Why Congressional Capacity Is Not Enough

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Abstract

Congressional capacity has been dramatically reduced over the past generation. However, solving complex problems requires complex information processing capabilities, and the number and complexity of the problems facing government continue to grow. We note a number of problems with the current trends in congressional funding, organization, and information capacities, and put these in the context of trends toward greater complexity over time. Finally, we note the political power dynamics of control of information and of staff capabilities. Members of Congress lose power to their leadership, Congress loses power to the executive branch, and public servants lose power to private interests when informational capacities are diminished. The information can capacity problems of Congress are self-inflicted, but the solution must include openness and diversity rather than partisan conflict, or the cure could be worse than the disease.

Congressional Capacity, Party Control, and Informational Complexity

Understanding whether Congress has the capacity to do its job requires that we understand what the job is. In our view, long-term trends have made the oversight job of Congress particularly daunting, and, at the same time, the institution has seen cuts rather than increases in its capacity. These self-inflicted wounds have seriously compromised Congress's ability to do its job. However, as we explain below, simply increasing capacity will not automatically solve the problem. Two other conditions are necessary. The first is decentralized, multi-faceted, independent, multi-centered capacity under the control of no single institutional actor, therefore outside of the easy control of the leadership of either political party. The second is a set of norms based on an evidence-centered approach that incorporates sound policy analytic principles. Congress needs much more capacity. But it needs the type of capacity that can only come from a decentralized demand to enhance the power of individual legislators.

Lewallen, Theriault, and Jones (2016) have recently reviewed the decline in congressional capacity, and noted some of the reasons for it. Looking at how the institution processes information through congressional hearings, they note several troubling trends: Members are increasingly receiving one-sided and highly partisan information, rather than a broad range of it, and they are spending less time learning about policy solutions to the problems facing the nation. This has occurred largely as a result of demands from party leaders. It is easier to maintain powerful party caucus organizations, and to retain solid voting blocs, if the caucus is united. It is easier to remain united if information is controlled. Letting "a hundred flowers bloom" (much less 435 of them) creates a rich information environment, but one that is very hard to manage and control.

What is Good Congressional Oversight?

To set the stage for our analysis, we first examine what we mean by good congressional oversight, a major component of legislative information processing (the second being drafting legislation). In a recent paper centering on how to assess oversight effectiveness, Levin and Bean (2018) describe oversight broadly and they implicitly distinguish between defining the policy problem subject to the oversight and generating potential solutions to the problem thus defined (pp. 14-15). The authors suggest assessing effectiveness by "gauging whether it addressed issues of importance to the public, made use of appropriate investigative techniques, uncovered useful information, and was able to produce a consensus on the facts". They see consensus on the facts as particularly crucial. "When successfully done, a factual consensus can provide a solid foundation for developing a shared understanding of a problem, analyzing related issues, and affecting policy." If the problem is defined in a consensual manner, policy directed at that problem is more likely to be successful.

How do oversight committees achieve this requisite consensus? Levin and Bean say they do so essentially by two methods. One is accumulating relevant and useful information. The other critically involves bringing a variety of different interests to the table. This requires answers such questions as:

- Did the investigation support reasonable information requests made by members of Congress with disparate points of view, including members of the minority party?

- Did the investigation contact or attempt to contact the key subjects of the investigation and give each one an opportunity to provide information?

- Did a majority of the members conducting the investigation, including members of the minority party, support the written product? (Levin and Bean 2018, 15)

These elements center on problem-definition, but Levin and Bean (16) also stress the need for sound policy impact analysis—the solution stage of the process. In our work, we have noted the difference between finding a known solution to a well understood problem (what we call an "engineering problem", because it is tractable and understood, even if it might be as complicated as sending a person to the moon) and struggling to understand and ameliorate a problem with many aspects and few proven solutions (what we call a "complex problem", such as poverty). Information systems and organizational designs that work well for one do not necessarily work well for the other.

Condition 1: The Struggle between Complexity and Control

In *The Politics of Information*, we posited a distinction between expert-led information search and what we called entropic search (Baumgartner and Jones 2015). Thinking of searching for the solution to a well understood problem it is clear that the best strategy is to "leave it to the experts": Find the best people who know how to solve the problem, and give them the resources, and more importantly the capacity and independence, to do so. The problem will be solved if the specialists have the authority to do it, and "outsiders" stay out of the way. This is best for what we called "engineering problems", which are problems with known, even if complicated, solutions.

Governments deal with many engineering problems: how to build a school, how to improve highway infrastructure, how to send a human to the moon. But governments also deal with wicked or complex problems such as improving human happiness, enhancing the stature of America in the world, fighting for world peace or human development, solving poverty, or teaching children how to read. Many of these problems defy the experts. Indeed, they may be so multifaceted that no single community can be considered experts on the entire issue. Addressing

wicked or complex issues demands another organizational structure, one that involves multiple overlapping approaches, not just a single one. For this reason, we wrote that there is often a struggle between the goals of how best to address complex issues and how best to control the process: Entropic search, with multiple conflicting approaches, is a management nightmare. The solution, hierarchical control, however, can only work if it systematically censors or eliminates relevant information. And this can only work for a limited time before the censored information becomes so obviously important that it can no longer be ignored.

It is no surprise that over time the US government, like governments in other countries, as become larger and more complex. In our book we distinguished between broadening, by which we mean involvement into new areas of society or the economy where previously government agencies had not been involved, and thickening, which is when more and more agencies get involved in the same issue. Over time, whether we look at the long-term or shorter periods, the government has both broadened and thickened (see Baumgartner and Jones 2015 for more detail, or Jones et al. 2018 for extensions).

Leaders in government have always been tempted to "clarify" and to centralize power in hierarchical systems, but demands for cross-institutional collaboration suggest the constant imperfections in whatever institutional boundaries are established. Academics are familiar with constant calls for "inter-disciplinary" work. If we could divide up the disciplines properly to address all the important issues we face, of course there would be no need to be inter-disciplinary. But since the world is inherently complex, and many of us want to address these complicated problems in our research, we face the same inherent conflicts between complexity and tractability as do governments. In today's political environment, with newly powerful political parties and a lack of trust across parties, and sometimes even within party structures,

there seems to be unprecedented pressure against information and complexity and for hierarchy and control.

The Consequences of Centralized Control

Pressure for centralized control has many consequences.

1. It eliminates important sources of information, resulting in poorly informed public policy processes. As noted above, complex problems demand entropic information search processes. Engineering problems demand expert-led hierarchically controlled processes. The solutions that work for one type of problem are counter-productive when misapplied to the other type of problem. There is no single solution to the problem of poverty assistance, criminal justice reform, gun control, health care availability, or immigration. Messy debates are more informative even if hard to control.

2. It reduces the influence of Congress toward outside actors (e.g., lobbyists). With congressional staff relatively small in numbers, under-paid, and inexperienced, it is clear that informational advantage will always be on the side of the Goldman Sachs of the lobbying world (see Baumgartner and Drutman 2016, Drutman 2016). Congressional staff is rendered less diverse, less experienced, less skilled, and less able to understand, much less defend, the public interest in the face of private sector actors who seek influence.

3. It reduces the influence of Congress toward the executive branch, the judiciary, and other actors. Unilateral intellectual disarmament has never been a strategy of building institutional power. Executive branch agencies, the President and political appointees, and other governmental actors naturally gain power when one of the supposedly co-equal branches of government decides to shoot itself in the foot.

4.   It reduces the influence of individual Members of Congress, making it a less attractive place to work for ambitious political leaders. Many western legislatures operate with powerful party caucuses with back-bench politicians routinely expected to vote as their party leaders tell them. In many countries, such systems are backed up by party-list electoral systems where the party leadership literally places the individual members in order of preference on the ballot, with those at the top of the ballot virtually assured of election, but owing their seat fully to the party leadership. In the American tradition, individual members run their own campaigns, raise their own funds, and have independent powers vis-à-vis the national parties. Such independence has previously been seen as crucial to represent diverse regional interests even within the same party, and the decentralized nature of congressional power has played an important role in generating wide-ranging debate but more importantly a robust capacity to oversee the executive branch across the full range of government activities from agriculture to public lands to environment, defense, and intelligence. Centralizing power in party leaders devalues the position of Member of Congress.

Potential Solutions, and their Risks

We can see many problems with the unilateral decisions in Congress to decimate its own informational capacity. The solutions are clear: Generate a consensus that with a federal budget on the order of $4 trillion, with tens of thousands of programs in a vast array of policy domains, the function of Congress is inescapably large and complex. With such a scope, there is no single mechanism that can oversee it all, certainly not one relying on a small staff of underpaid and inexperienced young staff members seeking to build their resumes in the hopes of more moving on to more lucrative employment. Rather, the scope must be large and decentralized. Because we

do not know the nature of the problems we seek to solve, solutions and institutional designs that work for "engineering problems" are simply inappropriate. We need multi-faceted investigations and oversight of various problems, programs, and social issues. Some might be partisan in nature, and certainly it has always been the case that political considerations have been part of the relations between Congress and the executive branch. Co-partisan legislators typically seek less to embarrass the president than legislators who might gain politically from embarrassing the other side. But the role of Congress must go well beyond partisanship to include good public policy. We must the continued accuracy of Hugh Heclo's assessment that "policy-making is a form of collective puzzlement on society's behalf" (1974, 305–6). That is, policymakers have a wide range of questions and potential solutions. We cannot expect a single ideological structure, nor a single hierarchically controlled bureaucratic process, to generate useful solutions to social problems that we do not even yet fully understand. Only messy, overlapping, entropic information collection processes are likely to do this. In sum, we must accept some redundancy and build some humility into our organizational design. As Martin Ladau (1969) wrote many decades ago, complex machines (in his example, airplanes) have multiple redundant back-up mechanisms in place to ensure continued functioning even when one system fails. In seeking the kind of efficiency that might be appropriate for simple engineering problems, by applying these wrongly in areas which are too complicated, we risk catastrophe.
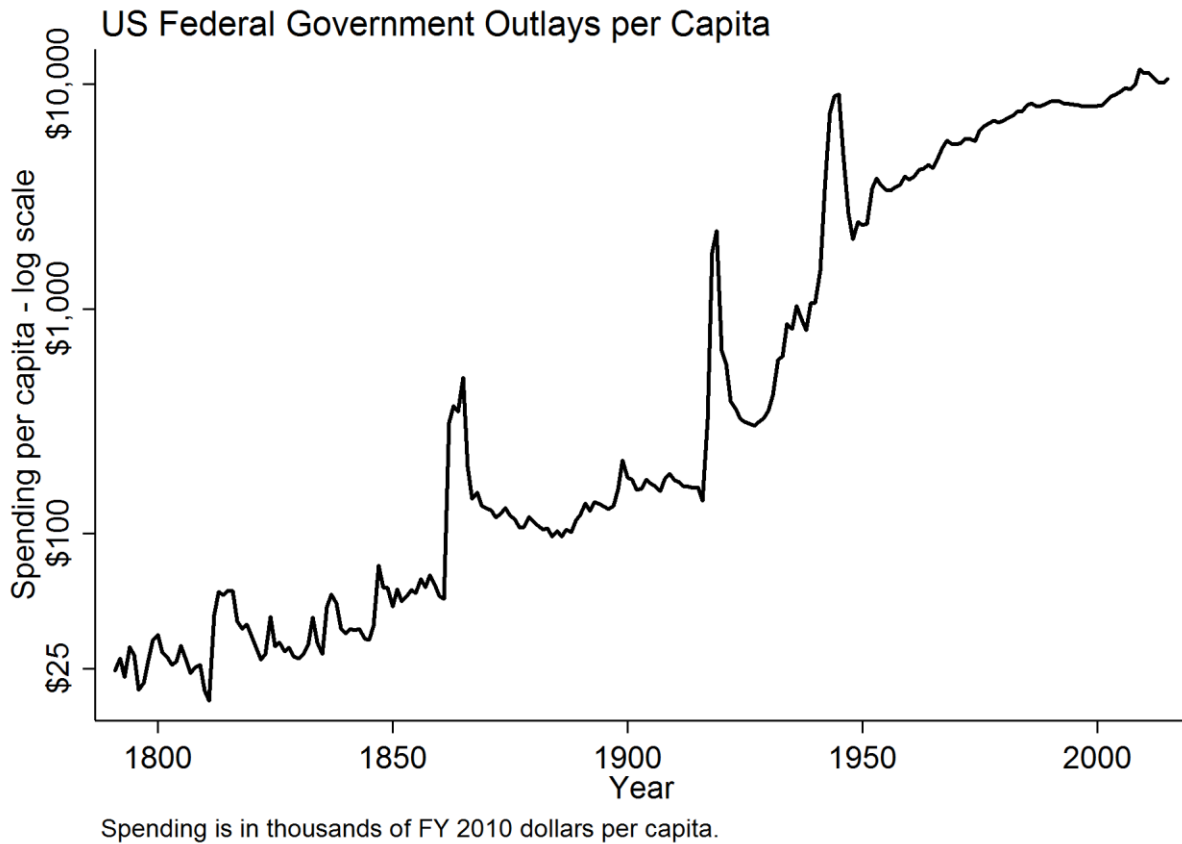
There is no question about the direction we must take congressional capacity. However, it is not clear when we might want to encourage Congress to build up its capacity. As the recent debacles and breakdowns in comity in the House Intelligence Committee make clear, there is no reason to assume that our current Congress would have the capacity to build a wide-ranging, powerful, well-staffed, and decentralized informational structure that would allow it to compete

on a more equal footing with private lobbyists, the executive branch, and other actors. Certainly those actors would complain about the wastefulness of such a system, knowing that it would cost them substantial influence and power. But more importantly, power over knowledge, information, can be used to suppress further information just as much as it can be used to generate better public policy solutions. The time, in short, may not be now. But in order for Congress to play the role that it should according to the Constitution, reform is in order.

Illustrations with Data

Over the long haul, there is no question about increased complexity in government. Figure 1 shows US spending over time, adjusted both for inflation and for population (see Baumgartner, Jones, and Mortensen 2017). Until about 1812, spending was about $25 per person, and it reached $100 per person only in the Civil War. Each generation, or major war, saw a ratcheting up in the size of government and no war saw a decline in spending to anything close to the pre-war level. In leaps and bounds, but with many long periods of relative stability, the government grew. The figure presents data in constant 2010 dollars, showing growth from those small figures to somewhere above $10,000 per capita. The most recent figures, about $4 trillion for a population of approximately 327 million, are about $12,000 per person. Of course, this is just the federal budget, and state and local budgets are collectively larger. Our point is simply that government is large, complex, and multifaceted. Therefore, any oversight capacity would have to be commensurate with the challenge of reviewing such a multitude of policies. Government has been transformed over time from relatively simple to surprisingly complex, but the oversight capacity of Congress has not changed with the times.

Figure 1. Spending Growth over the Long-Haul.

US Federal Government Outlays per Capita

Spending per capita - log scale

$10,000
$1,000
$100
$25

1800   1850   1900   1950   2000
Year

Spending is in thousands of FY 2010 dollars per capita.

The growth in government in the post-1945 period did not come just with growth. It came with a dramatic transformation in spending, particularly after the Korean War subsided. The proportion of spending related to defense declined from over 60 percent of the total to around 20 percent, and myriad other programs rose. The result was a budget, and corresponding federal government activities, spread much more than before across a wide range of programs, not concentrated in just a few. We illustrate this with a graph taken from *The Politics of Attention* showing the share of federal spending on different topics over time.

Figure 2. Federal spending by program, in percent of the annual budget.
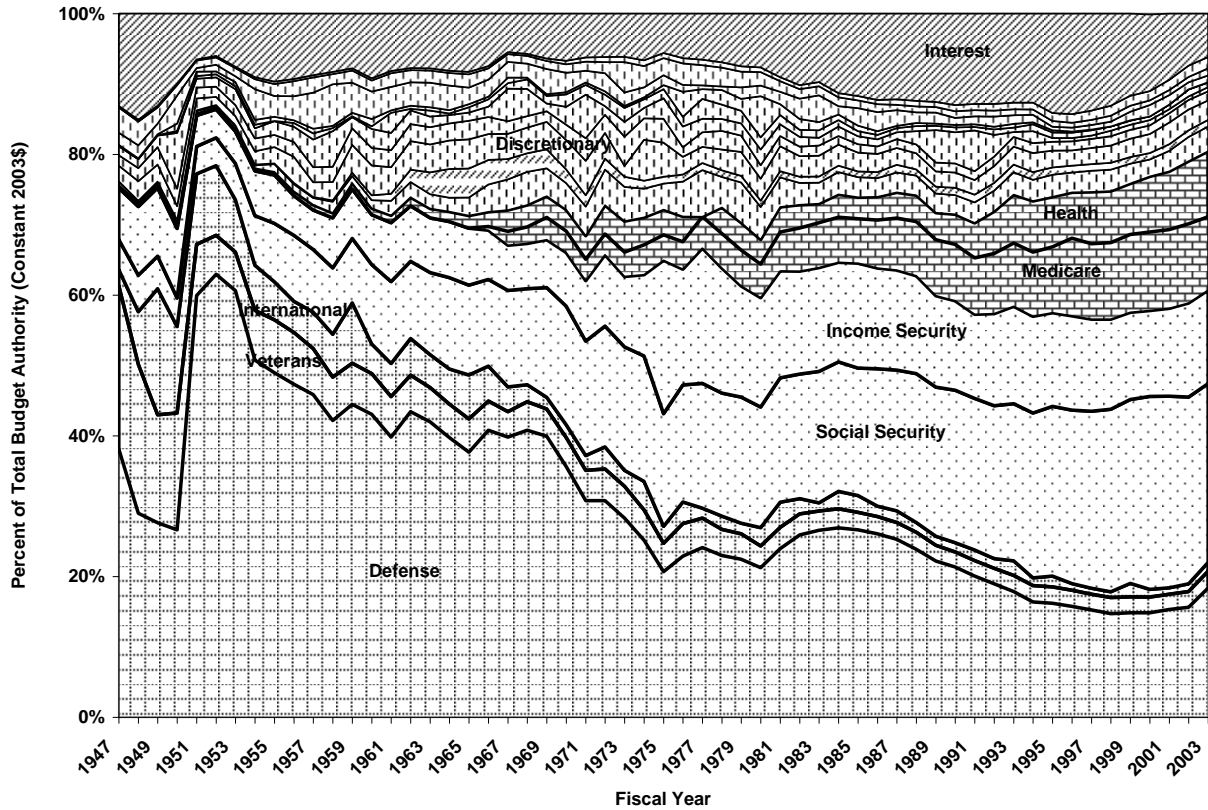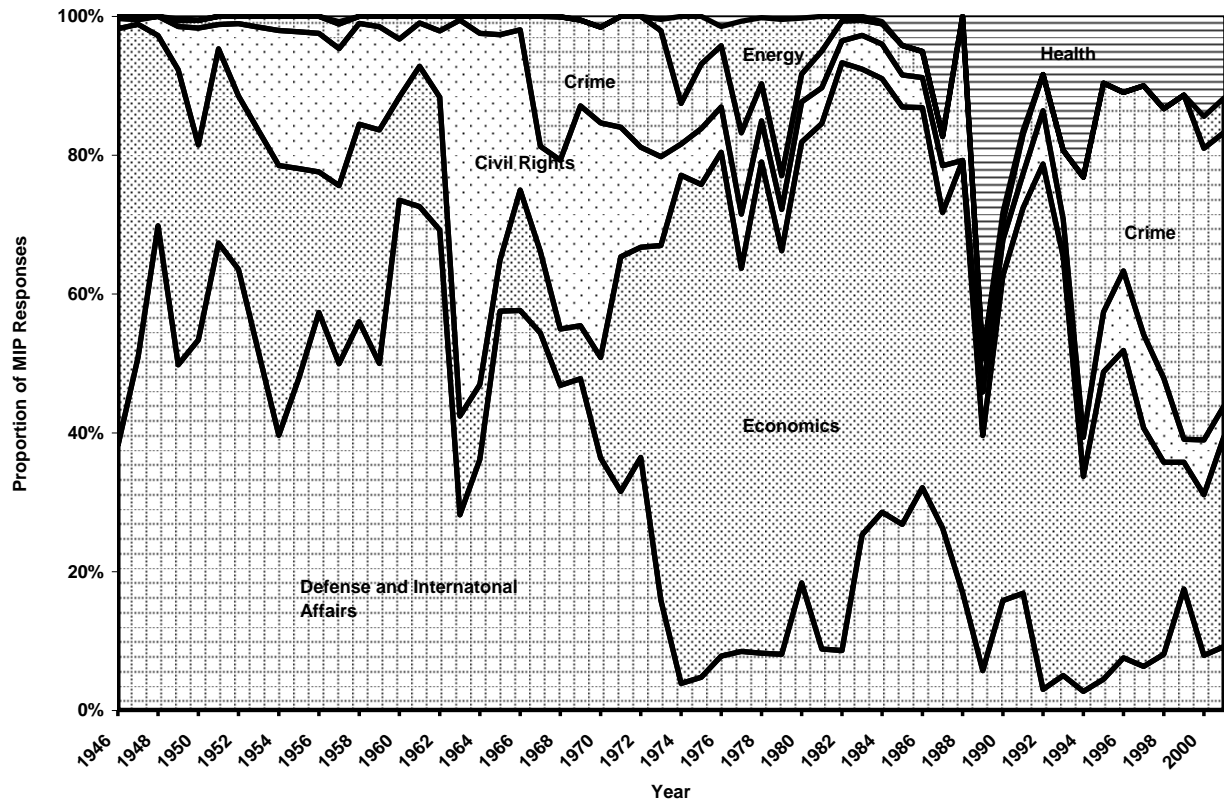

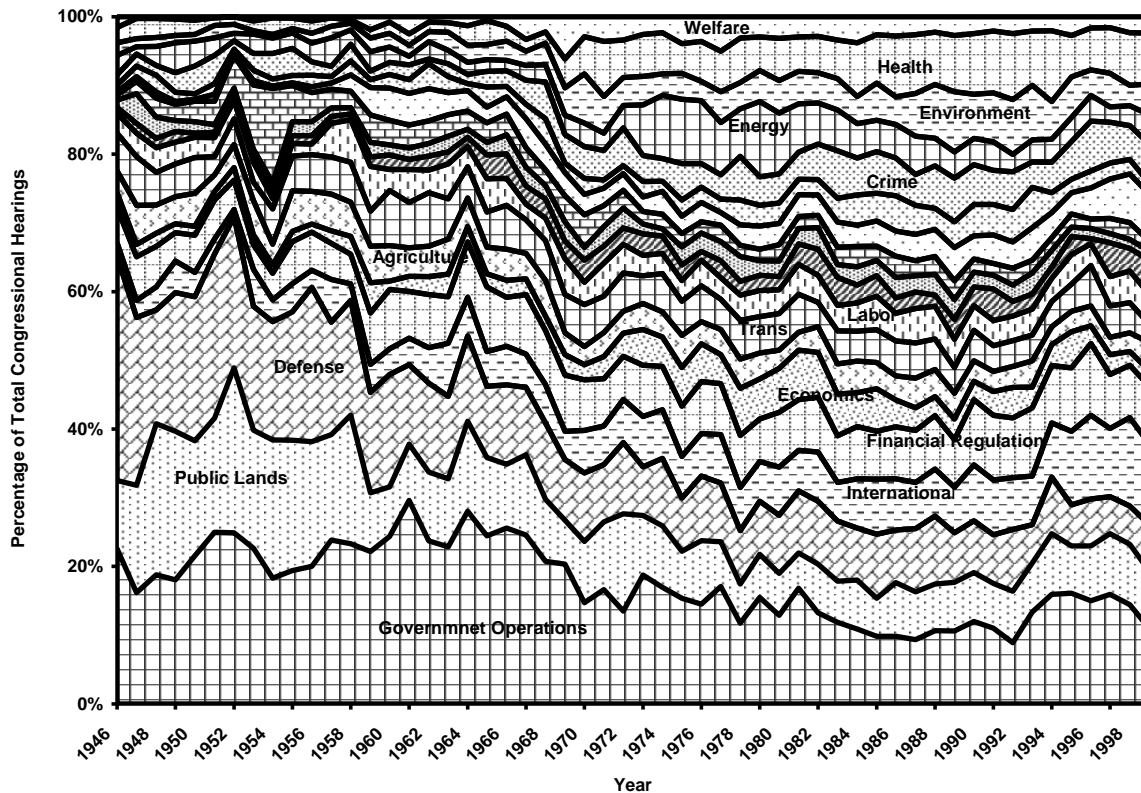Source: Jones and Baumgartner 2005, Figure 4.1.

In the period since World War Two, several major transformations have taken place. In our 2015 book, we referred to these as "spread" and "thickening" of government (see Baumgartner and Jones 2015). Our point there is that the spread of spending illustrated in Figure 2 above understates the complexity of the issue. Government not only spread deeply into new areas, but it multiplied its programs in those areas where it was already busy. One key element of Congressional responsibilities is to go beyond the front-pages and to "cover the waterfront" in its oversight capacities, and these challenges have clearly been growing exponentially over the decades. Using the data from the Policy Agendas Project, we can illustrate that the congressional committee system has indeed allowed a wider spread of attention across the range of governmental activities than some other processes. Figure 3 compares congressional attention

with answers to the Gallup "Most Important Problem" (MIP) question. Typically, the MIP data

are concentrated in just a few policy domains, whereas congressional oversight attention is

broadly spread across a fuller range.

Figure 3. Congressional and MIP attention compared.
Part A. Most Important Problem.

Part B. Congressional hearings.

Source: Jones and Baumgartner 2005, Figures 10.1 and 10.2

Whereas "peace" and "prosperity" are the clear concerns of the public, at least when asked what are the "most important problems" facing the country, Congress has done a relatively good job in paying attention to a greater variety of issues. Note also that during the period of 1946 through about 1958, the combination of government operations, public lands, and defense routinely accounted for approximately 60 percent of all congressional hearings. As time has progressed, attention has spread more broadly.

Figure 4 documents this question more directly, noting the number of congressional hearings as well as the number of distinct topics of attention. (Here, we use the number of Policy Agendas Project subtopics used each year.)

Figure 4. The growth and spread of congressional hearings.
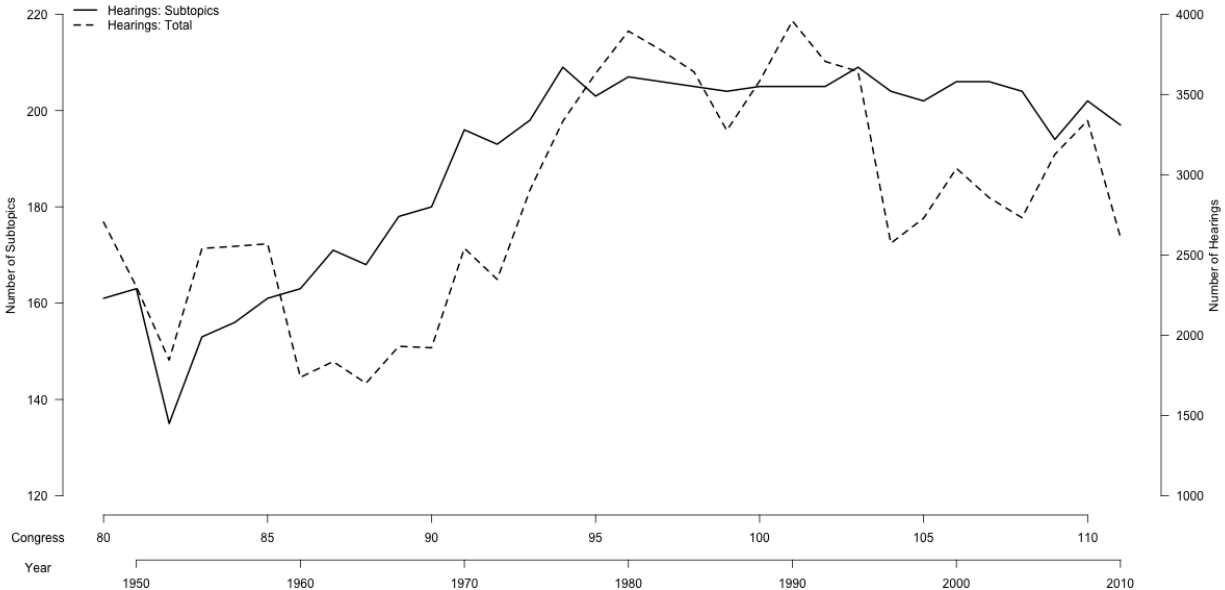
The Policy Agendas Project enumerates approximately 226 policy topics across 19 major policy categories. In the early post-war years, hearings were held in perhaps 150 of these, but that number grew quickly to level out, after about 1980, at over 200. We have explored in the two books discussed here that process. After a period of growth, there was a period of suppression. Conservatives fought against the growth of government and smartly attacked the supply of information, understanding that the more we discuss social problems and collect data and testimonials on their severity, the more likely it is someone will propose a government program to attempt to alleviate the problem. If government programs are to be avoided, data on the severity of social problems is to be suppressed.

The Politics of Information-Suppression

There may be good ideological reasons to suppress information. With more information, our analysis showed, pressure comes to increase the size, reach, and scope of various government programs. Cutting the supply of information, reducing the range of relevant decision-makers said

to have standing to address the issues, and centralizing control in increasingly powerful party leadership groups has been quite effective in stopping (temporarily) the growth of government which we documented in *The Politics of Information*.

But as with many things there may be unintended consequences. Problems continue to grow, even if we are not attending to them. Our responses become increasingly dis-jointed, dis-proportionate, and delayed. We play catch-up to the many problems developing slowly around us after we ignore them for so long because we do not want to invest in the informational capacity to attend to them, and potentially respond to them, as they develop. This, by the way, it a general problem for all governments and complex institutions, not one for which we have found a solution. But less rather than more information certainly exacerbates it. We reviewed a number of examples of this in our 2015 book, ranging from educational reform proposals to CDC studies of gun deaths, to state data collection efforts on racial disparities in traffic stops. In each case, efforts by those seeking to prevent the creation of new government regulations have sought to suppress the collection of data that might be seen as relevant to justifying the program, or even to understand the need for it.

Suppressing information is one thing, and we understand the ideological and strategic incentives to do so. Suppressing one's institutional capacity to analyze public policy is another. It is a self-inflicted wound foisted on the members of Congress by ambitious party leaders seeking to increase their own power and to control a process that they have not traditionally controlled very well. The consequences of reduced capacity have been dramatic, rendering Congress a shell of its former self and radically transforming its internal distribution of power. In fact, the traditional distribution of power within Congress was relatively decentralized. Party leaders in recent years have used ideological disputes about the size and growth of government to move

power from decentralized committee and subcommittee structures, which reached a peak in the mid-1970s, increasingly to centralized party leadership positions. This would be an effective informational structure if Congress needed more hierarchy and control, along partisan lines. But it has been a silent revolution in political power. And the decline in congressional capacity for deep public policy involvement has, in turn, led to the decline of Congress as an institution.

Condition 2: Follow the Evidence

Adding diversity to an information-processing system is not enough. As we highlighted in *The Politics of Information*, diverse information flows are better at clarifying the problem space than generating solutions to solve the complex problems isolated. Walter Williams emphasized in his aptly titled book, *Honest Numbers and Democracy* (1998) that governmental capacity in most situations since the Second World War has been associated with evidence-based analysis. Williams stressed the essential need for policy analysts to give policy makers the unvarnished evidence on a policy matter, but also to detail the political consequences of the solutions that the analyst recommends. He saw no contradiction between policy analysis based on the norm of neutral competence and the need for elected officials to pay attention to the political ramifications of the evidence. Williams' work deftly threaded the needle of evidence-based analysis and political necessities in a manner that is particularly useful today.

During the broadening of government during the 1960s and 1970s, both Congress and the executive branch expanded their policy analytic capacities. The Defense Department had added these capacities as the Cold War developed, and President Lyndon Johnson extended that as a model for doing good domestic policymaking. Many executive branch agencies established divisions to do this kind of work, and government funded all sorts of pilot studies and social experiments to test out whether what seemed to be a good policy idea would work in a real world

of conflicting incentives among service consumers and providers. This experimental mindset continues today in many but not all policy areas. It is particularly prominent in health policy, and the Patient Protection and Affordable Care Act boosted this approach through both systematic field studies and establishing incentives for providers to employ evidence-based medicine in their delivery systems.

Congress followed suit by adding analytical capacities to its committees and by creating new analytical capacities. Under Comptroller General Elmer Staats, the General Accounting Office (now the General Accountability Office) added policy analytic capacities to the GAO's traditional auditing functions. In 1974, Congress added the Congressional Budget Office in the Congressional Budget and Control Act, and required cost estimates for proposed legislation.

While the parties found a general consensus on this analytical approach at first, it began to disintegrate in the late-1970s. Conservatives argued that government had grown too big and used arguments about redundancy and overlap to justify an attack on the informational and analytic capacity of the state (see Baumgartner and Jones 2015). Lee Drutman (2016) discusses the dangers of what might be called "Government on the cheap": youthful, underpaid, and inexperienced congressional staffers turn to industry lobbyists who are only too happy to help draft bills, provide useful feedback, and explain complicated legislative details. After all, those lobbyists may previously have been the staffers who wrote the bills. In other words, we simply disarm government unilaterally in the face of corporate lobbyists. As Drutman writes, "We've been doing Congress on the cheap for three and a half decades. And increasingly, we get what we pay for. If Congress is going to restore its own power and deliver on its constitutional responsibility, it needs to invest in people. It's that simple." But the unilateral surrender is not

just from public service to private sector lobbyists. It is also from individual members and committees to central party and House / Senate leaders, and from Congress to the Executive.

Moreover, strengthening staff alone will not serve as a bromide for poor policymaking unless the conditions of diversity and evidence-based analysis are also fulfilled. There is nothing wrong with listening to lobbyists; they serve as a source of information. But staff must be competent to challenge false or misleading statements from lobbyists and supplement information from lobbyists through independent investigations of the evidence. Moreover, the process must incorporate information from diverse sources, including opposing lobbyists, executive agencies, think tanks, academic experts, and staff from other committees with differing perspectives. Capacity, quite simply, is not enough.

Conclusions: Capacity with Diversity and Evidence

It is time to invest in Congress again. But the investment must include appreciation of the inherent difficulty of control that must come with it. A diversity of voices is necessary to map the problem spaces of issues facing today's government; suppressing these voices will lead to a focus on one aspect of an issue to the exclusion of others. Simple problem spaces lead to overly simple (often ideological) solutions. But mapping the problem space is not enough either. Professional policy analytic techniques are necessary, and those techniques require a set of norms based in Williams' analysis: a commitment to the evidence and a willingness to trace the future political consequences of any policy action separately.

Finally, Congress should build in a diversity of centers of analytical capacities focusing on solutions as well as a diversity of voices directed at problems. We already know how to do this. During the 1960s and 1970s, partly under the pressures of rapidly broadening government and partly deliberately, Congress established such a system. The system incorporated multiple

committees; funded able analytical staffs; allowed overlapping jurisdictions; and created professional analytical bureaucracies. Congress has allowed that system to atrophy; norms of diversity and of professional policy analysis have declined under the pressures of partisan polarization and centralized leadership control.

Simply pushing Congress to add more capacity to aid legislators in doing their work is insufficient. Capacity alone is an empty vessel, and may be deployed for worthy or ill ends. The notion that legislative staff is a set of agents to carry out the preferences of elected legislators, as is implied by some congressional scholars, is misguided. Only under conditions of diversity and evidence will adding capacity to our legislative branch yield positive outcomes. Decentralized and multiple sources of power may send shivers down the spine of Paul Ryan and Mitch McConnell, but these are more appropriate structures for congressional influence than tight leadership control. While diversity and analytical norms of evidence cannot guarantee good policy, the lack of these components will guarantee bad policy.

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