http://www.people-press.org/2013/10/18/trust-in-government-interactive/>.

Similar evaluations (Gallup 2014) of the key principals and agents in this analysis – the Presidency, Congress, the military (for comparison), and the CIA – are available for

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the second panel period. These data show a level of stability and relative position to one another that is largely unchanged. Samples of American adults show strongest confidence in and support for the military, relatively even support between the Presidency and CIA, and less support and confidence generally for Congress.



**Figure 14: Public Opinion Trends, Americans' Confidence in Institutions, 1975-2004.**

Source: iPOLL Databank (2014) and Gallup (2014).

While the aforementioned changes in the overall context may not be distilled into a single set of observations to represent in a model, they are considered qualitatively during the interpretive stages of the analysis. Moreover, several aspects of the changing context do manifest in other variables, especially *Resources*, *International Affairs*, *Leaks*, and *Hearings*.

## Thus Spake the Data: Congress changed, but not the outcomes

This chapter presents the data, beginning with descriptive statistics and then explanatory graphs and charts for each item in turn, as initially outlined in the research design. The raw data are incorporated into appendices identified throughout the chapter.

### Pre- and Post-Intervention Changes

The presentation of the data begins with the trends in the *Congressional Record*. The summary statistics for the general interest, call to action, and failure/domestic spying topics are in the table below. T-tests for each variable are presented in a later section.

<i>Descriptive Statistics (1947 – 1975)</i>				
	<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>
General Interest in the <i>Congressional Record</i>	840	28.966	28.877	150
Calls for Action in the <i>Congressional Record</i>	50	1.724	1.830	6
Intelligence Failures and Domestic Spying in the <i>Congressional Record</i>	51	1.759	3.461	15
<i>Descriptive Statistics (1976 – 2004)</i>				
	<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>
General Interest in the <i>Congressional Record</i>	8,113	279.759	101.509	524
Calls for Action in the <i>Congressional Record</i>	912	31.448	21.522	81
Intelligence Failures and Domestic Spying in the <i>Congressional Record</i>	335	11.552	11.966	59

**Figure 15: Congressional Record, Interest in Intelligence, Descriptive Statistics**

The trends are also summarized in Figure 19 and are clearly heading in positive direction as dedicated oversight committees engage in more frequent deliberations on intelligence. It is clear that there is a material difference in the level of congressional attention documented in the *Congressional Record* between these two periods. In fact, there is an order of magnitude change in the raw counts of all three measures.

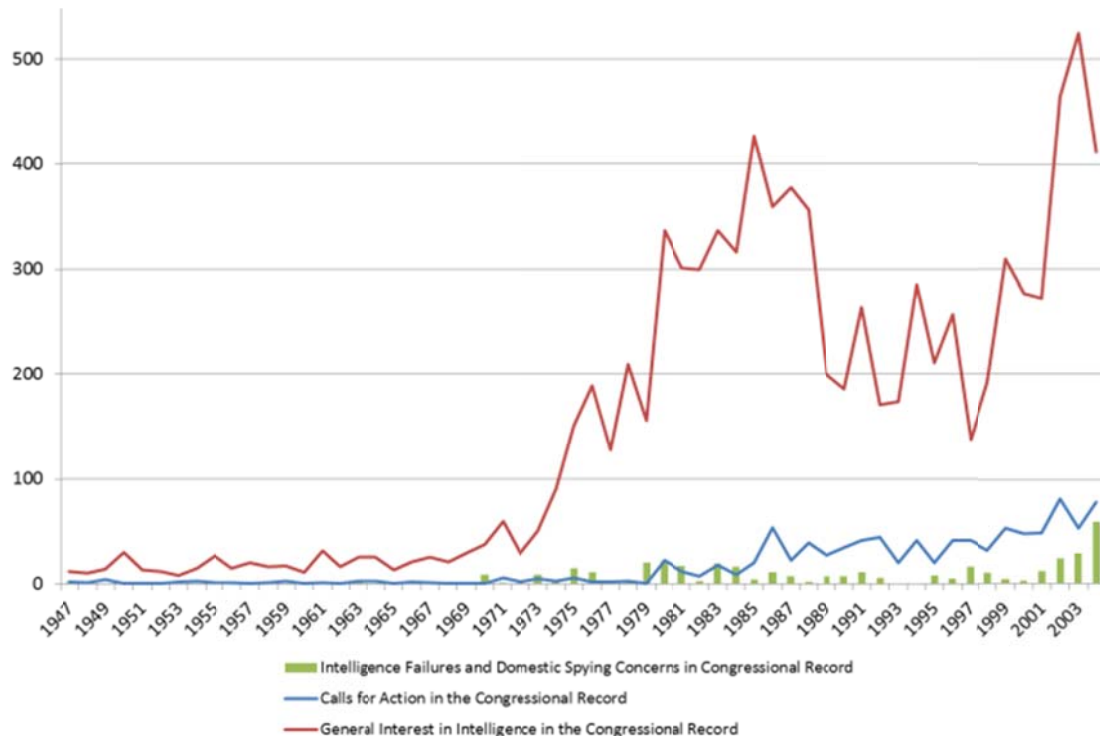


Figure 16: Congressional Interest in Intelligence, Trends

These measures may not tell the full story, however. Because members of Congress can attach artifacts to their speeches, statements, and hearings, there is potential for a key word or phrase documentation strategy to over-represent sentiment. Also, it is not certain if the *Congressional Record* has full digital copies with adequate indexing across all sessions of Congress; therefore, to confirm the validity of the observations, the author examined a series of human-coded data from PolicyAgendas.org. The table below shows the gross numbers of hearings, bills, roll-call votes, State of the Union speeches, executive orders, and Supreme Court cases from each panel period. Once again there is an obvious increase across all the legislative branch activities, though not nearly as dramatic as the change in references within the *Congressional Record*.

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	Congress: Hearings	Congress: Bills	Roll-call Votes	Public Laws	State of the Union Speeches	Executive Orders	Supreme Court Cases
1947-1975	223	275	28	20	8	31	7
1976-2004	235 <sup>i</sup>	327	154	35	8	34	1

**Figure 17: PolicyAgendas.org Intelligence Data**

Noteworthy in this increased volume of legislative activity is the increased potential for hearings to lead to roll-call votes. Though not used in this study's statistical analysis, roll-call votes are a useful signal for understanding that not only did the committees prepare and organize legislation for consideration, but also they voted it out of committee, gaining enough support from leaders of either chamber to bring their measures to a vote. This is an indicator of leadership salience. The executive, for its part, is largely unchanged in these data.

To confirm if the legislative base rate changed on more of a per capita basis, the study used an Ordinary Least Squares (OLS) regression. From period one to period two the OLS regression shows (Figure 21) both a change in the direction of the coefficient (-0.008 to 0.1787) and an increase in the base rate (intercept changes from 0.7365 to 3.4072). This may be due not only to the work of the committees in explaining intelligence matters to their colleagues, but also potentially because of the general increase in congressional assertiveness (Ripley and Lindsay 1993) exhibited after the Nixon Administration. The significant number of hearings in the first panel (over forty in one year) are attributed to Senator McCarthy.

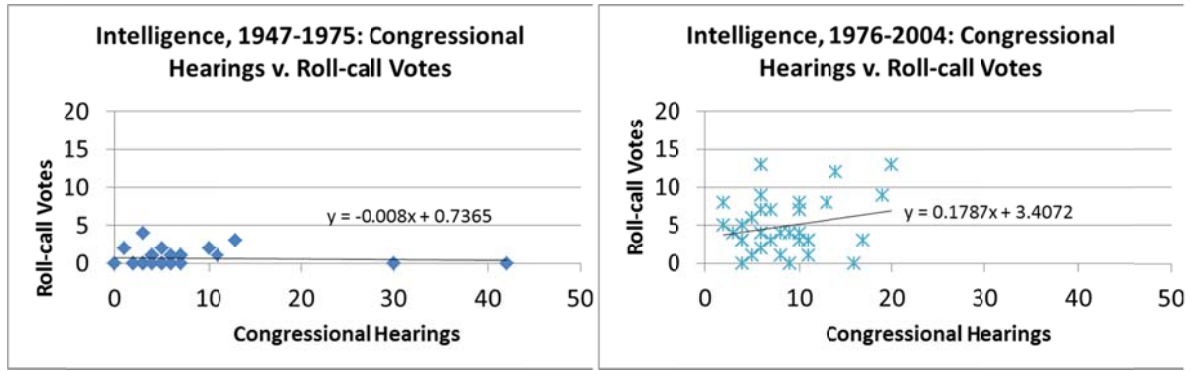


Figure 18: OLS Comparisons, Hearings/Votes

Based on this data, the intervention by the Congress following the Church and Pike Committees does seem to have led to increased legislative activity and productivity, which is probably indicative of increased oversight. The next question is where that oversight fits on Zegart’s Goldilocks scale. Is it too little, too much, or just right?

**Cross-case Analysis.**

The following tables and graphics present the instances of House hearings, Senate hearings, and public laws related to each of eleven cases: intelligence plus the ten other comparative policy cases. Note that the number of hearings listed below for intelligence does not include 26 joint commission hearings that took place outside the House and Senate hearings. There were 6 such hearings in the first period and 20 in the second.

	<i>House Hearings</i>		<i>Senate Hearings</i>		<i>Public Laws</i>	
	<i>1947-1975</i>	<i>1976-2004</i>	<i>1947-1975</i>	<i>1976-2004</i>	<i>1947-1975</i>	<i>1976-2004</i>
<i>Intelligence</i>	75	115	142	100	20	35
<i>Airports and ATC</i>	175	463	139	199	93	65
<i>Banking System</i>	131	384	167	189	99	45
<i>Drinking Water</i>	45	149	41	67	17	22
<i>Federal Reserve</i>	26	165	25	97	21	9
<i>Food Safety</i>	79	136	63	79	42	27
<i>Government Efficiency</i>	192	383	116	241	59	75
<i>International Finance</i>	73	173	49	81	29	10
<i>IRS Administration</i>	29	127	12	57	6	7



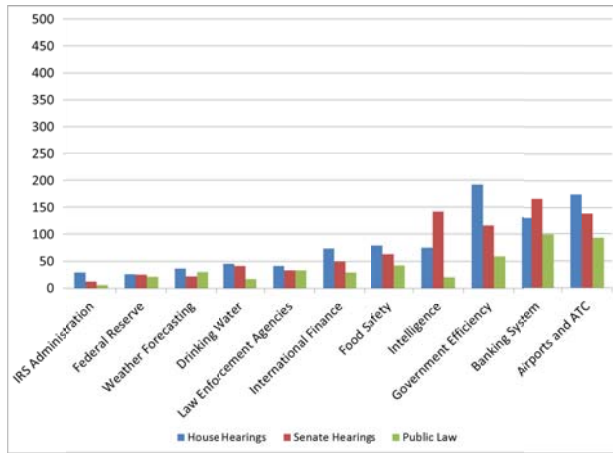
## Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

	<i>House Hearings</i>		<i>Senate Hearings</i>		<i>Public Laws</i>	
	<i>1947-1975</i>	<i>1976-2004</i>	<i>1947-1975</i>	<i>1976-2004</i>	<i>1947-1975</i>	<i>1976-2004</i>
<i>Law Enforcement Agencies</i>	41	328	33	142	33	32
<i>Weather Forecasting</i>	36	131	22	45	30	37

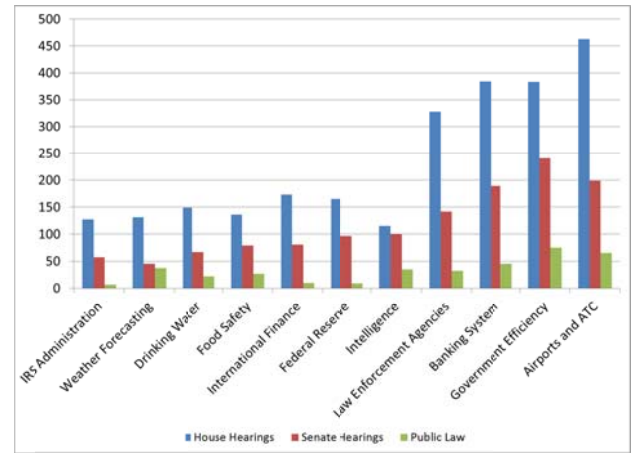
**Table 4: Congressional Activity in Multiple Policy Issue Areas**

The following charts show the totals per issue area per legislative activity by panel period. Note that intelligence maintains relative parity to these other oversight activities. This trend is consistent with the observations of other scholars who see a Congress “resurgent” and active following the Nixon Administration, especially in foreign affairs (Ripley and Lindsay, ed. 1993).

### Cross-case Analysis: 1947-1975



### Cross-case Analysis 1976-2004



*Comparisons of PolicyAgendas.org hearing and law data, between 1947 and 2004, sorted by a weighted index (1 × House Hearings) + (1 × Senate Hearings) + (2 × Public Laws).*

**Figure 19: Cross-case Analysis, Congressional Activity Trends**

As the charts demonstrate, it is possible to quantify the unique and comparable levels of oversight via a legislative productivity proxy metric. One general trend across both periods is that Congress held many more hearings in the second period, but passed fewer laws. Compared to the other cases, intelligence rated fourth place in the overall legislative productivity in the first panel period. It moves down one place to fifth in the second. While it shows fewer Senate hearings in the second panel period, it shows higher

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House hearings and a greater number of public laws. It garners greater oversight, as measured by legislative productivity, than the Federal Reserve, international finance, food and water safety, weather forecasting, and the administration of the IRS. Its peers in the law enforcement agencies edge out intelligence in the second panel period. These perceived changes in intelligence oversight are also confirmed by unweighted t-tests showing positive results between the two periods, indicating that the mean in the second period grew larger than the standard error did.

**Espionage Arrests.**

Espionage arrests are treated both as a dependent variable and as an independent variable in the other models. The data used in this study come from research funded previously by the Defense Personnel Security Research Center (Herbig 2008, Appendix A). The summary data for the panel periods appear below.

	<i>Number of American Arrested for Spying on the US (Espionage)</i>
1947-1975	38
1976-2004	123

The summary statistics for this variable appear below.

	<i>Descriptive Statistics (1947 – 1975)</i>			
	<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>
Americans arrested for spying against the US	38	0.109	0.394	3
	<i>Descriptive Statistics (1976 – 2004)</i>			
	<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>
Americans arrested for spying against the US	123	0.353	0.766	6

**Figure 20: Arrests Descriptive Statistics**

**Failures.**

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As mentioned earlier, the content analysis across the *New York Times* archives seeks four archetypes of intelligence failures: missed event, lost collection platform, incorrect call, and surprise attack. Across the two panel periods the public intelligence failures include:

- 1950 N. Korean Invasion of S. Korea, China's Intervention (2) (Betts 1978)
- 1960 U-2 Shot Down (Betts 1978)
- 1962 Russian Nuclear Intentions in Cuba (Hedley 2007)
- 1963 South Vietnamese Buddhist Crisis (New York Times Reporter 1963)
- 1968 Czechoslovakia (Crewdson 1975), Pueblo Seizure (Betts 1978), and Tet Offensive (New York Times Editors 1968) (3)
- 1969 Libya Coup, North Korean downing of EC-121 (2)
- 1972 North Vietnamese Offensive
- 1973 Arab-Israeli Conflict (Hedley 2007), Arab Oil Embargo (Halloran 1978) (2)
- 1974 Portugal Coup (Crewdson 1975), Cyprus Coup (New York Times Editors 1976), Ethiopian Coup (Senior Review Panel 1983) (3)
- 1975 North Vietnamese Invasion of South Vietnam (Hedley 2007)
- 1978 Fall of the Shah of Iran (Hersh 1978), Afghan Coup (2)
- 1979 Iran Embassy Attack, Russian Brigade in Cuba and Invades Afghanistan (3)
- 1983 Embassy and Marine Barracks Bombing in Beirut
- 1987 Soviet Reactive Armor (Browne 1987)
- 1991 Extent of Iraqi Nuclear Program (Sciolino 1991)
- 1993 World Trade Center Attacks
- 1996 Khobar Towers Attack
- 1998 Indian Nuclear Test (Risen *et al* 1998), East African Embassy Bombings (2)
- 1999 Chinese Embassy Bombing (Schmitt 1999)
- 2000 USS Cole Bombing
- 2001 9/11 Attacks
- 2003 Overestimation of Iraq WMD Program

These observations are generally consistent with the failures cited in intelligence literature. The summary statistics table is below. In contrast with the previous summary statistics data, which included annual observations, the mean, standard deviation, and max scores below are based on a monthly observation rate.

<i>Descriptive Statistics (1947 – 1975)</i>			
<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>

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Intelligence failures	17	0.049	0.241	2
<i>Descriptive Statistics (1976 – 2004)</i>				
	<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>
Intelligence failures	16	0.046	0.210	1

**Figure 21: Intelligence Failures Descriptive Statistics**

### Conflicts.

As discussed previously, there is also an indirect measure for evaluating intelligence outcomes – unavaoided, uninitiated military conflict. Ideally, good intelligence provides advanced notice of threats, opening an opportunity and decision window for policymakers to jump through. Ideally, good intelligence helps policymakers understand the effective levers of change at their disposal. If intelligence fails to live up to these expectations, it is the responsibility of executive and legislative oversight to improve the situation. Using the *Correlates of War* data, it is possible to indirectly observe US intelligence performance. Thirty-eight conflicts appear across both panel periods where the United States is drawn into a conflict it did not initiate.

Here is a summary for the panel periods:

	<i>Number of Unavaoided, Uninitiated Conflicts US involved in</i>	<i>Total Number of Conflicts US involved in</i>
1947-1975	15	105
1976-2004	23	111

From the table the simple base rate in period one is 14% of the conflicts uninitiated by the US. In the second period, 20% of the conflicts are not ones that the US initiated. The rise in conflicts and the rise in uninitiated conflicts are problematic, especially if there was any hope that intelligence or the enhanced oversight of intelligence would somehow make the US safer. The summary statistics table is below. The mean, standard deviation, and max scores are based on a monthly observation rate.

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		<i>Descriptive Statistics (1947 – 1975)</i>			
		<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>
Unavoided, uninitiated military conflicts		15	0.043	0.217	2
		<i>Descriptive Statistics (1976 – 2004)</i>			
		<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>
Unavoided, uninitiated military conflicts		23	0.066	0.249	1

**Figure 22: Unavoided, Uninitiated Conflicts Descriptive Statistics**

**Leaks.**

In the *Research Design* section, the study outlined the definition and approach for collecting the leaks data. The resulting sample includes news articles that mention a leak or unauthorized disclosure about national security. The results are summarized in the table below, which are the aggregate amount for each period. Using the *New York Times* editorial lens seems a prudent method for controlling for general changes in the pervasiveness of media across these decades.

<i>Number of National Security Leaks revealed in the New York Times</i>	
1947-1975	56
1976-2004	60

The summary statistics table is below. The mean, standard deviation, and max scores are based on a monthly observation rate.

		<i>Descriptive Statistics (1947 – 1975)</i>			
		<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>
National security leaks in the <i>New York Times</i>		56	0.161	0.426	3
		<i>Descriptive Statistics (1976 – 2004)</i>			
		<b>Sum</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Max</b>
National security leaks in the <i>New York Times</i>		60	0.172	0.503	3

**Figure 23: National Security Leaks in the New York Times Descriptive Statistics**

The data for this study include 116 individual articles that reference a leak of national security or intelligence information. The data are summarized in the figure below. As

Figures 28 and 29 demonstrate leaks occur frequently across 58 years of observations. Leaks also occur during Democratic and Republican presidential administrations.

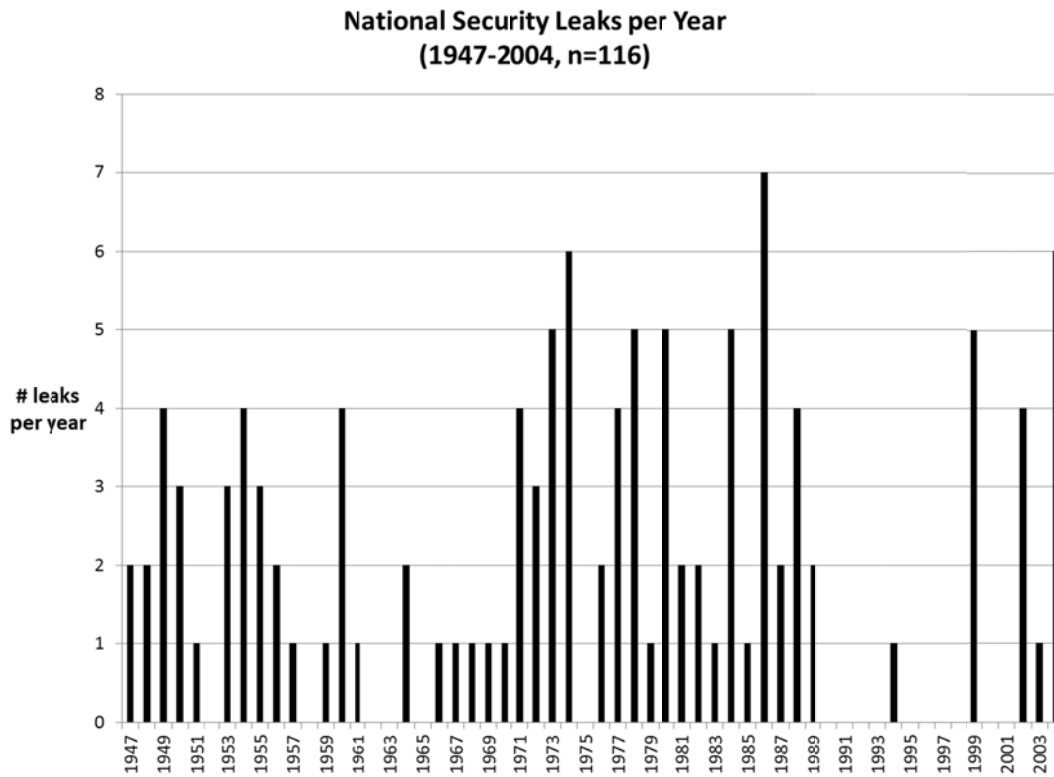


Figure 24: National Security Leaks per Year, 1947-2004

With additional coding each leak can be ascribed to members of the legislative branch (30%), members of the executive branch (35%), or unknown leakers (35%).

Figure 26 shows the political situation and who the leak is assigned to. This figure helps better characterize the trends in national security leaks. Note that this graph shows the total number of individual secrets (130) leaked as opposed to the number of leak events (116).

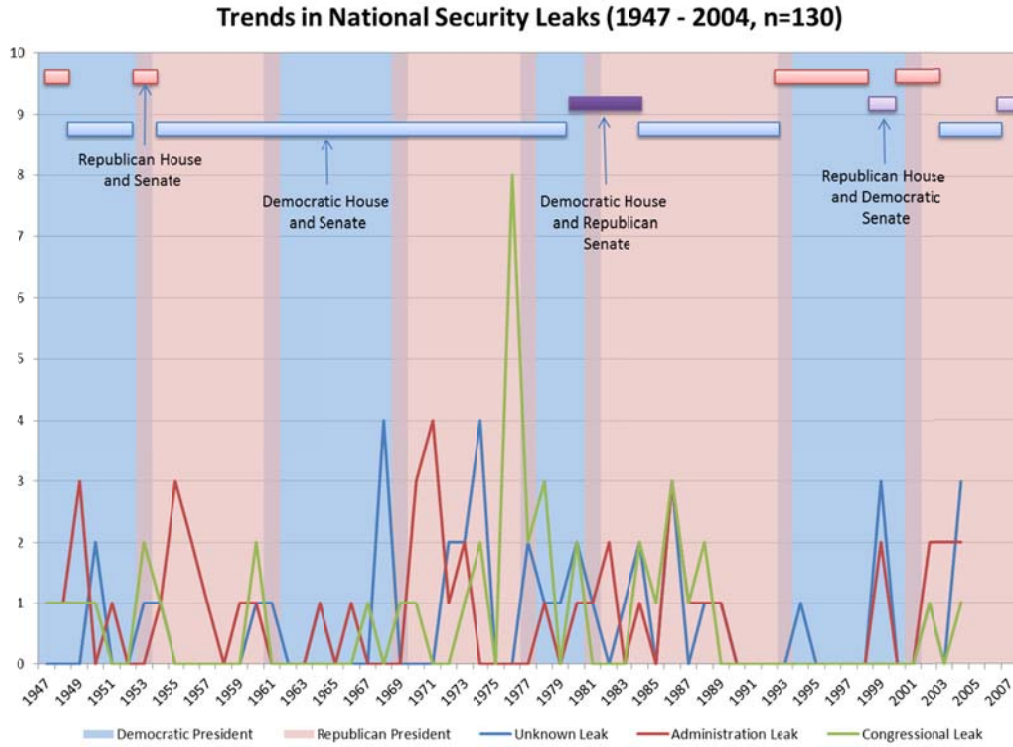


Figure 25: Trends in National Security Leaks, 1947-2004

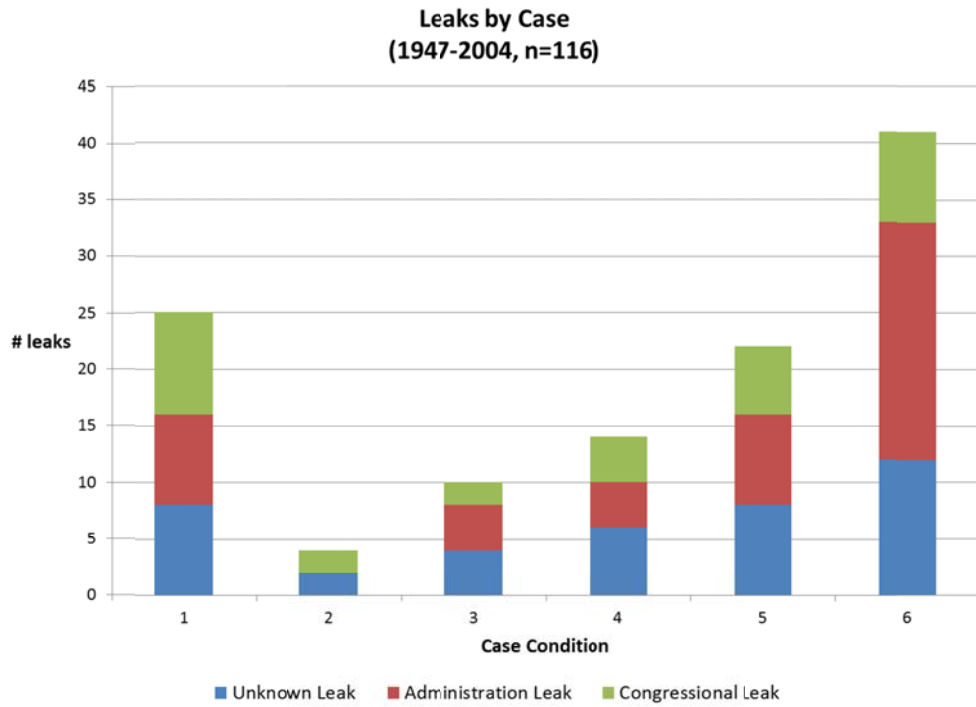


Figure 26: Leaks by case, 1947-2004

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Figure 30 shows the frequency distribution of leaks across the six cases: (1) Democratic President, Democratic Legislature; (2) Democratic President, Split Legislature; (3) Democratic President, Republican Legislature; (4) Republican President, Republican Legislature; (5) Republican President, Split Legislature; and (6) Republican President, Democratic Legislature. Across the entire period, there were 40 leaks by unknown sources, 45 leaks attributed to administration sources, and 34 leaks attributed to congressional sources. Comparisons between each panel period are outlined in the table below.

	<i>Unknown Source</i>	<i>Attributed to Administration Source</i>	<i>Attributed to Congressional Source</i>
1947-1975	17	27	15
1976-2004	23	18	16

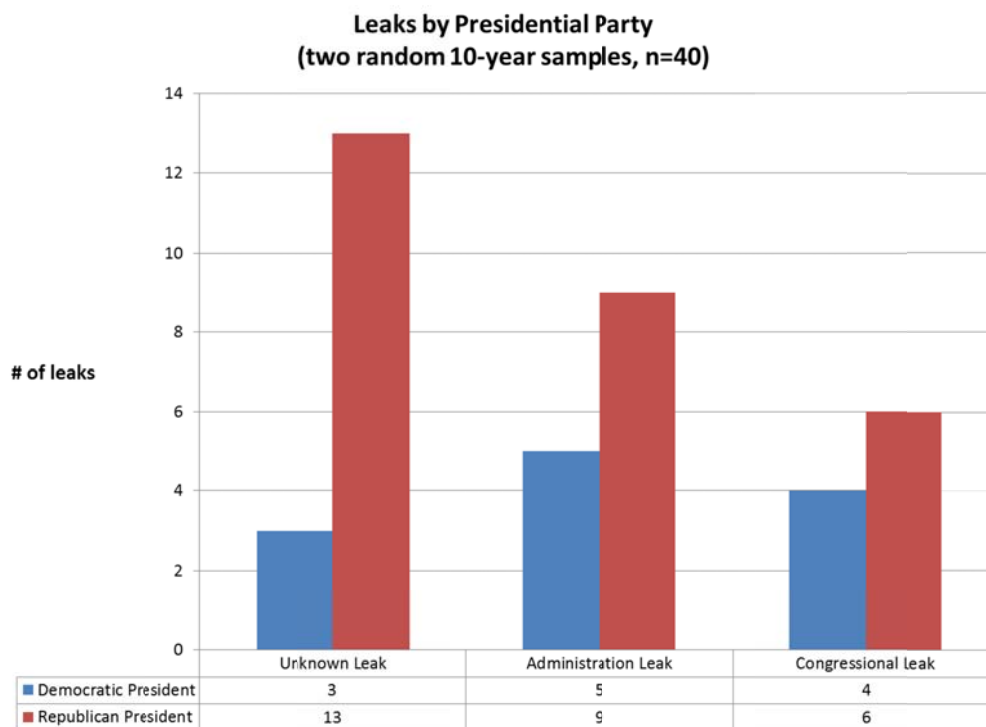
**Figure 27: Leaks by source, comparing panel periods**

Between 1947 and 2004 there were more years where there was a Republican Administration than a Democratic Administration. In order to compare the two conditions it is necessary to create two random samples. In this study, the two samples include 10 random years where there was a Democratic President and 10 random years where there was a Republican President. The years used for each sample are presented in the table below.

<i>Sample 1: Democratic President</i>	<i>Sample 2: Republican President</i>
1948, 1949, 1952, 1961, 1962, 1963, 1966, 1977, 1993, 1996	1954, 1956, 1972, 1974, 1975, 1984, 1991, 1992, 2003, 2004

Further characterizations of the two samples are presented in the figure below. The results include 28 leaks when there was a Republican President and 12 leaks when there was a Democratic President. The trend of leaks by legislative, executive, and unknown sources continues across Republican and Democratic administrations.





**Figure 28: Leaks by Presidential Party, two random 10-year samples**

### Comparing Domains.

The *Case Selection and Cross Case Analysis* sections demonstrated the rates of change in congressional oversight of similar policy arenas. To fully explore the efficacy of these oversight patterns this study must also examine the policy outcomes related to these comparative cases. In searching for outcome data<sup>19</sup> (Figure 33) the study uses relatively comprehensive data for air traffic (FAA 2013), federal crime (FBI 2013) policies, and the two key mandates of the Federal Reserve (employment and inflation control) (Bureau of Labor Statistics 2013). The data for air incidents and crime are available for the second panel period. Figure 34 shows the OLS regression equations for

<sup>19</sup> These are ultimately dependent variables that have their own independent variables associated with them. However, for this round of linear regressions, the study only measured the coefficient of the dependent variables.

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an unemployment and inflation index, aviation incidents, violent and property crimes, intelligence failures, leaks, and unavaoided, uninitiated military conflicts across the *second* panel period. As the graphics demonstrate in subsequent pages there is a statistically and practically significant change in the unemployment/inflation index, in the number of Americans arrested for espionage, and in the number of aviation incidents.

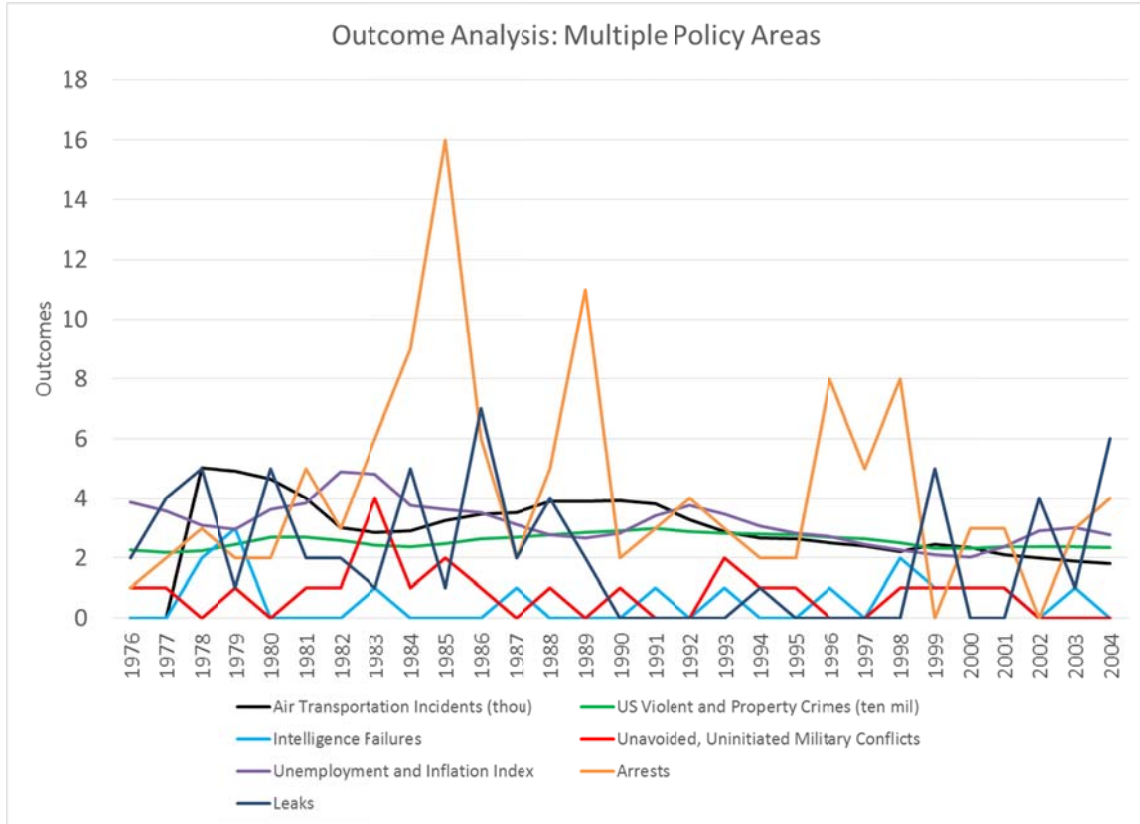


Figure 29: Outcome Analysis, multiple policy areas

There is also a statistically, but not practically, significant change in the number of unavaoided, uninitiated military conflicts. This specific near term trend is positive, but not completely so given our understanding that the overall number of conflicts in the second period is higher than the first period. While crime and justice policy analysts laud the positive trends in violent and property crime over the last two decades, the overall trend for the *panel period* is flat because the 2004 count of ~25 million crimes is still slightly

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higher than the 1976 count of ~22 million crimes. This proves to be the case for intelligence failures too. The data are presented below in figure 33. Note the y-axis uses different units of analysis per variable as defined parenthetically in the legend.

These observations are interesting because of the relative degree of progress each policy stream achieved (e.g., greater for Federal Reserve, neutral for law enforcement agencies) despite the fact that they garnered very different levels of legislative productivity and thus oversight (e.g., less for Federal Reserve, more for law enforcement agencies).

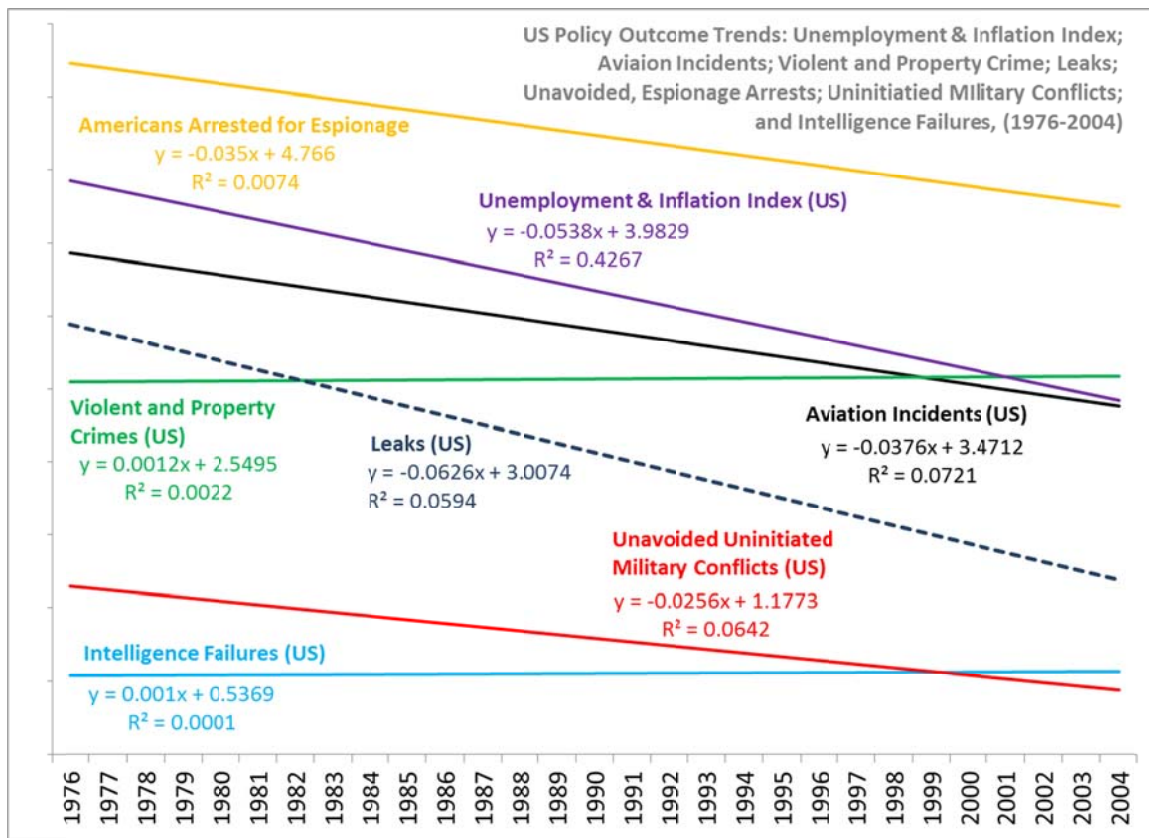


Figure 30: US Policy Outcome Trends, multiple issue areas, 1976-2004

The trend data also underscore a problematic aspect of such cross case analysis. The types of factors that affect unemployment, inflation (Taylor 2001), aviation safety (Frederickson 2002), crime (Stillman 1976; Barkow 2012; Lewis *et al.* 2013), defense

policy, and intelligence operations are vast and heterogeneous. It is difficult for public policy analysts to isolate the legislative oversight components, especially when isolating them yields an imprecise glimpse of the vast factors animating these policy streams. Nonetheless, it is the duty of principal and agent alike to attempt to reconcile their policy reform options and the expected outcomes and results they seek. This same bounded rationality holds true for oversight interventions. Public administration theorists and legislative oversight designers must shape the parts of the system they are able to perceive, acknowledging it is only a partial glimpse.

### **Efficacy Analysis.**

For the purposes of this statistical analysis, the study treats each outcome as its own potential dependent variable and then also combines the raw counts of each at the monthly unit of analysis, which results in 696 observations between January 1, 1947 and December 31, 2004. For analyzing the efficacy of the new intelligence oversight on intelligence outcomes, the study employed Poisson regression models with time series adjustments for autocorrelation.<sup>20</sup>

For analyzing the impact of the new intelligence oversight on intelligence outcomes, the dissertation employs the Poisson regression,

$$\log (E(y|x)) = \beta_0 + \beta_n x_n + \epsilon$$

where the independent variables ( $x_n$ ) include relevant inputs:

1. *Leadership Gaps*: Periods with no confirmed Director of Central Intelligence

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<sup>20</sup> Similar regressions for annualized count data have  $R^2$  values that range from 0.05 to 0.32, but never demonstrate a statistically significant relationship between the DVs and *Hearings*, *Public Laws*, or *Intervention*, except in the case of the positive coefficient relationship between *Arrests* and *Intervention*.

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2. *Resources*: Current US Government Receipts
3. *International Affairs*: *New York Times* international affairs index
4. *UNSC Agenda Items*: New agenda items introduced to the UN Security Council
5. *Leaks*: National security leaks in the *New York Times*
6. *Arrests*: Americans arrested for espionage against the United States
7. *Hearings*: Congressional hearings (House and Senate), focused on intelligence
8. *Public Laws*: Public laws introduced or signed, focused on intelligence
9. *Saliency*: Index of the Intensity of US Congressional Interest
10. *Intervention*: Categorical variable signifying the legislative reforms in the second period
11. *Divided Government*: Categorical variable

Because the value of the predictors ( $x_n$ ) can take on any value (negative to positive infinity) and the outcome variables are counts, the log transformation is required.

The summary descriptive statistics for each variable are presented here again in context together. Full descriptive statistics for each variable in each panel period are available in Appendix C.

	Descriptive Statistics (1947-1975)				Descriptive Statistics (1976-2004)			
	<i>Sum</i>	<i>Mean</i>	<i>Standard Deviation</i>	<i>Max</i>	<i>Sum</i>	<i>Mean</i>	<i>Standard Deviation</i>	<i>Max</i>
<i>Failures</i>	17	0.049	0.241	2	16	0.046	0.210	1
<i>Conflicts</i>	15	0.043	0.217	2	23	0.066	0.249	1
<i>Leadership Gap</i>	3	0.007	0.080	<i>n/a</i>	23	0.065	0.230	<i>n/a</i>
<i>Resources</i>	10,861	31.211	9.075	44	12,733	36.359	4.983	44
<i>International Affairs</i>	3,291	9.457	4.767	25	2,465	7.083	3.874	29
<i>UNSC Agenda Items</i>	91	0.261	0.561	3	269	0.773	1.023	6
<i>Leaks</i>	56	0.161	0.426	3	60	0.172	0.503	3
<i>Arrests</i>	38	0.109	0.394	3	123	0.353	0.766	6
<i>Hearings*</i>	223	0.641	1.268	10	716	2.057	2.760	19
<i>Public Laws</i>	20	0.057	0.245	2	35	0.101	0.320	2
<i>Saliency</i>	1,092	37.655	38.234	198	11,519	397.207	157.951	764
<i>Intervention</i>	0	0	0	0	348	1	0	1
<i>Divided Government</i>	179	0.516	0.500	<i>n/a</i>	263	0.758	0.429	<i>n/a</i>

**Table 5: Dependent and Independent Variable Descriptive Statistics**

\*Reminder that the regression analysis employs the addition hearings found during the fact-finding search, see endnote (a). The former comparisons of descriptive statistics were not changed in order to employ the common coding scheme applied by PolicyAgendas.org across the other policy topics.

T-tests evaluated the probability of the differences between the means for the variables.

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variable	probability that difference between the means of period 1 and 2 are 0 (via two-sample t-test)
<i>Failures</i>	0.91
<i>Conflicts</i>	0.17
<i>Leadership Gap</i>	0.00
<i>Resources</i>	0.00
<i>International Affairs</i>	0.00
<i>UNSC Agenda Items</i>	0.00
<i>Leaks</i>	0.91
<i>Arrests</i>	0.00
<i>Hearings</i>	0.00
<i>Public Laws</i>	0.03
<i>Divided Government</i>	0.00

**Figure 31: T-test Results for Variables**

Conducting this analysis was a multi-stage process. First the regression analysis was applied at the annual level of observation. However, there proved to be too few observations to differentiate the results and coefficient effects. All the data were then recoded from annual observations to monthly observations. This provided more discrimination between the variables for observing lagged relationships and increased the observations from 58 to 696. However, it was not possible to recreate the Congressional interest/salience index again on a monthly observation basis, so the study omits it as a variable from this point forward.

Next the study employed Poisson regression models and recorded the Akaike's and Bayesian Information Criteria (AIC and BIC) (Akaike 1973 and Schwarz 1978, respectively) to estimate the goodness of fit. The study then introduced the appropriate time series autocorrelation corrections and ran the Poisson regressions, AIC, and BIC again. Finally, the study tested negative binomial regressions with time series autocorrelation corrections, similarly running AIC and BIC post-estimation tests. The analysis showed that Poisson regressions with time series autocorrelation corrections had the best AIC (i.e., lower) and BIC (i.e., more negative) values, suggesting those models

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provided the best, least unbiased estimate of the interaction between the variables. The figure below shows the example of the AIC and BIC as measures of fit for Poisson and negative binomial regressions on the Intelligence Failure variable.

Model Type	AIC	BIC
Poisson (Intelligence Failure)	0.363	-4227.008
Negative Binomial (Intelligence Failure)	0.365	-4220.744

Figure 32: Example of Akaike’s and Bayesian Information Criteria

The results tables for the regression models appear below.

	Failures	Conflicts	Leaks	Arrests
<i>Leadership Gap</i> (S)	0.2651 (1.6482)	-0.3372 (1.4631)	1.5778*** (0.5612)	0.3925 (0.5220)
<i>Resources</i> (LD)	-0.1106 (0.0892)	-0.0900 (0.2687)	-0.0578 (0.0711)	-0.0047** (0.1035)
<i>UNSC Agenda Items</i> (DS)	0.1601 (0.1075)	0.0434 (0.0953)	-0.0133 (0.0576)	0.1085** (0.0467)
<i>International Affairs</i> (D)	0.0025 (0.0419)	-0.0282 (0.0385)	-0.0388* (0.0209)	-0.0437** (0.0187)
<i>Leaks</i>	-0.4322 (0.5071)	-0.7416 (0.5822)	N/A	0.0112 (0.1599)
<i>Arrests</i> (D)	0.1999 (0.2025)	0.1459 (0.1726)	0.0098 (0.1082)	N/A
<i>Hearings</i> (LDS)	-0.0620 (0.0422)	-0.0017 (0.0413)	-0.0168 (0.0251)	-0.0021 (0.0187)
<i>Public Laws</i> (S)	0.2728 (0.4115)	-0.2941 (0.3814)	0.0049 (0.2406)	-0.5317*** (0.1845)
<i>Months</i> (DS)†	-0.0956*** (0.0129)	-0.1122*** (0.0124)	-0.0172 (0.0143)	0.0053 (0.0135)
<i>Intervention</i>	0.1471 (0.3893)	1.0117** (0.4015)	0.0156 (0.1879)	1.1659*** (0.1862)
<i>Divided Government</i> (D)	0.3272 (1.5279)	-1.8954** (0.9413)	0.2660 (0.7860)	-1.2802** (0.5929)
Constant ( $\beta_0$ )	-3.4483*** (0.3083)	-3.9196*** (0.3791)	-1.8512*** (0.1350)	-2.2723*** (0.1664)
Constant (with prior correction)	--	-0.2103	--	--
Pseudo R2	0.1567	0.2523	0.0163	0.0801

Table 6: Intelligence Outcomes, Poisson Regression with time-series autocorrelation corrections 1947-2004, n=696, coefficients and (standard error)

\* p < 0.1, \*\* p < .05, \*\*\* p < .01

† Months is a computed variable representing the number of months since the last failure or conflict.

For each model (columns) the pseudo R<sup>2</sup> is presented, along with the coefficients and standard errors for each operative independent variable. Also displayed is the updated constant after prior correction (see footnote 10), a method that may only be employed

against the conflict samples due to population data availability. Note that the pseudo  $R^2$  are not appropriate to compare between the variables. However, it is suitable to use them as comparisons between model iterations for the same variable (e.g., failures), for the same model (e.g., Poisson), and the same data.



## **Something for Every Critic: from analysis to synthesis**

Recall the research question this dissertation examines:

*What effect did the mid-1970's oversight reforms have on certain intelligence outcomes?*

- a. Did the 1970's legislative reforms improve the good outcomes for intelligence (e.g., accurate estimates, national security, rooting out spies, etc.)?*
- b. Did the 1970's legislative reforms remove bad outcomes for intelligence (e.g., leaks of national security information, inaccurate assessments, poorly-informed foreign policy, etc.)?*
- c. Did the Congress's oversight activity play a statistically significant role in the outcomes?*

Also recall the initial hypotheses, written as disprovable claims.

*H<sub>0</sub>1: The positive outcomes of intelligence oversight have not improved following the 1970's legislative reforms.*

*H<sub>0</sub>2: The negative outcomes of intelligence oversight have not increased following the 1970's legislative reforms.*

*H<sub>0</sub>3: Congress's oversight activities do not have a statistically significant relationship to intelligence outcomes, in either direction.*

The data clearly show an order of magnitude of change in the intelligence-related components of the *Congressional Record*. The change is evident across the general interest in intelligence, the calls for action, and the attention given to failures or domestic spying concerns. The committees are no doubt enabled by the significant staff increases following the reform. The same degree of change is evident in the committee hearings, which more than tripled. All of this activity also afforded both chambers many new opportunities to evaluate the role of intelligence in a democratic federal republic.

Between panel periods one and two, the number of roll call votes related to intelligence grew by 450% and the number of public laws passed grew 75%, the former resembling arithmetic growth and the latter taking on an even regular annual cadence.

**Poor to Average Intelligence Outcomes.**

Amid all this additional oversight activity, however, intelligence outcomes saw more muted changes, and changes for the worse. While the number of publicly discussed and disclosed intelligence failures dropped by a single unit, the number of unavoids, uninitiated military conflicts grew by 50% on a per capita basis. The number of leaks only grew by 7%, perhaps mollifying the worst fears of executive branch reform opponents. Another notable change is the order of magnitude change in the number of months where the Intelligence Community was led by an acting director, a trend observed in other political appointments (Dull and Roberts 2009). While the intelligence outcomes rarely went in a better direction, they did grow at rates significantly lower than those observed in the international political scene. Here the *New York Times* international affairs articles index proves wanting, as the overall number of article decreased by 25% from 3,291 to 2,465, perhaps the victim of staffing cuts in overseas bureaus. It is not clear how this reduction affects the sampling strategy for leaks, failures, and crises. In contrast though, the level of new agenda items (international disagreements, crises, sanctions, etc.) coming before the UN Security Council grew 195% from 91 to 269. The order of magnitude difference between this rate of change and the rates of change among the intelligence outcomes brings merit to the oversight intervention. The world became a more contentious place, as measured by the pace of events at the UN Security Council, but the intelligence failures did not grow at the same pace.

As discussed earlier, the data also demonstrate that the change in the oversight regime and its impact on oversight activities (hearings and laws) was generally consistent with the changes observed among other important policy issues, such as the oversight of

the IRS and federal law enforcement agencies. Intelligence oversight's relative parity (in the degree of oversight activities it was subjected to) among a basket of peer issues should temper future rote calls for "more oversight" following an intelligence failure, just as a period of relative calm should not legitimize any calls for "less." The "more is better" approach resembles more and more a reactionary bias with unsubstantiated empirical support.

**Efficacy Analysis.**

Turn now to the regression output table. First there is the general observation that the Poisson regressions with time series autocorrelation corrections led to improved  $R^2$  for each model (only within each model, on the same variable, on the same data) (UCLA 2011). Second, each model contained coefficients and standard errors that are statistically significant. Both these conditions give confidence that the regression process and subsequent analysis may hold useful insights. Moreover, key findings between the multiple regression model types explored, i.e., probit, logit, scobit, Poisson, maintained general consistency. Now some specifics.

For *Failures*, the following variables had a positive relationship: *Leadership Gap*, *UNSC Agenda Items*, *International Affairs*, *Arrests*, *Public Laws*, and *Intervention*. Those with a negative relationship included *Resources*, *Leaks*, *Hearings*, and *Months* (a computed variable indicating the number of months since the last failure or conflict). Some of these relationships seem logical and possibly generalizable, even though the correlation is not statistically significant. For example, there is a logic to intelligence failures increasing during periods when there is a reduced level of leadership for the Intelligence Community, i.e., *Leadership Gap* (coefficient of 0.26). For instance, how

much might DCI Gates's contentious confirmation hearings have affected the attention he could have given to key intelligence assessments under review in the same period?

Likewise, many would subscribe to the idea that if you give a program more *Resources* (coefficient of -0.002) and more oversight, i.e., *Hearings* (-0.062), you should see better results. However, given that many of the standard errors are so large that they could flip the direction of the relationship, e.g.,  $\pm 1.63$  for *Leadership Gap*, these insights are not conclusive. The only variable with a statistically significant relationship is *Months*, which does not present a comforting picture: the longer you go without a failure, the better your chances are of not having another one (until you have another one). The data regarding the effect of the *Intervention* on *Failures* are inconclusive. While the coefficient is positive, the standard errors include the potential for zero and negative coefficients. This is consistent with the knowledge derived from the descriptive statistics for *Failures*.

The model for *Conflicts* shows similar findings in some variables, but also offers new statistically significant relationships. *Conflicts* has a statistically significant relationship with *Months*, *Intervention*, and *Divided Government*. The coefficient for *Intervention* is positive. The counterweight to this relationship is the comparably stronger negative coefficient from *Divided Government*. It is difficult to explain the potential effect: is it that a more assertive Congress led the nation into fewer conflicts or merely fewer uninitiated conflicts? The descriptive statistics tell a different tale. However, any further contemplation on these specific relationships trends too much toward the causal on a variable that admittedly has a tenuous relationship to intelligence outcomes.

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The other coefficients for *Conflicts* fail to paint a clearer picture. With negative relationships for *Hearings* and *Public Laws*, it appears oversight activity has a helpful effect, though the effect is muted by the larger standard errors. Also, this model fails to account for the effects the armed services and foreign affairs committees in each chamber may have had on emerging conflicts. The interaction between the variables is even more muddled when comparing *International Affairs* with *UNSC Agenda Items* and *Resources* with *Leadership Gap*, as each pair have opposing relationships. There is perhaps little that is generalizable for the *Conflicts* variable. This potentially always existed given the admitted second-order relationship between the context created through intelligence and policy outcomes derived from policy deliberations, game theory, bounded rationality, the practical realities of physical conflict, and pure chance. Also, the fact that so many of the unavoided, uninitiated military conflicts involve proxies, e.g., Korea, Taiwan, places some of the policy initiative beyond the reach of US leaders.

The *Leaks* model yields an interesting statistical insight. The coefficient for *Leadership Gap* is 1.569 and statistically significant. For any of the independent variables it is the strongest coefficient in all the models. From a generalizability perspective, it suggests that in periods in which there is an acting leader for the Intelligence Community, there is greater potential for national security leaks. The exception seems to be the 1990's, when there were acting leaders between the tenures of DCI's Woolsey, Deutch, and Tenet, but relatively fewer leaks.

The other statistically significant relationship in the *Leaks* model is the negative coefficient (-0.037) for *International Affairs*. Explanations could be numerous. One plausible one is that perhaps during periods where journalists focus on an international

affairs story, enough information is generated that the principals and agents do not need to resort to leaks. However, this explanation is not consistent with the explanations offered by “policy agendas” and “punctuated equilibria,” which hold that in a policy contest opponents resort to leaks to change the agenda or their relative power in the zero sum game.

The *Divided Government*'s positive coefficient conforms to the latter zero sum theory; however, its large standard errors undermine the significance of the relationship. The picture for oversight action, i.e., *Hearings* and *Public Laws*, is no clearer, as these variables split the difference with both negative and positive coefficients, respectively.

In the final model, *Arrests*, statistically significant relationships abound. Yet it is difficult to divine logic in the relationships. For example, add more *Resources*, *Hearings*, and *Public Laws*, and *potentially* fewer will be arrested for espionage. It is not clear if the change happens because the resulting training, education, and awareness that comes with more resources and more Congressional scrutiny leads to fewer Americans engaging in espionage, and thus fewer arrests. The logical alternative to this scenario is unwelcome. While these relationships are certainly not causal, they conflict with the statistically significant positive relationship the *Intervention* variable has with *Arrests*. The descriptive statistics show higher levels of arrests. The *Divided Government* variable is similarly confounding at first glance. The reality is likely more nuanced. *Arrests* are merely less likely to happen in months when Congress is in session, an artifact of history and schedules rather than a prognosis for reforms.

Experiment-wise, this overall exercise has been illuminating. The care taken in developing the observations should minimize the potential for Type I and Type II errors.

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The expected hypothetical relationships between and among the dependent variables and independent variables showed some feasible inferences, such as the effect of acting DCIs, packed UNSC agendas, and resource reductions on intelligence outcomes. Yet the relationship of oversight to policy outcomes is similar to how Ogul viewed it in 1976: “what is intended is not always achieved; what is achieved may not be what is intended” (1976, 153). The data also reinforce views James Q. Wilson held in 1989 with respect to craft agencies: “Craft agencies resist legislative dominance up to a point: Their goals are set and resources controlled by the legislature, but their tasks are defined by factors over which legislators have only imperfect control” (1989, 245). Most striking is the similarity in outcome between this study and those found in Ringquist *et al.*, where “the major influence of complexity on legislative efforts to direct the bureaucracy seems to occur indirectly through its conditioning effect on salience” (2003, 161). The study is admittedly complicated for comparison purposes because while intelligence is a case of high complexity, it ends up having varying salience across the panel periods, both for the public and the Congress.

### **Leaks.**

Because the fear of leaks garnered considerable interest during the reform intervention, and since then for that matter, the study offers a more detailed discussion here. The data clearly demonstrate that policy actors both in the executive branch and in the legislative branch resort to leaks. Leaks happen more frequently when there is a Republican president and a Democratic legislature. Second are the instances where there is a Democratic president and a Democratic legislature. While more leaks come from the executive branch, the legislative branch has more leaks per capita. The data also

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demonstrate that leaks occur in periods when there is divided government (power split between two political parties) and in periods when there is unified government (one party controlling both the executive and legislative branches). It turns out leaks have been a part of national security since at least 1947. Other than an apparent hiatus in the early 1990's, the instances of leaks have averaged 22.6 per decade.

A general review of the types of leaks across all six decades reveals some of the apparent motivations behind the leaks. In the first decade several of the leaks relate to bureaucratic competition between the military services over control of the US atomic weapons and rocketry programs. There are also a number of leaks related to the McCarthy communism hearings, especially when Senator McCarthy called on members of the executive branch to leak information about their fellow employees who they suspected of being communists. In the second decade (early 1960's) the leaks related to controversial intelligence operations and nuclear doctrine. During the third decade, the leaks were diverse and included Vietnam policy (e.g., the Pentagon Papers), nuclear policy, controversial domestic intelligence activities (e.g., Watergate), and numerous leaks of controversial policies revealed during congressional inquiries into intelligence activities. The fourth decade's leaks (early 1980's) related to controversial foreign policy efforts, especially during the Reagan Administration. There were few leaks during the fifth decade. The final period contained leaks about intelligence activities undertaken after the 9/11 attacks, including controversial policies related to the Iraq war and the war on terrorism.

Throughout all six decades there were also multiple attempts to reduce the number of leaks. The policy options explored were diverse. They included adding more



security requirements to members of the executive branch like subjecting them to polygraph examinations, prepublication review, background investigations, and nondisclosure agreements. The Nixon Administration went so far as to tap the phone lines of White House employees (Crewdson 1973). There were also multiple unsuccessful attempts to criminalize the practice of leaking. The various proposals would have penalized the press or the leaker.

This study cannot definitively define the motivations for leaking. The general impression one can draw is that the leaks are rooted in policy disagreement. National security policy touches on existential matters: nuclear policy, warfare, intelligence warning, and methods for uncovering potential threats against the nation. The potential for warfare waxes and wanes and the foreign intelligence apparatus the United States fields also expands and contracts with the threats. It is perhaps too much to ask for complete agreement when it comes to such controversial projects as covert action or war, especially when there is divided government. Jones and Baumgartner (2005, 20) describe such situations as ones where policymakers generate disproportional attention in a specific policy venue. Policymakers change the image of the policy by selectively using information about the policy. Leaks are useful in this process, regardless of the motivations of the policymaker. Whether they intend to affect the policy for personal or institutional reasons leaks are disproportionately powerful for punctuating a policy equilibrium. The information is new and sometimes sensational. The information has the allure of secrecy. The origins of the leak are often obscured, which tends to protect the leaker. Thus the information is not personalized to a specific policy antagonist. If the

leak reveals a normative conflict, then the effects on the policy debate could be even more pronounced.

In general, the executive branch has had continuous insight into national security and intelligence matters. The choice to leak information from within the executive branch cannot necessarily be attributed to institutional motivations. The major, and possibly the most controversial, policy choices in national security and intelligence are often made by political appointees. The political appointees do not enjoy the same tenure as professional staff. Certainly some policies endure beyond presidential administrations, but an executive who does not agree with a policy can easily modify it, withdraw its budget, or replace the senior leaders responsible for it. Congress, on the other hand, has relatively stable tenure in its oversight. Though there is turn-over in the House and less in the Senate, the rolling elections in the legislature and high incumbent reelection rates of almost 95% ensure more continuity than change in policy thought (Friedman and Holden, 2009, Table 2).

The policy formulation process for national security and intelligence exists in dark policy streams with less public insight. The information asymmetry between the executive and the legislature is also more pronounced. The number of committees with insight into national security and intelligence are far fewer than other policy domains. The ability to access information about the policies are more constrained as the information resides on classified systems and discussions of the information must happen in closed sessions where the records of the discussions are more limited. There is generally no broad constituency for intelligence. There are entrenched interests in the executive branch and in the industries that support the government's intelligence

functions. In order to create a public debate about an intelligence or national security policy, the public needs to be shocked. Leaks can help draw the needed attention to the topic, thus dragging the policy out of its dark stream into the public light. Leaks may take on more prominence if they are perceived as having consequential effects on the principal-agent power dynamic in the context of a policy stream setting. Calculating the real effects of leaks in a zero-sum policy game was not measured in this study. The principals and agents are left only with raw political instinct and the punishments for malfeasance enshrined in law.

### **Synthesis.**

This statistical analysis against some outcome metrics for intelligence oversight provides very little evidence to support claims that more oversight – i.e., more staff, standing committees, more hearings, more votes, more laws – necessarily leads to better oversight, especially if changed policy outcomes is the object of the reforms. From comparing intelligence oversight to the oversight of other policy domains, one sees mixed effects on the policy outcomes. Also, in evaluating the inter-period changes between two panels of intelligence-related dependent variables, one sees almost no discernible improvement in the raw outcomes or in their trending.

This study cannot definitely say that the positive outcomes for intelligence improved. While there was a significant increase in the number of American spies arrested, the 9/11 attacks and faulty Iraq weapons of mass destruction (WMD) national intelligence estimate (NIE) qualitatively undermine any case for arguing in favor of improved positive outcomes. Admittedly, however, the positive outcomes held much fewer data in this study and none serving as the dependent variable. Moreover, the study

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had no deliberate approach to cataloging intelligence successes. The negative outcomes for intelligence did not significantly change. Holding closer to a *status quo* for the number of failures, conflicts, and leaks is noteworthy though given the stark increase in UNSC agenda items and the significant budget cuts in the 1990s. Finally, there is only partial statistical significance for Congress's role: the oversight *Intervention* categorical variable was statistically significant in two of four models, but the *Hearings* alas were not and the *Public Laws* only significant in one model. It may be that some intangible aspects of Congress, which are not captured in the hearings and bills, helped make up a general effect by the oversight reforms.

True, the data are sparse and the measurements may be too blunt, even for two, artificially designated, 29-year periods. The study's observations examine indirect effects rather than direct ones. Different lags and observation periods may have been better examination frames. Yet, for now, this is the extant record: the same record that members of Congress, their staff, and other public administration scholars might use to argue for more oversight (Hamilton 1998). As it stands, there are roughly four professional staff members in the Intelligence Committees for each agency leader in the Intelligence Community. Adding one more staffer per agency leader would give the agency leaders a different staffer to speak with each day of the week, but it probably would not improve the base rate of leaks, espionage arrests, intelligence failures, or unavoids military conflicts.

Adding more members of Congress or professional staffers into the oversight of this function of government has not yet quantitatively improved intelligence outcomes. However, this oversight may have provided qualitative improvements (i.e., police patrol)

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such as greater citizen faith in the security services or improved satisfaction with the responsiveness of their member of Congress to policy issues with immediate saliency (i.e., fire alarm), such as domestic spying, but this is purely speculative. It certainly has strengthened (or balanced) the First Branch’s ability to check on the Second Branch.

In many ways the core finding – the apparently minimal impact of additional oversight – is consistent with the results other scholars observe across large-n quantitative studies of the effects of managerial actions and organizational context on performance reforms (O’Toole and Meier 2015, 240). After reviewing 66 articles across 23 volumes of the Journal of Public Administration Research and Theory (JPART), the authors formulated 24 hypotheses about the relationship between the marginal utility of an additional unit of managerial effort, the contextual environment, and organizational performance. Several of the conditions Meier and O’Toole outlined seem present in this intelligence case, especially the complexity and turbulence in the environment (245), as well as the goal ambiguity (249) and professionalism (251), which by their hypotheses should generally lead to decreased marginal influence of a “unit” change in oversight. The table below summarizes the context of this case in the format the author’s suggest:

Context Area	Context Factor	Case Assessment	Marginal Influence of Managerial Action
Political Context (concentration of power)	Separation of Powers	Shared	Decreases
	Federalism	Multiple Levels of Government	Decreases
	Process	Adversarial	Decreases
	Performance Appraisal	No formal system	Decreases
Environmental Context	Complexity	Complex	Decreases
	Turbulence	Turbulent	Decreases
	Munificence	Rich	Increases
	Social Capital	Balanced between Present and Absent	Uncertain
Internal Context	Goals	Multiple and conflicting	Increases
	Centralization	Decentralized, trending to centralized/hierarchical	Uncertain
	Professionalization	Professional	Decreases

**Table 7: Public Management Context Matrix (adapted, O’Toole & Meier 2015)**

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This study has certainly demonstrated there was an increase in the “units” of oversight action on the part of the Congress, especially as evidenced by the increases in professional staff, the hours of labor of members of Congress thinking about intelligence, references in the *Congressional Record* to intelligence, and the number of intelligence-related hearings. In fact, there are cases of an order of magnitude increase in the oversight units. Yet the quantitatively demonstrable effects on intelligence outcomes are at best muted, and at worst inconsistent or non-existent. The marginal contributions of these oversight units are seemingly diluted. Notwithstanding the aforementioned caveats about data availability and measurement bluntness, perhaps these observations speak to the complexity of the programs under question more so than the intentions, focus, or procedures represented by the oversight.

What is not immediately clear is if and whether there are countervailing forces diluting the direct effects of more oversight. Must the congressional committees undertake yet more oversight as many advocates recommend or are there inherent points of diminishing return? This study and those O’Toole and Meier examined suggest that bounded rationality and contingency theory may be unmitigatable hidden hands in this system. Such a conclusion is undoubtedly dissatisfying for oversight reform advocates. After all, there is probably little professional satisfaction in the practical recommendation “do nothing.” Nonetheless, public administration professionals and oversight theorists may take solace in the fact that oversight – good, constant, professional oversight – is like preventive maintenance. It should certainly help things from getting worse, even if it cannot always make them better.

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This study set out to test some of the normative assumptions related to agency theory and the congressional oversight literature, including the apparent appeal of “more oversight.” It did so mindful of the changing context and through the lens of a clarified, even if imperfect, performance appraisal of intelligence outcomes. Using the US Congress’s intervention in the oversight of foreign intelligence activities as the frame for the analysis, the dissertation compared and contrasted the pre- and post-intervention panel periods between themselves and among other comparative policy problems such as unemployment, inflation, air traffic control, and crime prevention. In addition to demonstrating several counterintuitive observations, it also presents a counterfactual to the normative claim that “more oversight is better oversight.”

On the one hand, observing no appreciable change in several of the expected policy outcomes related to intelligence oversight, and on the other hand showing that policy domains (with and without obvious economic incentives) that garnered significantly increased congressional interest captured only mixed outcomes, this analysis demonstrates that institutional isomorphism in congressional oversight interventions (i.e., dedicated committees, growing professional staff, and higher legislative productivity) is an incomplete remedy. More productive, more invasive intelligence oversight has not led to improved policy outcomes. Being generous, one could conclude that today’s intelligence oversight is “just right.” Based on the demonstrated outcomes and the quantitative analysis, one could similarly argue that the *laissez-faire* days of pre-1976 may have been sufficient too. The next chapter offers commentaries on what these observations mean for theory and context, and how to think about that next unit of managerial (or in this case oversight) action.

## **Checking the Map: Conclusions and Implications for the Literature, Policymakers, and the IC**

Responding to Brian Cook's critique of his model for analyzing the Environmental Protection Agency between 1977 and 1985, B. Dan Wood concluded:

It is important to both theory and practice for social science to isolate specific mechanisms of political control of the bureaucracy. Research should uncover when, how much, and why public bureaucracies respond to political stimuli. Toward this end, all sorts of methodologies can be useful. Carefully specified multivariate models can reveal coarse tendencies of a policy process. Quasi-experimental time series designs can describe the underlying dynamic and fill in the details. Inductive theory building should not culminate before doing more analyses of both types. (Cook and Wood 1989, 975)

This dissertation has built its foundation on that very advice. Through multivariate, time-series models of oversight, this study sought to illuminate how political stimuli from congressional committees (e.g., hearings, laws) generate the power or capacity to produce effects in the intelligence bureaucracy.

The literature and data accumulated in this study reflect many attempts by Congress to achieve good oversight, which again is politically-guided and technically-supported systematic foresight and review by First Branch members over Second Branch members and their activities in furtherance of public value and the protection of private liberties. The *status quo* in leaks speaks to the continued conflict in how to politically-guide this enterprise. The addition of select committees, professional staff, and millions of pages of *Congressional Record* materials, on the record hearings, and staff consultations form the contours of the technically-supported and systematic features of the new oversight. Congress's investment in studies for intelligence in the 21<sup>st</sup> century and numerous bills introduced (but not passed), form the evidence of the foresight component. There is also clear attention given to the protection of private liberties. (The



author is quite aware of the resurrected arguments about intelligence oversight and private liberties following the much-celebrated, yet clearly injurious and potentially treasonous disclosures by convicted felon Bradley Manning and still-at-large, person of interest Edward Snowden; however, that debate falls outside the scope of this study.) While the true public value of intelligence remains unquantifiable as a result of this study, there is a visible and verifiable empirical basis for examining a few of the negative outcomes of federal intelligence activities.

### Conclusions

The mid-1970’s congressional oversight intervention fits a familiar pattern; calls for “more oversight” are now cliché. To substantiate this claim, consider the data below, which catalog the number of results one finds when searching for “more oversight” and “less oversight” across a variety of representative literatures. Also included in the table is the ratio of results, which shows an average of 3.6:1 for the general availability of discussions and commentaries on “more oversight” rather than “less oversight.” This reflects a particular bias ingrained in the human spirit. As such, it begs scholars provide more care in their recommendations, resisting the urge for rote and less mindful discourse.

<i>Target Literature</i>	<i>“more oversight” results</i>	<i>“less oversight” results</i>	<i>more:less ratio</i>
Google	372,000	59,500	6.3
Google Scholar	4,460	2,190	2.0
ABI/Inform Business and Trade Publications	1,405	321	4.4
<i>Congressional Record</i> (via HeinOnline)	1,260	288	4.4
<i>New York Times, Chicago Tribune, LA Times</i> (via ProQuest)	282	51	5.5

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<i>Target Literature</i>	<i>“more oversight” results</i>	<i>“less oversight” results</i>	<i>more:less ratio</i>
ABA Law Library Journals (via HeinOnline)	58	22	2.6
International and Non-US Law Journals (via HeinOnline)	109	52	2.1
Dissertation and Theses Full Text (via ProQuest)	896	442	2.0
Dissertation and Theses Full Text @ Virginia Tech (via ProQuest)	9	3	3.0
Average	N/A	N/A	3.6
Note: All searches were conducted on August 17, 2014 using the same search terms – “more oversight” and then “less oversight” with no time period constraints on the search. Search results subject to Virginia Tech Library subscription agreements with HeinOnline, ProQuest, and ABI/Inform. Google searches subject to personalization algorithms. As such, all subsequent search results may vary.			

**Table 8: "More" and "Less" Oversight in Various Literatures**

Though summary treatment of the mid-1970’s congressional intervention into intelligence oversight makes it appear a mindless act of institutional isomorphism, the intervention was actually a thoughtful one, the result of many decades of intermittent study and numerous legislative proposals. Though born in crisis and political conflict the results have been a professional and competent oversight that more resembles the norms of the Congress than not. Undoubtedly, noteworthy caveats remain, i.e., the committees’ select status and largely secret proceedings. That the intervention upheld political ideals and aspirations for democratic and representative oversight is self-evident; however, that the intervention led to fewer intelligence failures remains debatable. As such, the intervention may only be described as a partial success.

**Limitations of the Study**

There are a few principal limitations of this analysis. The first is the lack of qualitative contextual data typically gathered from personal interviews and focus groups. The second is the small number of observations of intelligence outcomes – rare events –

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present in the study's quantitative analysis. Third, the study did not catalog the specific domestic spying accusations or covert action programs as variables. The fourth is lack of treatment for executive branch or judicial reforms.

Because the study lacks first-person accounts from practitioners, it may under-represent important variables or over-represent inconsequential ones. This is especially true in the sampling frames used to determine intelligence leaks and intelligence failures. Other factors such as member and staff normative preferences, member ideologies, and oversight techniques such as congressionally-directed actions and the process of "fencing" funds may be under-represented in the study.

The relatively small number of intelligence failure observations, US espionage arrests, intelligence leak observations, and unavowed, uninitiated military conflicts across 29 years may not reflect sufficient time for the oversight reforms to fully affect the Intelligence Community's practices. Bureaucratic inertia and the IC's secrecy and insularity may mitigate the effects of robust oversight to the point that it has immaterial effects on intelligence failures. It may be difficult to conclude that *status quo* outcomes – outcomes where there is no discernible change from one panel to another – disprove the null hypotheses inherent in the research questions and propositions.

Lack of treatment for the domestic spying accusations and covert action programs means those potential variables are not available as systematic observations. Because they are not, the picture on intelligence outcomes is potentially incomplete. The searches focused on "intelligence failures" not "domestic spying." Congress and the intelligence oversight reformers would certainly deem as failures domestic spying outside the programs and authorities delineated by legislation (e.g., Foreign Intelligence Surveillance

Act). Covert action programs are perhaps the most problematic aspect of intelligence oversight as they are a pure expression of policy outlook. Foreign and counterintelligence reporting are to be “objective, independent of political consideration” analyses (*National Security Act of 1947*, Section 102A). Covert action is fundamental to a President’s policy prerogatives and normatively loaded. Take one contemporary episode reported in the *Washington Post*. During the George W. Bush administration, then Speaker of the House Nancy Pelosi reportedly objected to a covert action proposal to assist moderate elements in the Iraqi government with their political organizing in the face of overt and covert Iranian support for other political groups (Thiessen 2010, A21). These normative disagreements over ends and means are difficult to model. However, these disagreements do drive hearings (e.g., Iran-Contra hearings), so the topic is generally part of the analysis.

Ignoring the executive and judicial branch reforms may lead to an over- or under-representation of the effects of the legislative branch reforms. Reorganizations, changes to policies, disciplinary action, oversight training, technology innovations, executive orders, and a host of other executive branch actions could have impacted the intelligence outcomes. The professionals who work in this discipline likely made their own marginal contributions to the base rate of intelligence outcomes and the broader goals envisioned for the intelligence oversight reforms (O’Toole and Meier 2015), and the context of each agency’s reforms or actions likely vary. For example, see Snider’s (2008) exhaustive cataloging of the changes CIA made to support Congress. Also, the degree to which the President asks the Intelligence Community to take greater risk – at-home or abroad – can lead to real or perceived intelligence failures.

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Another area of potential future study might be the effects of the Director of Central Intelligence (DCI) role on intelligence outcomes. This study demonstrated the relationship between acting DCIs and certain intelligence outcomes. The study did not attend to the implementation choices of each DCI, which ranged from striving leadership to limited coordination. Also unexamined is how the various Intelligence Community elements responded to more oversight from the DCI or the Congress, especially as each element has the ability to either follow their cabinet secretary's direction or the DCI's. Episodic bureaucratic buffering by the agencies of oversight encroachment on their autonomy is not measured or evaluated in this study.

The marginal effects of the judicial branch on the Intelligence Community, including the role of the Foreign Intelligence Surveillance Court, are also not adequately represented in this study. Lawsuits, disposition of subpoena requests, and judicial opinions likely had effects on the behavior of executive branch members and the President.

To mitigate the first area of limitations, the study relies on secondary sources (Smist 1990; Zegart 2011, 2010; Snider 1997) that were inherently qualitative in their composition and included a high degree of interaction with primary sources. The second limitation's assumption that bureaucratic inertia has reduced the effect of increased oversight on the Intelligence Community is improbable, given the continuous turnover in key leaders and staff across the IC agencies. It is the remotest of possibilities that the IC is non-responsive to congressional action. From the covert action notification process to the budget submission and approvals to the numerous congressional investigations and *post mortems* of intelligence, the Congressional committees are deeply involved in and

witting of the IC's actions today. Finally, the study has no apparent way of mitigating the lack of treatment for executive and judicial actions. This remains a limitation in this study.

### **Implications for the Literature**

“Political principals create bureaucracies on behalf of democratic coalitions” but “Still, until law changes, bureaucracy reflects the original coalition.” (Cook and Wood 1989, 976)

It is important to challenge a prevalent bias about this domain. Just because there are still failures, it does not follow that congressional oversight of intelligence is dysfunctional. First, congressional oversight and participation stand on a firm historical foundation (see again the excursus offered at this end of this dissertation). Second, its current formulation is based on numerous studies in and out of crisis. Third, it reflects a more assertive First Branch, consistent with other longitudinal trends in executive-legislative relations. Fourth, it is a well-resourced function (both in the legislative and executive branches). Fifth, the oversight regime is a reasoned and multi-faceted approach that reflects what democratic coalitions have been able to achieve in a separated powers system.

Also, it is important to note that this study of intelligence oversight did not surface any new theories or missing elements to current theories. It did validate some things, especially when revisiting the power dynamics of the principal-agent relationship. Herein there is evidence of the applicability of theory to the practical changes observed in the oversight relationship.

First is the transparency dimension. Transparency improved inasmuch as the growth of the *Congressional Record* for intelligence matters is a guide. Also, the limited

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number of authorized disclosures, especially during the budget debates in the 1990's, is also a positive sign. Significant investigations served as the foundation for transparency.

This is perhaps because salience remains problematic, which no doubt contributes to the episodic nature of reforms for intelligence. Loch Johnson's (2009) shock theory fits nicely with the notion of punctuated equilibria needing to serve as a catalyst for salience and ensuing reforms. Intelligence failures and military conflicts fit that model. However, there also seems to be sufficient evidence in these periods to also support the fire alarm and police patrol metaphors as explanations of the committees' efforts.

The second significant demonstration was in the composition of oversight. It obviously changed, but also improved on the previous model. The composition balanced for the partisanship concern. It also provided some stability and integration because of the longer tenures available to senators (on October 9, 2004, the Senate passed Senate Resolution 445 by a vote of 79-6, which among other things did away with term limits on service in the SSCI) as well as the inclusion of members from different related committees (e.g., foreign affairs, judiciary). The *ex officio* members provide added leadership, while the new members in the House provide contemporary viewpoints. That said, the composition is not inclusive of every potential tool. For example, the powers of the GAO, CRS, and FOIA are unequal here. However, that is true for other policy issues too, such as the oversight of the Federal Reserve and federal political corruption investigations.

Third, the record also contributes to our understanding of reliance: the degree of trust that can be generated in an oversight relationship. Two factors are germane. The first is the seemingly unchanged nature and number of leaks, which served as a proxy for

trust in the legislative-executive relationship. They are unchanged at the macro-level generally; recall the increased use of leaks when there is a Republican president and the hiatus that appears during the Clinton administration. This suggests some degree of calculation and rationalization affecting when and why leakers choose to change aspects of a policy debate. The second factor is the perennial “rogue” accusation directed at the Intelligence Community, the idea that the intelligence agencies are operating firmly against the wishes of the Congress or the President. This cliché becomes more difficult to legitimize given the committees’ insight, notwithstanding some debatable episodes regarding the degree and timing of oversight briefings during the most controversial episodes of the George W. Bush administration or the folklore about DCI Casey mumbling some of the most sensational details of programs during hearings (Hayward 2009, 130).

Fourth, the salience, timing, and kind of oversight activity matter, especially if it approaches the systematic foresight and review Congress envisions. The First and Second Branches must coax each other into forecasting and examining the emerging threats and targets along with their concomitant intelligence methods and civic protections *before* they turn into new failures or abuses. However, the record also suggests there may be a point of diminishing returns. Consider again then-DCI Gates’s accounting of oversight activity in 1992: 4,000 meetings with members and staff, more than 50,000 documents shared, and responses to 1,200 questions, the equivalent of slightly more than four and a half questions every single work day (Senate Select Committee on Intelligence, 1994, 140).



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Fifth, this study demonstrates the utility in also exploring outcomes and behaviors, which are both a focus in the principal-agent relationship. The generic principal wants outcomes, but the public servant principal also is mindful about the behaviors that generate those outcomes. One, they must be legal, but two, they must comport with the expectations and norms of the citizens on whose behalf they are performed.

On the whole, the congressional intelligence oversight intervention did provide the principals in the relationship with more information. They also balanced partisanship and cooperation effectively, including their noteworthy attempts to preserve the non-political nature of intelligence while also enabling the President to have discretion in covert action, even when there are partisan differences over the appropriateness of such methods.

Parameter	Demonstrations in this Study
Transparency	Oversight transparency can be quantified and made legible (Scott 1998, 2), leading to the ability to compare oversight systems among various policy issues. Salience plays an important, but not completely well understood role in the degree of transparency.
Composition	Complex combinations of principals and agents increases the oversight concerns that must be balanced.
Reliance	Principals and agents can deliver effective policy results, even in a climate of functional distrust (e.g., leaks and institutional defamation).
Activity	Oversight can produce activity, but activity cannot always change the intended outcomes. There are potential points of diminishing return.
Performance Outcomes	Oversight should not only apply to the “means” of a policy issue, but also the “ends.” Changes to an oversight system may improve the transparency, composition, and activity without fundamentally changing the performance outcomes.

**Table 9: Parameters Demonstrated in the Study**

This study made other contributions as well. First, it contributed new data for the literature. Second, it demonstrated a novel application of the *Correlates of War* data to

another scholarly literature. Third, it attempted the kind of quasi-experimental quantitative methods that Wood intended for public administration scholarship. It is imperfect; nonetheless, it provides clearer contours to the empirical record pre- and post-intervention for a principal-agent and congressional oversight case. It represents a comparative positivist's attempt to quantify public goods as outcomes and relate them both to endogenous and exogenous influences on the system responsible for them, especially the oversight intervention most directly influential on that system.<sup>21</sup> The study models the principal-agent system and shows how difficult and complex a single system – a public administration policy – can be, even without exploring the much more complex human nature of the actors through interviews and qualitative cases, which are either unrecorded or accessible only through much more costly study measures.

### **Implications for Policymakers**

The study is certainly not the only attempt to consider this oversight issue and many other scholars have offered recommendations for the Congress. There are four implications for would-be reformers. They relate to oversight design, cognitive biases, goals, and professionalization.

*Design by analogy has practical limits.* Perhaps because of the general prevalence of the narrative, oversight design structures seem governed much more by institutional isomorphism than by empirical research. Admittedly, human problem-solving techniques tend to gravitate toward analogies; toolkits and checklists make a bulleted list of ideas more memorable. The mere cataloging of oversight tools brings systemization, clarity, and formality to the task. One looks naïve if they do not borrow the “best” practices of

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<sup>21</sup> Comparative positivism is an emblematic (rather than puritanical) combination of logical positivism and critical theory, seeking to test and weigh long-standing assertions anew with data.

another work group. Congress is not immune from this tendency. The congressional oversight intervention in the mid-1970's was not a carbon-copying of other oversight regimes. Sure, it carries some of the basic hallmarks – staff, reports, budgets, hearings, bills – but its fundamental character as a set of select committees makes it a significant departure. Even with this apparent nuance, there remain practical limitations on the committees' work and outcomes. The continued heterogeneity and complexity of the Intelligence Community, the secrecy surrounding its work, and the episodic interest of the public in its operations combine to frustrate the committees' oversight work.

*Be skeptical about the bias of more.* Simply demanding more oversight action is a convenient and seemingly efficient reaction to intelligence failures, domestic spying concerns and surprise attacks. Hopefully this study demonstrates that rote reactions, while potentially serving a useful public relations purpose in the heat of a failure, do not completely mitigate the negative byproducts or root causes in a public policy issue area. Complex public policy issues like intelligence require quantitative and qualitative modifications to oversight regimes to achieve the intended public value outcomes and behaviors.

*Be more discerning and provide better articulation of the intended outcomes.* When policymakers are “reforming” a “failing” policy issue, they are reacting dynamically. Often they get the benefit of a deliberate, thoughtful study. In other cases, there are public demands for action and intense pressure to act. The reforms are often cast with an air of finality: fix this so “it never happens again” or fix it “for good.” In cases where there is comprehensive time for study, the reformers are able to craft an encompassing set of recommendations. However, congressional reforms are partisan

compromises that are formed through political coalitions. The final reforms fail to include all recommendations and they frequently come with ancillary conditions to secure the compromise. With the focus on near-term solutions and political expedience there is rarely the luxury of a commentary on how a reform is going to bend the curve in a trend. Without an articulation of the intended outcomes over the long-term, it can remain unclear whether a reform ultimately succeeds.

*Take advantage of the professionalization present in both branches.* At this point in the history of the executive-legislative relations for intelligence, the First Branch is a credible voice in the operation and potential reforms to intelligence. This experience and perspective comes from the detailed work of the intelligence committees' staff and the long-standing members in both select committees. While the staff and members cannot begin to follow the totality of the Intelligence Community's activities, trusting in the professional competence of its leaders and staff, the Intelligence Community also needs "the Hill" to represent it to the American people. As this relationship continues to mature hopefully it can put behind it any of the adversarial attributes that marked its initiation. Like the experience during the Revolutionary War and World War II, the Congress is a co-participant in the secret work of government, funding the operations and accepting the costs and risks, both physical and political.

Beyond these implications, there are a series of familiar recommendations other scholars and practitioners have espoused. The study summarizes them and provides additional commentary. The common recommendations today are:

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- Further committee restructuring either in the form of a joint committee or a committee that consolidates authorization and appropriation roles (Leviero 1954; Ford 2007; Johnson 2009; Kramer 2011)
- Extended tenure for members (Ford 2007; Kramer 2011)
- GAO reviews of budget and personnel practices (Harknett and Stever 2011)
- More staff
- More discipline from among the members of Congress about their oversight responsibilities
- Less stonewalling by the executive branch

Perhaps the most authoritative list of recommendations comes from the 9/11 Commission (2004, 420-421):

- Create a joint committee or consolidate appropriations and authorization within the HPSCI and SSCI
- Make public the intelligence budget “top line” number
- Appropriate this budget to the DNI and not the Secretary of Defense
- Ensure there is a subcommittee for oversight
- Provide subpoena authority, but balance partisanship by letting the majority party have only one extra member over the minority
- Continue the representation from Armed Services, Judiciary, Foreign Affairs, and Defense Appropriations
- Allow indefinite tenure
- Seek smaller membership numbers for the committee(s)

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The study's commentary focuses on the committee structure, authority consolidation, and tenure recommendations. On the question of committee structure – whether a joint committee is appropriate – a recent study (Clinton, Lewis and Selin 2014, 399) shows that “there is a strong relationship between the number of committees involved in oversight and the lack of congressional influence relative to the White House.” While there is the historical precedent of the Joint Atomic Energy Committee or the Joint Economic Committee, one cannot conclude that joint oversight has corrected the boom and bust economic cycles or prevented the proliferation of atomic weapons. Again, the recommendation feels very much like reform by analogy. In fact, a joint committee would probably have several negative impacts on the current situation. Observers of such a reform would probably drive the joint committee to reap a “peace dividend” from the staff, resulting in fewer resources via the logic of consolidation and economies of scale (Halchin and Kaiser 2012, 11). Second, such a change would provide fewer key congressional leader participants, reducing the count by a chair and co-chair. Third, it would necessitate the addition of more subcommittees thus diluting the time of all members even further. Fourth, it would complicate scheduling as claims from the Senate and House leadership would mutually affect the members. In sum, it is probably only a feel good change that due to its extraordinary nature appears like more power and more progress.

On the question of authority consolidation – the combination of authorizing and appropriating roles in the SSCI and HPSCI – note that in the 2004 Senate vote to consolidate (Senate Resolution 445) the measure failed. In the interim, the House and Senate have both made modifications to their committee procedures to improve the

coordination between the authorizers and appropriators (Halchin and Kaiser 2012, 18-20). The Senate and House have rules pertaining to authorizations and appropriations. In general, as the US Comptroller General summarized,

Where authorizations are not required by law, Congress may, subject to a possible point of order, appropriate funds for a program or object that has not been previously authorized or which exceeds the scope of a prior authorization, in which event the enacted appropriation, in effect, carries its own authorization and is available to the agency for obligation and expenditure. (Tollestrup 2011, 11)

In sum, the onus is on the authorizers to raise a point of order and force the Senate or House to express its will. However, when many appropriations bills are on continuing resolutions considered under the *suspension* of the rules it means a member is potentially holding up significant portions of the entire federal budget over mere principle and propriety. Yet is this not the price of legislative service and the burden of the congressional oversight of intelligence?

The author's simple-mindedness surely comes across as naïve. Consider though the abject helplessness portrayed by the SSCI chairman during a 2007 hearing on congressional oversight of intelligence. Through seemingly unscripted venting, Chairman Rockefeller lays bare the ongoing political conflict between the First and Second Branches:

I want to vent a bit to highlight what I consider to be the greatest impediment to effective congressional oversight. For 7 years, I have witnessed firsthand how the Intelligence Committee has been continually frustrated in its efforts to understand and evaluate sensitive intelligence activities by an administration that responds to legislative oversight requests with indifference, if at all, and with usually outright disdain.

For 5 years after 9/11, the administration refused to brief the full membership of the oversight committees on the existence of NSA's warrantless surveillance program and the CIA's secret prison system and interrogation techniques, the two

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programs the administration publicly touts as indispensable tools in the war against terrorism. Oh, they said that the "gang of eight," so to speak, or the top leadership in the Intelligence Committees were briefed, but having attended all of those briefings, I can say that that is one of--the way you advertise movies; it's just a bit of an overstatement.

Those few congressional officials who were briefed were prevented from disclosing any details or having any conversations to any other Intelligence Committee members. I, for example, had Vice Chairman Bond and I had been receiving those, I could have not talked to him, nor could I talk to my chief of staff. I did write two letters of protest about the programs under review to the Vice President, one of which is public and one is not. But to discuss it with anybody? No--not with Dianne Feinstein, Senator Wyden, not with Senator Bond. I mean, it just didn't make any sense at all.

It was a way of controlling what we had access to--giving us insufficient briefings about huge topics in which they had been potentially breaking the law and then preventing it from going any further in discourse.

Now, these few congressional officials who were briefed, as I said, were muzzled. The end result was that the Intelligence Committees were bypassed for 5 years at a critical time when oversight into controversial legal and operational questions was needed in the most urgent fashion. It was an amazing asymmetric way of thinking.

You know, you can get endorsement, you can get support from the Intelligence Committee, but you have to tell them what you're doing, and you can't withhold information from them, and you can't lie to them, and we faced a bit of that.

In retrospect, the administration's unwillingness to deal with Congress as a full partner after 9/11 in authorizing and funding these programs was shortsighted and in turn created the compounded problems that we are dealing with this day.

In my capacity, first as Vice Chairman and now as Chairman of the Senate Intelligence Committee, I am in an ongoing, pitched battle with an administration that myopically views congressional oversight as being at odds with protecting national security. In recent months, I have unsuccessfully urged the White House to give all members of the Intelligence Committee access to a number of so-called gang-of-eight programs--those are so-called very secret ones, like the NSA surveillance and the CIA detention programs, which I've mentioned that before.



These programs are known--and just think about this: These programs are known to hundreds if not thousands of executive branch employees but cannot be shared with the Intelligence Committees, the Senate or the House--cannot be shared, will not be shared, and that's just the way it is. Only eight members of the legislative branch are trustworthy enough to know about them. Is that a proper standing of the public interest? I think not.

For years, the White House and the intelligence community have repeatedly withheld information and documents, even unclassified documents, from the Committee that we have asked for. For instance, I have pressed the administration for years without success to turn over the Committee legal reviews concerning the lawfulness of the CIA's secret detention program interrogation techniques. We were successful in getting that done, but it was not a happy exchange.

Just last week officials uniquely knowledgeable about the CIA program were prevented from meeting with the Committee staff to answer questions--not with the Committee members, but with the staff. They were here; they were ready. The meeting was set; the staff was set and then they were told to go to the airport and leave.

It doesn't make this Chairman very happy. And it's something that I think that the 9/11 Commission understands but the American people need to understand very fully--that this is not just about how we get along with the authorizers; this is about a fundamental withholding of information which is, under the 1947 law, ours to understand. It legally is ours to understand, and they have ignored it. Maybe they ignored it in the previous administration. I don't know; I wasn't on this Committee then.

So while we discuss today ways of further improving congressional oversight, I'd like to hear the views of each of our witnesses on the harm done to this statutorily mandated oversight when the executive branch decided it would rather bypass or ignore Congress in carrying out controversial intelligence programs.

From my vantage point, the notion that congressional oversight is impeded simply because an authorizing committee may have a different view on spending priorities than an appropriation committee, I won't say it's simplistic; I just think it misses the larger point. We can work things out with the authorizers; we can work nothing out--we can work absolutely nothing out with the administration unless they choose to let it be worked out.

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Intelligence does not belong, evidently, to the Intelligence Committee. It belongs to those who, for political or policy reasons, decide that it will be given to us or not. And I am profoundly frustrated by this.

And so, I mean, in closing, effective oversight is never going to be fully realized as long as the administration views the Congress as little more than a speed bump when it wants to carry out intelligence activities unfettered by what Congress might have to say about some of those programs. (Senate Hearing 110-794 2007)

Almost every aspect of our government is organized around an adversarial process. Congress must stand up for its own authorities; the Executive Branch cannot and will not do it for them. It is the duty therefore of every authorizer to raise a point of order and bear the political and partisan consequences of so doing, even when it puts them at odds with the administration or their party leadership. Merely merging the responsibilities for authorizing and appropriating stamps out any hope of an adversarial process. It removes another vital (though apparently seldom used) check and balance in the system. The Congress is right to reject appeals to the contrary.

Finally, on the question of tenure, the Senate has already acted by allowing members to have unlimited service on the SSCI. The House rules (Clause 11(a)(4)(A)) still limit HPSCI members to four terms of service in six Congresses. The same rule applies to the House Budget Committee. The American government is full of dichotomies: indefinite tenure for the Supreme Court, but eight year term limits on the presidency; no term limits on members getting into Congress, but 8-year terms for those holding the purse strings in the budget committee. Supporters of congressional oversight frequently quote Woodrow Wilson's 1885 Congressional Government, specifically the passage, "quite as important as lawmaking is vigilant oversight of administration." If

Woodrow Wilson had not suffered strokes and gone onto a third Presidential term, he would have had even more time to institute racial segregation within the federal government (King 2000, 141-142). In a representative democracy, indefinite tenure is problematic. This would especially be problematic if the unlimited tenure is granted for a function that tends to lack voter salience.

Perhaps the best method for analyzing this issue and developing a basis for a recommendation is to use Rawls' original position (Rawls 2007, 204) and his second principle of justice as fairness (214), which concludes that political positions and offices should be open to all because "since inequalities of birth and natural endowment are undeserved, these inequalities must somehow be compensated for" by a "principle of redress" (217). To apply Rawls then to the question of intelligence oversight tenure, we must accept that long tenure in Congress is based on inequality derived from political endowment, especially given the political majorities achieved through gerrymandering and the inequitable distribution of campaign finance sources. Providing a few members of Congress with even more unequal treatment – indefinite tenure in a committee that might one day have both authorizing and appropriating powers – can only be fair if everyone agrees that they have an equal right to accessing such a role.

Let us now alter the course of history and put two members of Congress in the position of getting selected for a new lifetime appointment to the HPSCI. Our candidates are on the one hand John E. Brennan, a newly minted member from the Commonwealth of Virginia who even has a PhD focused on the congressional oversight of intelligence, and on the other hand, the venerable though acerbic Dick Cheney of Wyoming, who returned to the House after serving as the Secretary of Defense for President George H.

W. Bush. Now we drape the veil of ignorance (205) over the outcome. We do not know if the House leadership will choose the former Minority Whip or the young whippersnapper. Would we be satisfied with Dick Cheney gaining the lifetime appointment and perhaps one day even rising to be the HPSCI chair? Chairman Rockefeller might shudder at the thought.

As Woodrow Wilson demonstrated before, even the wisest among us can be fools. It is therefore preferable to avoid lifetime appointments and thus preserve the continued open access to the oversight responsibilities of intelligence. The Senate should re-establish term limits for SSCI members and the House should be quite satisfied with its four term limit. Critics will argue that intelligence is too complicated for the novice and tenure is paramount. Senator Wyden seems to be the counterfactual, as he quickly grasped the salient and most politically charged features of intelligence early in the 107<sup>th</sup> Congress.

### **Implications for Intelligence Community**

Members and leaders of the Intelligence Community should understand several implications for how the mid-1970's congressional intervention affected their relationship with Congress and what it holds for the future of intelligence oversight relations. These insights focus on:

- the quantity and quality of the oversight activities that form the basis for the relationship,
- member-staff relations,
- legislative proposal on hearings, and
- leaks, authorized disclosures and trust.

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While the mid-1970's oversight intervention may have changed the bureaucratic costs of interacting with the Congress, it does not seem to have materially harmed the operations of intelligence, as measured by this study. Then-DCI Gates's summary of the quantity of oversight activity is a compelling anecdote that conforms to the data seen in the *Congressional Record*. The expended budgets for the Intelligence Community combined with the vast world-wide problems they must analyze invariably leads to increased documentation and explanation for members of Congress and their staff. Also problematic is the practice of members, subcommittees, and staff putting one or more similar questions both to an agency like CIA and then also to the DNI. The DNI should consider reforming this practice and requiring the oversight committees to bring written questions to ODNI only. The responses to these questions, drawn from the community, should be disseminated to all committees – authorization and appropriation – simultaneously, regardless of which committee asked the question. This could improve the quality and coordination of responses and reduce the redundancy in congressional inquiries by providing common insights to all committees and staff. Jointly, congressional staff and the IC should focus on quality rather than quantity of oversight; do not settle for rote, bureaucratic, repetition of congressionally-directed actions. Higher quality responses from the IC should reduce the volume of interaction with the Hill and reduce the mutual costs of oversight. The DNI should also continue the emerging practice of all chamber/all member intelligence briefings on key threats (Knox 2013, White House 2013).

The second implication for the IC relates to member-staff relations. While it may be convenient to focus on the staff, the IC should not let the members out of their

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responsibility to understand federal intelligence activities. This was another one of DCI Gates's cautions. To improve relations with the members, the DNI can invest in dedicated intelligence briefers for the committees, hosting capability demonstrations, supporting further Congressional delegations to intelligence operating locations, and conducting key leader visits (even meals together). Combined, these steps can significantly improve a member's understanding of federal intelligence activities. Such insight can build more confidence in the efficacy of intelligence investments, the significant and real controls in place to protect civil liberties, and a better appreciation for the foreign threats and obstacles to penetrating them. Special attention can also be given to improving members' understanding of the technology domains relevant to intelligence targets or threatening to intelligence activities. Ensuring that these learning opportunities mix the authorizers and appropriators together should help improve the coordination and cogency of the intelligence authorization and appropriations bills. Not every member will engage in these opportunities, but it remains the IC's responsibility to organize them.

To ensure that members are adequately informed on intelligence activities, the DNI could draft legislative proposals with the White House on a different structure for oversight hearings. The current practice of worldwide threat assessment briefings is an important and regular open hearing. However, few other hearings are open. A review of the archives of the SSCI and HPSCI shows open confirmation hearings and a few open bill mark-up hearings. There should be other open hearings conducted on a regular basis. These hearings should focus on intelligence outcomes and threats, operations and resources, public trust and private liberties, and oversight. This would raise the number of annual open hearings from one to four. In the process it would give the Congress and

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the American people more interaction with the leaders of the Intelligence Community. It would also provide more opportunities for Congress to understand the contributions intelligence is making to government policies while also ensuring adequate and sustained attention is given to civil liberties and oversight. This is important as the norms around civil liberties can clearly shift over decades. “We are in a period of increased transparency in security affairs” (Tomes and O’Connell, 2003), and that transparency would also benefit congressional hearings on intelligence.

Finally, IC members should also understand the implications of the reforms on leaks, authorized disclosures, and the trust of the American people. Hyperbole and other sound and fury about Congress’s “encroachment” are less defensible today, including the spectacular concerns about leaks. There are no leaks attributable to Congress that are more egregious than the damage caused by the executive branch with its leaks, spies, saboteurs, and the misguided, self-ordained patron saints of privacy and morality. Nothing about this observation should minimize the increasing damage – wasted resources, lost opportunities, lost access, and operational casualties – caused by leaks. On the other hand, the perpetual layering up of regulations, procedures, and more invasive reviews of IC staff (e.g., financial disclosures, polygraphs, pre-publication reviews, ombudsmen, whistleblower protections, oversight training, oversight referents) have not changed the base rate of leaks. The benefits of such layering up are dubious while the costs go uncalculated.

At the same time, the authorized disclosures of top line National Intelligence Program (NIP) budget requests by the DNI and Military Intelligence Program (MIP) budget requests by DoD have not led to any diminution in the IC’s capabilities. These

authorized disclosures improve the public's insight into the total investment in intelligence. The aforementioned recommendation to hold an annual open hearing on the general resource needs of the IC will help the relationship with Congress, industry, and the American people.

Speaking of the American people, it is also noteworthy to recall that the trust of the American people in CIA is longitudinally stable and in an enviable position – better than their views of Congress, comparable to that given the presidency, but not as strong as that given to the military. There are certainly no laurels to rest upon though, given the historical reputation of going “rogue.” The DNI should work with academic institutions and professional public opinion surveys to broaden the coverage given to the IC generally, especially on questions of trust, confidence, and concerns over civil liberties. Such feedback would form an important foundation for discussions during open oversight and private liberties hearings. Such data would also help the IC understand when some of its collection methods and authorities have the potential to undermine public confidence, enabling the executive and legislative branches to redouble their efforts at explaining either the threats or the checks and balances instituted to preserve liberty.

### **Scholarly Contribution**

At a minimum, this dissertation demonstrates how quantitative methods can be employed to explore policy interventions and outcomes analysis. Hopefully it gives pause to the reactionary appeal of “more oversight” every time there is a perceived intelligence failure. Moreover, it demonstrates the great difficulty in organizing effective congressional oversight. The missing public salience for intelligence oversight complicates Congress's task; however, given the importance of the intelligence function



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and the significant harm that could come from its misuse, the First and Second Branches have a special responsibility to ensure the reliable and regular operation of oversight. The executive and legislative branches will continue to have actors who reject the legitimate role each branch has in the structure, conduct, and oversight of intelligence. As such, each branch should ensure there is regular and more transparent interaction. Likewise each should resist attempts to consolidate or perpetuate membership in these leadership roles. As the United States approaches the 68th anniversary of its modern national security apparatus, its operatives, observers, and critics should appreciate that its oversight is just about right.

This research experience also demonstrates the difficulty of generalizing any one particular theory (e.g., fire alarm/police patrol, investigative/institutional, cheerleader/ostrich, and shock) to a context that changes over the decades. Principal agent theory and oversight theory, with their general and particular emphases on outcomes and behaviors, again prove useful for the public service context where moral/ethical behaviors and means must be paired with a polity's norms, even if it sub-optimizes the ends. Structuring the principal-agent relationship based on mutual respect and mutual dependence changes the fundamental assumptions about a shirking agent and an infallible principal, and only for the better.

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## Appendix A: Washington’s Secret Service

*Excursus.* An examination of George Washington’s letters as commander of the revolutionary army of the colonies and the first President of the United States is central to understanding the institutions at his disposal for secrecy and intelligence. There were numerous reasons to be concerned about the safety of the early United States. Both as the chief executive with the most continuity in this period and as a highly esteemed and trusted agent for the republic, his correspondence offers perhaps the best vantage point for viewing the internal security organs available at the founding of the United States. Thankfully it is possible to search his correspondence (Fitzpatrick 1917, 1944; Colonial Dames of America 1898) for references to secrecy and intelligence. Of his more than

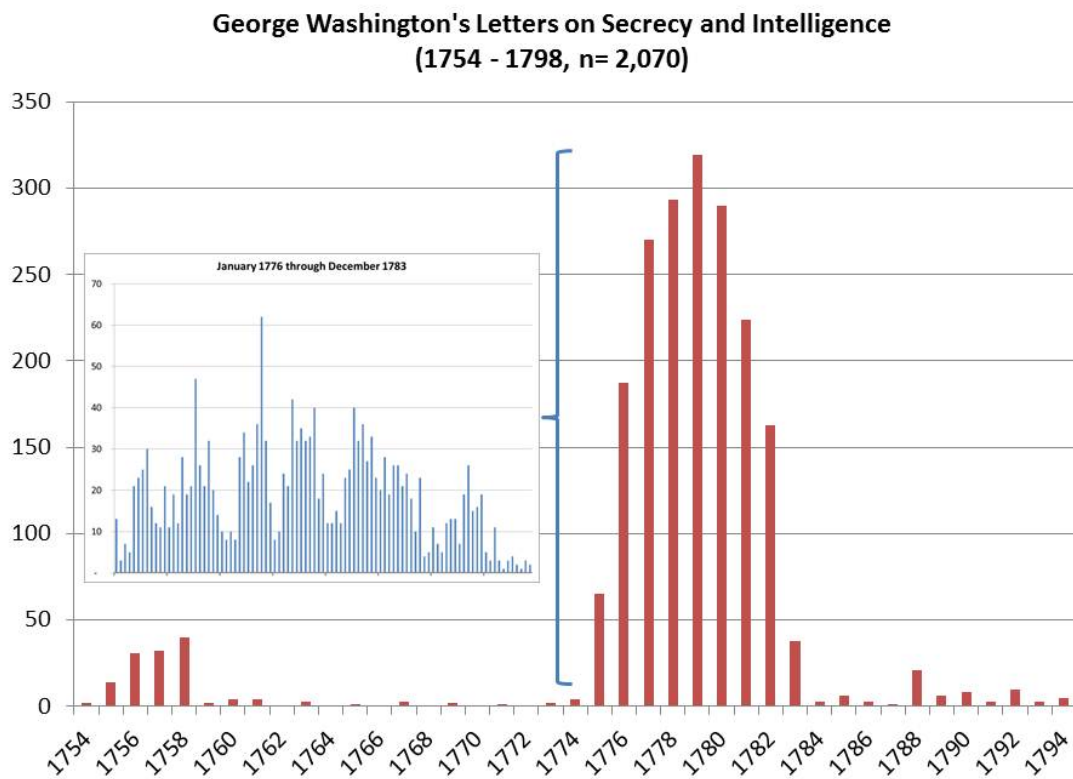


Figure 33: George Washington's Letters on Secrecy and Intelligence, 1754-1798

65,000 available letters, there are 2,070 that reference secrecy or intelligence as the graphic above summarizes. Much of his interest in such matters focuses on the Revolutionary War, but also continues beyond.

In order to understand the degree of formalization of these concepts in the early Republic, researchers can employ social network analysis to characterize Washington's interactions with individuals and what appears to be – following some analysis – the early outlines of America's secret officialdom. In all, there are 485 unique direct and indirect nodes in Washington's network.

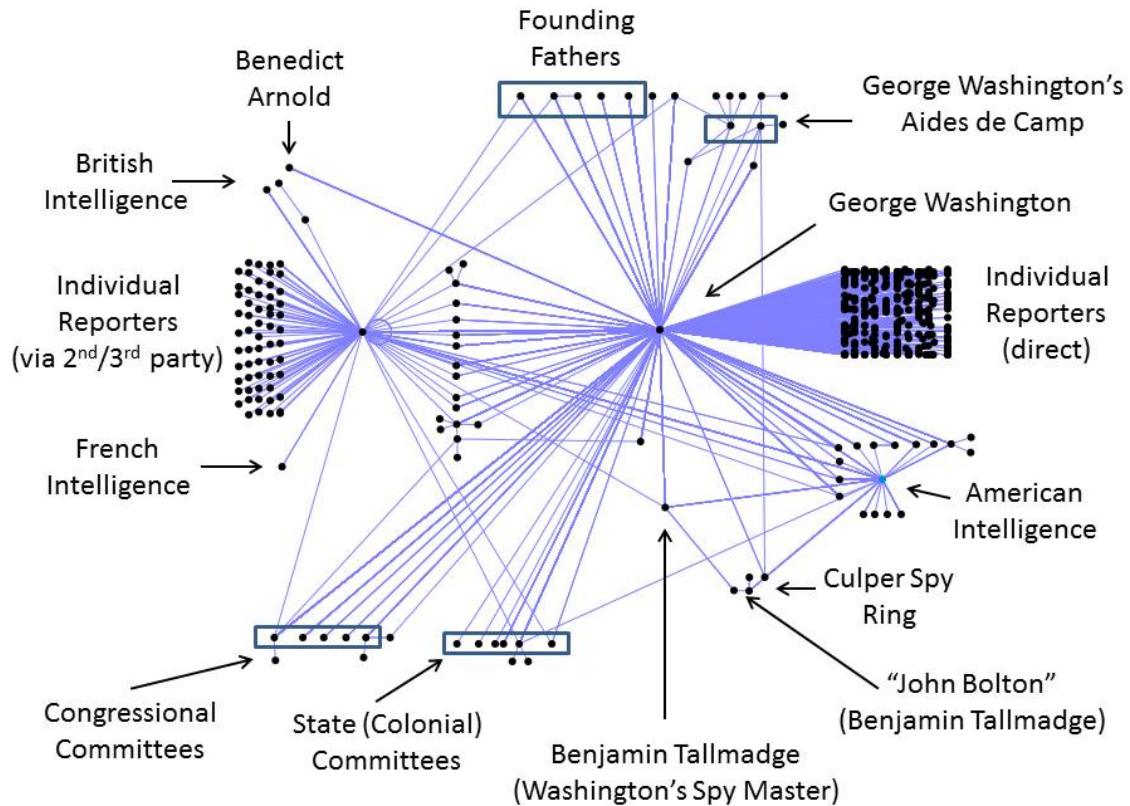


Figure 34: Social Network Analysis of George Washington's Intelligence Network

The graphic above visualizes a social network analysis (Harel and Koren 2000) of the 2,070 letters in Washington's archival materials. The graph is modified to regroup

## Intelligence Outcomes: Assessing the 1775-1776 Intelligence Oversight Reforms

nodes in the network into different institutions and individuals. Beginning at the top of the graphic and moving clockwise, the letters include correspondence with US “founding fathers” like Hamilton, Jay, and Benjamin Franklin. Washington’s close personal aides are obvious interlocutors for confidential reporting. There is a large body of domestic and foreign correspondents who write to Washington with their observations of the British, maps, news articles, and foreign opinions.

There are more than 140 letters cataloged to “American Intelligence.” It is this correspondent that represents the institution of intelligence during the Revolutionary War. Washington relied on many individuals to organize parts of his intelligence network. Among them were Joseph Reed and eventually Benjamin Tallmadge, who was personally involved – masquerading as John Bolton – in the Culper spy ring, which focused on British operations in New York City.

Intelligence and secrecy were also organized among the states and the Continental Congress. Washington corresponded with the New York Convention Secret Committee, Pennsylvania Safety Council, the Essex County, New Jersey, Safety Committee and the following Continental Congressional committees: Intelligence Committee, Secret Committee, Army Committee, Navy Committee, Governing Committee, and War Board. Washington’s network was international too. He received intelligence from the French on British forces in Charleston, South Carolina and on British fleet movements.

Beyond the direct, named reporters, Washington also received anonymous or pseudonym-protected (e.g., "Britannicus" or “L” from Staten Island) reporting from dozens of unknown individual reporters. These individual reporters are connected to Washington and American Intelligence through a variety of intermediaries.

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It is possible to see captured reporting from British intelligence and the “British Secret Service” in Washington’s archives. There are even a dozen letters from George Washington to the eventual American spy Benedict Arnold. Not only did Washington have to build his own network, but also he had to dismantle the enemy networks directed against him.

Even without analysis of the contents of the letters or a history of this dimension of Washington’s work, it is obvious that intelligence and secrecy were formal components of the earliest structures in American government. Empirically, the scope of the network demands organization, rules, norms, and officiated processes. The need for such organization was anticipated and such work clearly began before the *Declaration of Independence*. The organization persisted beyond the immediacy of the war. For example, among Washington’s collection of letters is a September 15, 1791 letter from Secretary of War Henry Knox with instructions to an American spy to determine if the British were building more forts inside American territory near Lake Champlain.

## Appendix B. Unavoided, Uninitiated Military Conflicts

<b>MIDB 3.10 Dispute Number</b>	<b>Conflict Name</b>
1286	1949 Yugoslavia Crisis
633	1949-50 China-Taiwan crisis
51	1950 Korean War
2244	1954 Korea Taiwan Crisis
1193	1954 Nicaragua Costa Rica Crisis
200	1955, 1956 Suez Crisis
607	1957 Middle East Crisis
1363	1960 Vietnam
2219	1961 Germany
172	1962 China, Taiwan, USA
1108	1962 Middle East crisis
1353	1962 Vietnam
1002	1963 Haiti and Dominican Republic
345	1967 Middle East Crisis
1472	1975 Korea Crisis
362	1976 Korea Crisis
2192	1977 Korea Crisis
2193	1979 Korea Crisis
3098	1981 North and East African Crisis
2347	1981-83 Nicaragua Honduran Crisis
2229	1982 Japan Crisis
2176	1982-83 Turkey and Greece
3072	1983 Libya Sudan and Egypt
3634	1983 Libya, Chad, Zaire
3051	1984 Libya and Sudan
2196	1985 Korea Crisis
3620	1985 Libya and Egypt
2353	1986 Nicaragua Honduran Crisis
2834	1987-88 Iran Crisis
3957	1990 Iraq
3568	1992-93 Iraq
4022	1993 Korea
4087	1994 Korea
4064	1995 China Taiwan
4137	1998 Yugoslavia
4088	2000 China Taiwan
4298	2000 Yugoslavia Croatia
4281	2001 China Taiwan



## Appendix C: Descriptive Statistics Summary Tables

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>Intelligence General Interest Index from Congressional Record</i>		<i>Intelligence General Interest Index from Congressional Record</i>	
Mean	28.96552	Mean	279.7586
Standard Error	5.362358	Standard Error	18.84972
Median	21	Median	277
Mode	25	Mode	336
Standard Deviation	28.87718	Standard Deviation	101.5089
Sample Variance	833.8916	Sample Variance	10304.05
Kurtosis	11.31699	Kurtosis	-0.24892
Skewness	3.155434	Skewness	0.516097
Range	142	Range	397
Minimum	8	Minimum	127
Maximum	150	Maximum	524
Sum	840	Sum	8113
Count	29	Count	29

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>Intelligence Calls for Action Index from Congressional Record</i>		<i>Intelligence Calls for Action Index from Congressional Record</i>	
Mean	1.724138	Mean	31.44828
Standard Error	0.339866	Standard Error	3.996484
Median	1	Median	32
Mode	0	Mode	41
Standard Deviation	1.830233	Standard Deviation	21.52173
Sample Variance	3.349754	Sample Variance	463.1847
Kurtosis	0.254159	Kurtosis	-0.13293
Skewness	1.002542	Skewness	0.466546
Range	6	Range	81
Minimum	0	Minimum	0
Maximum	6	Maximum	81
Sum	50	Sum	912
Count	29	Count	29

## Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>Intelligence Failure and Domestic Spying Interest Index from Congressional Record</i>		<i>Intelligence Failure and Domestic Spying Interest Index from Congressional Record</i>	
Mean	1.758621	Mean	11.55172
Standard Error	0.642607	Standard Error	2.222027
Median	1	Median	8
Mode	0	Mode	11
Standard Deviation	3.460545	Standard Deviation	11.96598
Sample Variance	11.97537	Sample Variance	143.1847
Kurtosis	7.885755	Kurtosis	8.085552
Skewness	2.790086	Skewness	2.403602
Range	15	Range	59
Minimum	0	Minimum	0
Maximum	15	Maximum	59
Sum	51	Sum	335
Count	29	Count	29

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>Congressional Intelligence Interest Index from Congressional Record</i>		<i>Congressional Intelligence Interest Index from Congressional Record</i>	
Mean	32.44828	Mean	322.7586
Standard Error	6.105313	Standard Error	22.24808
Median	22	Median	326
Mode	18	Mode	#N/A
Standard Deviation	32.87811	Standard Deviation	119.8096
Sample Variance	1080.97	Sample Variance	14354.33
Kurtosis	11.41013	Kurtosis	0.16246
Skewness	3.150455	Skewness	0.709775
Range	161	Range	476
Minimum	10	Minimum	130
Maximum	171	Maximum	606
Sum	941	Sum	9360
Count	29	Count	29

## Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>No Confirmed DCI</i>		<i>No Confirmed DCI</i>	
Mean	0.007184	Mean	0.064655
Standard Error	0.004299	Standard Error	0.012309
Median	0	Median	0
Mode	0	Mode	0
Standard Deviation	0.080202	Standard Deviation	0.229617
Sample Variance	0.006432	Sample Variance	0.052724
Kurtosis	138.8559	Kurtosis	11.12109
Skewness	11.66816	Skewness	3.527203
Range	1	Range	1
Minimum	0	Minimum	0
Maximum	1	Maximum	1
Sum	2.5	Sum	22.5
Count	348	Count	348

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>National Defense Outlays(2009 \$bn)</i>		<i>National Defense Outlays(2009 \$bn)</i>	
Mean	31.21	Mean	36.59
Standard Error	unk	Standard Error	unk
Median	32.48	Median	36.87
Mode	12.33	Mode	31.08
Standard Deviation	9.044910	Standard Deviation	4.983204
Sample Variance	81.810412	Sample Variance	24.832326
Kurtosis	0.36790	Kurtosis	-1.12619
Skewness	-0.92707	Skewness	0.19049
Range	34.97	Range	16.71
Minimum	9.34	Minimum	28.08
Maximum	44.31	Maximum	44.79
Sum	10861.68	Sum	12733.44
Count	348	Count	348

## Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>New York Times International Affairs Index</i>		<i>New York Times International Affairs Index</i>	
Mean	9.456897	Mean	7.083333
Standard Error	0.255555	Standard Error	0.207685
Median	8	Median	7
Mode	8	Mode	6
Standard Deviation	4.76731	Standard Deviation	3.874316
Sample Variance	22.72724	Sample Variance	15.01033
Kurtosis	0.268292	Kurtosis	4.117772
Skewness	0.821229	Skewness	1.430276
Range	25	Range	29
Minimum	0	Minimum	0
Maximum	25	Maximum	29
Sum	3291	Sum	2465
Count	348	Count	348

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>New UNSC Agenda Item</i>		<i>New UNSC Agenda Item</i>	
Mean	0.261494	Mean	0.772989
Standard Error	0.030072	Standard Error	0.054833
Median	0	Median	1
Mode	0	Mode	0
Standard Deviation	0.560989	Standard Deviation	1.022888
Sample Variance	0.314709	Sample Variance	1.0463
Kurtosis	5.762969	Kurtosis	4.998476
Skewness	2.349505	Skewness	1.945425
Range	3	Range	6
Minimum	0	Minimum	0
Maximum	3	Maximum	6
Sum	91	Sum	269
Count	348	Count	348

Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>National Security Leaks in the New York Times</i>		<i>National Security Leaks in the New York Times</i>	
Mean	0.16092	Mean	0.172414
Standard Error	0.022839	Standard Error	0.026942
Median	0	Median	0
Mode	0	Mode	0
Standard Deviation	0.426055	Standard Deviation	0.502602
Sample Variance	0.181523	Sample Variance	0.252609
Kurtosis	9.759419	Kurtosis	11.5925
Skewness	2.928589	Skewness	3.307521
Range	3	Range	3
Minimum	0	Minimum	0
Maximum	3	Maximum	3
Sum	56	Sum	60
Count	348	Count	348

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>US Citizens Arrested for Espionage</i>		<i>US Citizens Arrested for Espionage</i>	
Mean	0.109195	Mean	0.353448
Standard Error	0.021117	Standard Error	0.041054
Median	0	Median	0
Mode	0	Mode	0
Standard Deviation	0.39394	Standard Deviation	0.765852
Sample Variance	0.155189	Sample Variance	0.58653
Kurtosis	22.04829	Kurtosis	13.25443
Skewness	4.357397	Skewness	3.134871
Range	3	Range	6
Minimum	0	Minimum	0
Maximum	3	Maximum	6
Sum	38	Sum	123
Count	348	Count	348

## Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>Intelligence-related Congressional Hearings</i>		<i>Intelligence-related Congressional Hearings</i>	
Mean	0.640805	Mean	2.057471
Standard Error	0.067983	Standard Error	0.147938
Median	0	Median	1
Mode	0	Mode	0
Standard Deviation	1.268211	Standard Deviation	2.759761
Sample Variance	1.608359	Sample Variance	7.616284
Kurtosis	15.62057	Kurtosis	6.313156
Skewness	3.419718	Skewness	2.130014
Range	10	Range	19
Minimum	0	Minimum	0
Maximum	10	Maximum	19
Sum	223	Sum	716
Count	348	Count	348

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>Intelligence-related Public Laws Introduced or Signed</i>		<i>Intelligence-related Public Laws Introduced or Signed</i>	
Mean	0.057471	Mean	0.100575
Standard Error	0.01314	Standard Error	0.017141
Median	0	Median	0
Mode	0	Mode	0
Standard Deviation	0.245129	Standard Deviation	0.319762
Sample Variance	0.060088	Sample Variance	0.102248
Kurtosis	20.07582	Kurtosis	9.973908
Skewness	4.395971	Skewness	3.186271
Range	2	Range	2
Minimum	0	Minimum	0
Maximum	2	Maximum	2
Sum	20	Sum	35
Count	348	Count	348

## Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>Divided Government Categorical Variable</i>		<i>Divided Government Categorical Variable</i>	
Mean	0.51585	Mean	0.757925
Standard Error	0.026867	Standard Error	0.023028
Median	1	Median	1
Mode	1	Mode	1
Standard Deviation	0.50047	Standard Deviation	0.428958
Sample Variance	0.250471	Sample Variance	0.184005
Kurtosis	-2.00755	Kurtosis	-0.54017
Skewness	-0.06371	Skewness	-1.20954
Range	1	Range	1
Minimum	0	Minimum	0
Maximum	1	Maximum	1
Sum	179	Sum	263
Count	347	Count	347

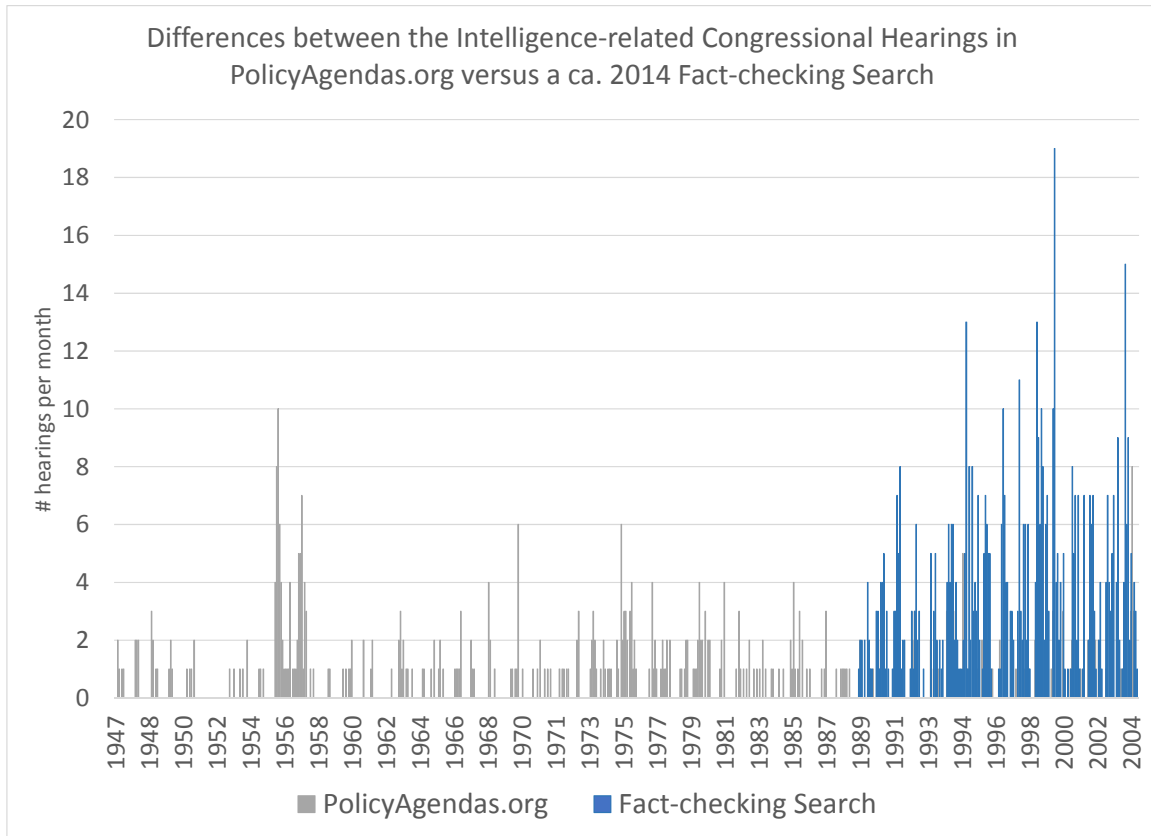
Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>Intelligence Failures</i>		<i>Intelligence Failures</i>	
Mean	0.048851	Mean	0.045977
Standard Error	0.012924	Standard Error	0.011243
Median	0	Median	0
Mode	0	Mode	0
Standard Deviation	0.241092	Standard Deviation	0.209737
Sample Variance	0.058125	Sample Variance	0.04399
Kurtosis	31.36529	Kurtosis	17.05951
Skewness	5.378443	Skewness	4.35448
Range	2	Range	1
Minimum	0	Minimum	0
Maximum	2	Maximum	1
Sum	17	Sum	16
Count	348	Count	348

## Intelligence Outcomes: Assessing the 1975-1976 Intelligence Oversight Reforms

Descriptive Statistics (1947-1975)		Descriptive Statistics (1976-2004)	
<i>Unavoided, Uninitiated Military Conflicts</i>		<i>Unavoided, Uninitiated Military Conflicts</i>	
Mean	0.043103	Mean	0.066092
Standard Error	0.011637	Standard Error	0.013337
Median	0	Median	0
Mode	0	Mode	0
Standard Deviation	0.21709	Standard Deviation	0.2488
Sample Variance	0.047128	Sample Variance	0.061902
Kurtosis	30.72357	Kurtosis	10.36675
Skewness	5.342409	Skewness	3.508162
Range	2	Range	1
Minimum	0	Minimum	0
Maximum	2	Maximum	1
Sum	15	Sum	23
Count	348	Count	348



## End Notes



**Figure 35: Differences between Intelligence-related Congressional Hearings in PolicyAgendas.org versus ca. 2014 Fact-checking Search**

<sup>i</sup> Subsequent fact-checking by this study shows the number of HPSCI and SSCI hearings in the second period is at least 716. These data were acquired through searches different than those employed by PolicyAgendas.org. For the SSCI, the search strategy was to use the phrase "Committee held closed hearings on intelligence" in <http://thomas.loc.gov>, and filtering the searches by Congressional Session (Search conducted on November 13, 2014). For the HPSCI, the same URL and filtering was used, but the phrase employed was "Permanent Select Committee on Intelligence: Met in executive session." The graph above (Figure 42) shows the difference between the PolicyAgendas.org data and this secondary search strategy.