

# Congressional Oversight of National Security

## A Mandate for Change



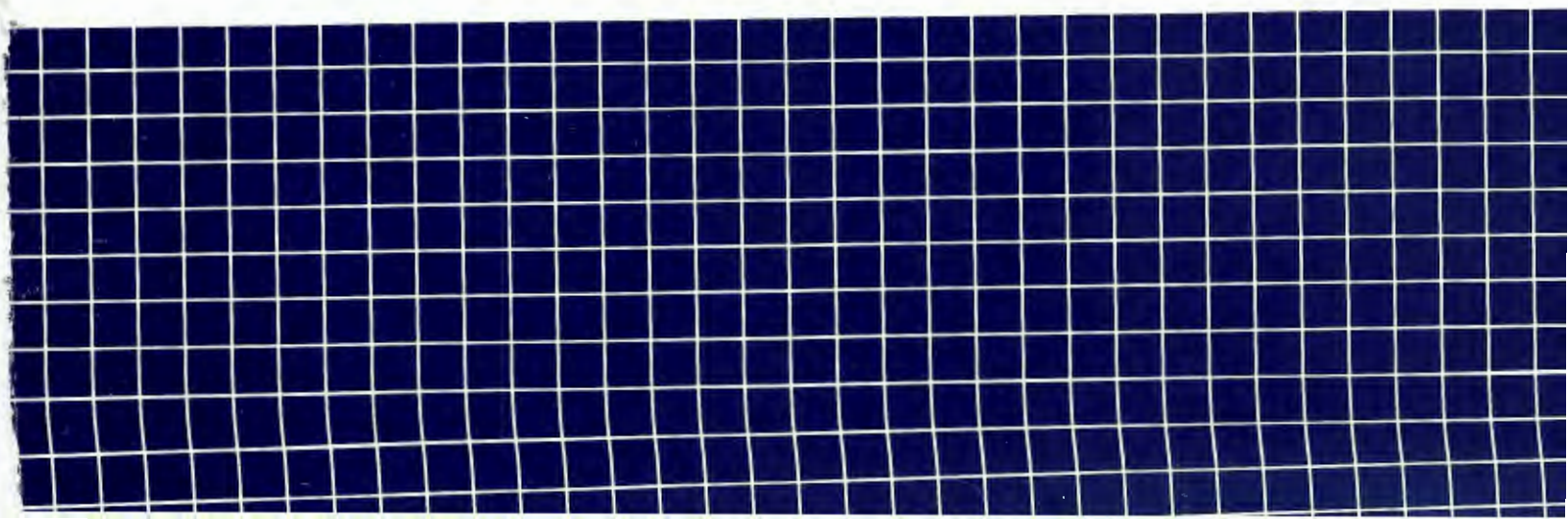
The Final Report of the CSIS  
Project on Congressional Oversight of Defense

Project Chairman  
John O. Marsh, Jr.

Project Director  
James Blackwell

**CSIS**

The Center for Strategic & International Studies  
Washington, D.C.



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## CSIS Project on Congressional Oversight of Defense

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*This project benefited greatly from the active participation of several current members of Congress and congressional and executive branch staff who, because of their affiliations, could not be listed here.*

*(Continued on the inside of the back cover.)*

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# Foreword

The U.S. Congress has not engaged itself in a significant reform of its own organization and procedures since 1946. In the intervening decades the country—indeed, the world—has transformed itself dramatically. Changes that have had a particularly pervasive effect on Congress include the following:

- The population of the United States has increased by more than 100 million.
- The nation has waged four wars, including the cold war.
- The Soviet Union as it was known for more than 70 years has disintegrated.
- Six new cabinet-level departments have been created: Health and Human Services, Energy, Housing and Urban Development, Transportation, Education, and Veterans' Affairs. In addition, several major new independent federal agencies have come into being, including the Central Intelligence Agency, the National Security Agency, the National Aeronautics and Space Administration, and the Environmental Protection Agency.
- A revolution in transportation has occurred: an interstate highway system has been constructed, more people travel by air than by train, and the airline industry has largely been deregulated.
- Americans have moved into the space age, put people on the moon, and have had to address new national problems, including the environment, drugs, and rampant crime.
- The United States has lost much of its competitive edge, and there are serious questions about the effectiveness of its education system.
- The information age has dawned, creating new opportunities for learning, knowledge, and productivity.
- The U.S. federal deficit has soared to trillion-dollar figures, interest on the national debt has become the second largest annual federal expenditure, and the balance of trade is consistently adverse.
- Western Europe is moving toward a unified economic

community by the end of 1992, while U.S. economic recovery lags.

- As an institution, the U.S. Congress is at an all-time low in public esteem. Being a member has become a full-time job, and questions about congressional procedures, the explosion of committees and subcommittees (a total of 292 in the 102d Congress), "perks," and the confirmation process have given rise to term limitations and antiperk legislation.

Fortunately, Congress is not oblivious to these trends because only Congress can reform Congress. There are internal proposals for reform circulating within it, and others have emanated from the White House. Congressional reform is a matter of concern for the recently created ad hoc Joint Committee on the Organization of Congress.

In this report we have addressed ourselves to one particular subset of this problem—congressional oversight of national security. The report is offered as a stimulus to serious consideration of means whereby this process might go forward in an atmosphere not of obstruction but of friendly, courteous civility, of cooperation—that is, an atmosphere of comity.

John O. Marsh, Jr.  
Secretary of the Army (1981-1989),  
Counselor to President Gerald R. Ford,  
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October 1992



# Preface

*"The legislative department is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex."*

—James Madison  
*Federalist Paper Number 48*

CSIS undertook the Project on Congressional Oversight of Defense in 1990 to stimulate further reform in the way Congress managed national security affairs. It was interrupted by the Persian Gulf crisis, during which most of the project participants were consumed by their responsibilities at the time. The project reconvened in the fall of 1991 and completed its work, benefiting from its observations of this seminal event in the history of executive-congressional relations. This final report reflects a consensus of the participants, but individual members do not necessarily ascribe to every detail of the text. Members of the steering committee, whose names appear on the cover of this report, participated in this project in their personal capacities, and the list should not convey any official endorsement of this report on behalf of their organizations.

CSIS is particularly grateful for the generous support for the project provided by the John M. Olin Foundation and the Sarah Scaife Foundation.



# Executive Summary

The CSIS Project on Congressional Oversight of Defense was formed with a mandate to study and review the involvement of Congress in national security affairs. Our objective was to create a menu of reforms for the legislature to consider to encourage the evolution of a more effective legislative process. The work of the project was conducted by a steering committee of scholars, former members of Congress, former congressional staff, and former executive branch officials, all of whom have had significant experience in congressional oversight of defense.

The committee was guided throughout its deliberations by a fundamental conclusion that the most basic need is for a restoration of comity between the executive and legislative branches. Equally important, the committee recognized that Congress alone is not responsible for the many inefficiencies now confronting the process. We recognized from the start that the restoration of this comity is dependent on reform in both the institutions that share responsibility for the common defense: the executive and the legislative branches. We acknowledged that Congress is not solely to blame for the current oversight mess—certainly the executive branch and its Department of Defense share in some measure in the culpability. But only Congress can reform Congress. Stimulating congressional initiative to develop a more viable and practical defense oversight process is therefore our primary objective.

In 1985, the President's Blue Ribbon Commission on Defense Management (the Packard Commission) concluded that efforts to reorganize the Department of Defense should include changes on Capitol Hill. Yet, congressional oversight and review has not been carefully reexamined since the 1946 Legislative Reform Act.

The fundamental reason for this phenomenon was that Congress became preoccupied with the executive branch. The perception in Congress is that the president had abused his power during the Vietnam War and Watergate and more recently the conflicting interpretations of the 1972 Anti-Ballistic Missile (ABM) Treaty as well as during the Iran-contra affair. This energized congressional involvement in areas that had not previously enjoyed such attention from the legislature. The result of this shift was that a number of new



laws were passed to restrain the executive branch including the War Powers Resolution in 1973, the Congressional Budget and Impoundment Control Act of 1974, and the Hughes-Ryan Amendment. Congress also broadened its information base with the creation of the Congressional Budget Office, the Office of Technology Assessment, and the expansion of the Congressional Research Service and the General Accounting Office. Committee staffs and resources grew, giving Congress more of the resources it needed to deal with the executive branch's broad array of analytical support. In addition, divided government has produced a continuing need for compromise between successive Republican administrations and a Congress dominated by the opposition Democratic party.

To compound these tension-producing developments, recent events have led to a growing public disenchantment with Washington in general and with Congress in particular. The growth of anti-incumbency movements provides the latest evidence of the public mood. Opinion polls have registered a steady decline in public esteem for Congress.

In the area of policy, we noted unprecedented congressional involvement in defense policy issues during the 1980s. Congress involved itself in the details of negotiations and diplomatic relationships, in intelligence oversight, in the controversy over the war power and over the strengthening of the use of Congress's most powerful tool—the purse. The 1980s were also marked by increased rivalry among the committees on Armed Services, the Budget, and Appropriations.

The defense budget has become more complex as a result of changes in the procurement and acquisition process. Political realities make it difficult for Congress to reform itself in this area, but we believe that the approach taken toward base closings could serve as a model for reforming Congress's role in defense acquisition.

We have been able to reach firm conclusions on recommendations for reform on some issues. In others, we recognize that reform is a process that sometimes results in unintended consequences. Thus, before Congress initiates any reforms, we recommend that further detailed studies be made to anticipate more clearly their long-term consequences. Consequently, we offer a broad menu of suggested reforms in the areas of policy, budget, procurement and acquisition, and procedure. Congress must serve as its own reform agent; we therefore endorse the formation of the congressional ad hoc Committee on the Organization of Congress to consider the reform of Congress. We believe the committee would be helped by seeking



advice of former members to provide detailed recommendations.

Reform of congressional oversight of defense will be effective only as a subset of a more general congressional reform effort. We offer the following ideas for proponents of such reform to consider:

- Develop a more effective budget oversight process to include more rigorous two-year budgets and review of the Future Years' Defense Plan
- Implement changes in parliamentary procedure to make the oversight process more efficient, in particular for the confirmation and hearings processes
- Institutionalize the practice of regular budget summit agreements involving the top leadership of the executive and legislative branches
- Impose greater discipline over the committee jurisdiction process
- Consider the formation of a new permanent joint committee on national security with no legislative authority, but with a broad mandate to review all policy affecting the common defense and the objective of providing Congress with a forum for integrating its oversight of defense. The committee could also become a forum for closer consultation between the executive and legislative branches
- Review congressional staff requirements in light of restructuring and downsizing in the Defense Department.

All these measures should be carefully scrutinized in terms of their potential long-term consequences. For any of these reforms to succeed, it is crucial that the underlying and most important issue—comity between branches and departments—be restored. Open lines of communication, informal congressional briefings, and off-the-record opportunities for meetings need to be encouraged. We do not intend these selected suggestions to represent the final word on congressional reform. Our collective experience in these matters counsels us to be prudent in recommending specific reforms by conducting further careful examination of them in the context of a broader, more comprehensive congressional reform process that reaches well beyond defense oversight. Our hope in recommending these reforms is that Congress will take a close look at them and perhaps expand upon them. In some instances, after more careful study, the suggested reforms may not turn out to be practical. In those cases, we hope to have planted the seed of an idea that will stimulate Congress to make use of its own experience to create more practical reform policies. Congress does not have an easy task, but the effort is worth making.





# I

## The Mandate for Reform

The United States now leads the world into a new strategic era. The revolutions of 1989 in Eastern Europe and the failed antidemocratic coup in the former Soviet Union in August 1991 brought down Marxism-Leninism. The Persian Gulf War established a new U.S. role in regional balances, and with the breakup of the Soviet Union the United States is the sole superpower. The U.S. constitutional form of representative democracy has served as a beacon of freedom and prosperity to those now emerging from the yoke of tyranny. Its inherent flexibility is well equipped to cope with the new world order.

With the shift in the global geopolitical environment, the U.S. strategic outlook is also changing. Deterring a massive Soviet military thrust is no longer the overriding requirement of national security policy. Military threats will remain and will have to be countered, but U.S. strategy has begun to focus more on foreign policy, technological competitiveness, international trade, and domestic economic policy in terms of their new meaning for traditional concepts of the common defense and national power.

When so many around the world envy the U.S. form of government with its unique separation of powers among governing bodies, it is ironic that so many in the United States complain of the system's peculiar complexities. But both Congress and the presidency can share credit for helping bring about a denouement of the cold war so favorable for the United States—a happy result greatly facilitated by a Congress that took its responsibilities seriously and successive executive branch administrations experienced in dealing in terms well understood by Congress.

The Bush administration, in particular, has considerable legislative expertise. President George Bush, drawing on his own fund

of personal Capitol Hill experience, is not only quite adept at handling Congress, but his administration also has an unusually large number of former congressional members and staff in its ranks, including 6 of its 14 principal cabinet officers.

Despite the U.S. foreign and security policy successes of 1989, 1990, and 1991, agreement is widespread that the way the U.S. system works to produce national security policy needs reform. In 1985 Senator Sam Nunn (D-Ga.) said, "we are preoccupied with trivia . . . [it] is preventing us from carrying out our basic responsibilities for broad oversight."<sup>1</sup> In his 1990 White Paper on the Department of Defense and the Congress, Defense Secretary Richard B. Cheney wrote, "The duplication, complexity, and lack of coordination in the Congressional process is, in itself, a hindrance to better management of the Defense Department."<sup>2</sup> Neither Congress nor the presidency, exclusively, is in need of repair. Rather, it is the executive-legislative national security policy formulation process that is broken and needs to be fixed.

Although the president is the commander in chief of the armed forces, Congress also plays a vital role in formulating and implementing U.S. defense policy; the balance between these two roles is a matter of continuing dispute. The disagreement frequently focuses on the proper meaning and limits of "oversight," and the competency of Congress to execute this function. In general, Congress should focus its efforts on larger policy issues; but in judging the implementation of policy, it must examine the details of administrative execution. Unless we are willing to tolerate a legislative bureaucracy that duplicates and perhaps rivals the executive one, Congress will never have the same managerial competence that the executive branch has—and the Constitution's framers never intended the executive branch to have such a bureaucracy.

Congress clearly shares responsibility for building a national consensus on defense, and it should try to ensure that the Defense Department, like any other federal agency, is run efficiently. Through the budget process, moreover, Congress plays a special role balancing defense needs against other competing demands for national resources. In addition to its original mandate to raise and maintain an army and navy, Congress has constitutional jurisdiction over organizing, arming, and disciplining the militia and for governing it when it is in the service of the federal government. These wide-ranging mandates provide a standing invitation for Congress to struggle with the executive branch for control over defense, and an energetic acceptance of that invitation has led to the present strangling web of oversight.



Congress itself has long recognized that it spends too much time on the details of defense programs and too little time deliberating the objectives, basic approaches, and direction of U.S. national security policy. Congress's own Office of Technology Assessment concluded in its 1989 report that "The accumulated actions of past Congresses are a major contributor to the difficulties. Laws passed for a variety of reasons, taken together, bog the system down."<sup>3</sup> If Congress is serious about making the system work better, it will have to face some hard choices.

The founders of the republic were concerned both with building efficiency into the administration of government and with protecting citizens' rights. They created an independent executive because, in their quest to restore administrative efficiency after repeated crises presented by the unwieldy Articles of Confederation, they were just as concerned about legislative tyranny as they were about executive tyranny. As James Madison wrote in "Federalist Paper Number 48," "The legislative department is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex."<sup>4</sup> The overlapping and conflicting powers and incentives built into the system, particularly regarding instruments of national security, were designed to ensure above all that the people would not be tyrannized by either branch of their own government.

Congressional oversight of national security should thus be judged according to its impact on administrative competence and efficiency and on effectiveness. If such responsiveness to the consent of the governed makes the price of defense more than it might be under a less democratic system, that differential is a price well worth paying for a representative democracy. But we do not have a blank check on that account, nor do we have unlimited funds. The balance between the executive and legislative branches is not carefully calibrated, and over time there have been cycles of pushing and pulling between them. There are, indeed, reasonable limits to the congressional oversight function and the point at which oversight becomes counterproductive interference. The beauty of the U.S. system is that no choice needs to be made. We can have both congressional involvement in policy formulation and more efficient management of defense. Our committee believes that the time has come to restore balance and reduce oversight in defense to a more reasonable level.

Oversight is not solely a congressional problem. In 1986 the Packard Commission examined the operations of the Defense Department in detail.<sup>5</sup> The commission concluded that the entire

national security policy planning and implementation process needed fundamental reform. Congress implemented some of the commission's recommendations in the 1986 Defense Acquisition Improvement Act and in the Defense Reorganization Act, known as the Goldwater-Nichols act. The White House implemented many of the recommendations in the form of a National Security Decision Directive. And the Defense Department continues to conduct detailed review toward implementation of defense management reforms along the lines of the commission's recommendations.

But the 1989 Joint Project on Monitoring Defense Reorganization sponsored by both the Center for Strategic and International Studies and the Foreign Policy Institute found that, amidst the flurry of reform in defense management and policy, Congress had notably not included its own procedures and organizations in any reforms.<sup>6</sup> During the Reagan and Bush administrations, Congress reached—through overall federal budget summit agreements—major settlements with the executive branch on defense budget ceilings. These agreements have not, however, produced the overall comity that should characterize the executive-legislative interaction on these issues. Excessive congressional oversight of defense has resulted in lower efficiency and diminished effectiveness. The lack of an effective method or of a willingness to utilize existing mechanisms for developing agreement between the branches on such basic national security policies as the budget top line, strategy, or major programs hinders the process. It encourages individual actions by members of Congress or by subagencies within the Defense Department to make incremental changes outside the boundaries of broader understandings and agreements. This effect is obviously exacerbated when one party controls the White House and the other controls Congress.

In the midst of a world environment that has changed so dramatically and rapidly since 1989, when we began this project, these problems have become even more pressing. The fundamental need now is for Congress to review itself as an institution accommodating to the new environment. The problem with congressional oversight of defense is, in part, that the oversight is too detailed. Congress can remedy this problem by reforming its oversight practices. Past congressional reforms have produced unintended consequences, however. And Congress is understandably reluctant to undertake serious reform of itself. Nonetheless, the congruence among the available analyses of the dimensions and sources of the problems of congressional oversight of defense is sufficient to show that Congress must overcome its reluctance.



In this report we summarize the extent of the problem of congressional oversight of defense and assess various proposals for reform. Although a manifest inertia inhibits altering Congress's role in defense, we hope to contribute to overcoming it by endorsing the idea of a congressional review of Congress's organization and process to stimulate real improvements in meeting the constitutional requirement "to provide for the common defense."

The people of the United States show signs of becoming more insistent on reforming the legislature. Term limitations have become a reality in three states and others are considering similar action. Public perception of widespread unethical behavior of legislators has also fueled popular discontent with Congress.

On August 6, 1992, the Congress passed legislation creating an ad hoc Joint Committee on the Organization of Congress, with a provision that no official work be conducted prior to November 15, 1992, although the committee would be permitted to organize before then. The committee is to report the results of its study, together with its recommendations, by December 31, 1993. It is charged specifically with considering the committee system, the relationship between the House and Senate, the relationship between Congress and the executive branch, responsibilities and powers of the congressional leadership, and a comparison of resources and working tools available to Congress with those of the executive branch. One of the bills cosponsors, Senator David Boren (D-Okla.), argued on behalf of the legislation in terms that reflected this panel's own conclusion:

Congress is in trouble. No one doubts it. In poll after poll, Americans describe Congress as wasteful, inefficient, and compromised by the way it finances its campaigns. Growing public anger and frustration are indicated by the movement for term limitations for Congress . . . . In this critical decade, when America must make major changes if it is to maintain its world leadership in the next century, Congress is bogged down in detail, missing the big picture, and slow to respond to our real problems. It has become so bureaucratic itself that it can't legislate effectively or even begin to oversee the federal bureaucracy it has created by past actions.<sup>7</sup>

The case for reform has been well made.

The notion that the people might take reform into their own hands is not a new phenomenon; the last time reform took place in such a manner was in 1913 when the 17th amendment to the

Constitution mandated direct election of senators. Fundamental constitutional reform, however, is not the optimal answer to the need for a redefinition of the executive-legislative process on national security. As Congress considers its options, we offer our recommendations based on our study and experience. We feel they are reasoned and prudent.

Congress is not likely to make significant reforms in dealing with national security unless it makes significant reforms in dealing with all departments and agencies of the federal government. All of the second-guessing and parochial intervention imposed on the Defense Department is imposed to a lesser or even greater degree on the Departments of Agriculture, Commerce, State, Health and Human Services, Education—indeed on all of the executive departments.

We hope Congress and the Department of Defense (DOD) can make specific changes and improvements in the formulation and execution of national security policy in the context of broadly applying similar reforms across the entire federal government. This is, we know, a tall order; but it is indeed a worthy objective.

# II

## The Roots of Congressional Oversight

In the 1970s and 1980s Congress began to take a more active role in defense and foreign policy. This new assertiveness stemmed from the breakdown of the post-World War II national security consensus. Containing the Soviet Union received steady support, but the consensus broke apart on the issue of the Vietnam War. Congressional assertiveness in the overall direction of U.S. foreign policy is not new, but the increase in willingness to delve into the details of the management and implementation of foreign and national security policy was unprecedented.

Although the breakdown of consensus brought on by the Vietnam War may have been the primary cause of the new congressional assertiveness, a number of other institutional factors were also involved. The traditional comity between the executive and Congress, which eased the work they had to do together, also broke down, particularly over the conviction in Congress that Presidents Lyndon B. Johnson and Richard M. Nixon had abused their power. Among the factors contributing to this breakdown in comity were the war in Vietnam, the Watergate affair, presidential assertion of broad authority to impound funds, and concurrent allegations against the intelligence community.

Congress responded to these assertions of presidential power with several major laws: the War Powers Resolution in 1973, the Congressional Budget and Impoundment Control Act of 1974, and the Hughes-Ryan Amendment of 1974. Congress also adopted a number of internal changes, including a new budget process, limits on the seniority system, a subcommittee bill of rights, "sunshine" legislation,



and more public access to information. The House went much further than the Senate in seniority reform, and seniority has not been imperiled in the Senate to the extent it has in the House. These actions had the effect of diffusing power in Congress, especially in the House, more widely than in the past. More committees and subcommittees now laid claim to jurisdiction over defense matters. Congress thus became more democratized but more fragmented. This makes it more difficult for the president to consult with Congress because more members assert they must be consulted individually.

At the same time more activist and assertive members were being elected to Congress. As political party discipline eroded, these new members had to take charge of their own fund-raising and promote their own media exposure. This new breed of legislator felt less beholden to the political party or to the institution of the presidency. Newer members were also more adept at using the electronic media.

Congress felt in addition that it needed more institutional resources to counter the executive branch's virtual monopoly on information and analytical resources. The Congressional Budget Office was created to provide better information and statistical data concerning the national economy. The Office of Technology Assessment was created to advise Congress on technical and scientific issues. The Legislative Reference Service was beefed up, its mission broadened, and its name changed to the Congressional Research Service. The General Accounting Office was expanded, along with its mission. At the same time, staff resources for individual members were augmented, as were committee staffs. The increase in congressional staff created an impetus for each staff member to justify the existence of the position—often by coming up with creative new legislation or hearings that would not otherwise have been viewed as necessary or useful. Congress thus had more capacity as well as more desire to disagree with the president.

During the 1970s and 1980s the whole foreign policy system became more open to outside influences. Think tanks were developing new expertise and executive department appointees often remained influential after leaving government by serving as analysts and commentators in the policy areas they knew well. Special interest groups were forming and becoming more effective in gaining access to the policy process. The foreign policy making process became more partisan.

The bitterness of interbranch relations that sometimes marked the early 1970s began to dissipate in the early 1980s, but the effects of divided government persisted. Partisan conflict came to reinforce the

strains of institutional rivalry. The incidence of divided government, with Democrats controlling one or both houses of Congress and Republicans controlling the presidency, reached a new high in U.S. history.

Although comity between the two branches was generally better in the 1980s than in the 1970s, several apparent breaches of trust on the part of the executive again aggravated the relationship. For many the Iran-contra affair raised the specter of an executive branch out to accomplish its policy goals regardless of the Constitution. And, for some, the Reagan administration's reinterpretation of the 1972 ABM treaty struck directly at the Senate's constitutional role in treaty making.

Although Congress's involvement in the details of policy has irritated the executive branch and certainly added to the workload of legislators, Congress has often felt that its oversight of the executive branch put it on the horns of a dilemma. With the major scandals of the savings and loan system collapse, the corruption in the Department of Housing and Urban Development in the 1980s, and a series of high-visibility cases of corruption in the DOD procurement process, some in Congress have been calling for more active involvement in executive branch implementation, rather than less.



# III

## The Dimensions of Oversight

For many, the problem of congressional oversight of national security is one of micromanagement, but one searches in vain for a purely objective definition of that term. Micromanagement is frequently used to imply negative criticism. Popularly, it refers to a level of an organization's supervisory control that is overly involved in details. The difficulty is not so much whether Congress should be involved in some details of defense management but rather in the extent to which it is involved. Hence we have avoided here using the term *micromanagement*, with all its pejorative baggage, and prefer the more balanced expression *oversight*.

Some critics refer to micromanagement when they are actually referring to policy differences. In that sense one person's oversight is another's alternative strategy. Not all oversight is inherently harmful. Indeed, it sometimes happens that Congress rescues the Pentagon from its own mismanagement; as Hill veterans are wont to say, "I'll go along with less oversight from Congress when the Pentagon starts to manage its programs well." Nonetheless, the level of involvement on the part of Congress, its staff, and its agencies often exceeds the requirements of prudent oversight. It may also be that Congress's preoccupation with executive branch management has harmed Congress's ability to perform its own, clearly vital, authorization and oversight roles.

Congressional oversight of defense is in many ways an extension of Capitol Hill's growing reach into the details of a number of policy domains that have come within the category of national security policy. They include arms control, foreign policy, and intelligence.

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## Policy

Congressional involvement in arms control issues in the 1980s was unprecedented. Congress forced the Reagan administration to adopt specific positions in negotiations and limited the president's flexibility. Some individual members of Congress were involved in diplomatic initiatives of their own that sometimes cut against the executive branch's priorities.

With respect to intelligence operations, Congress did not engage in strict oversight until the mid-1970s, but it became much more involved in intelligence activities as a result of its concern with the Central Intelligence Agency (CIA) and other federal agencies, such as the Federal Bureau of Investigation (FBI), that are involved in the intelligence function. After passage of the Intelligence Oversight Act of 1980 and the creation of the Intelligence Committees, the executive and legislative branches developed a generally workable *modus vivendi* concerning oversight. But revelations about the Iran-contra affair badly damaged the incipient comity and trust between the branches. Since then, the Bush administration and Congress have developed a more promising relationship. This is exemplified by an agreement on the process of developing Presidential Findings for covert action and notifying the congressional leadership of such findings. The timeliness of such notification is still, however, a contentious matter.

One great irony of congressional assertions of prerogatives in national security affairs is that the most highly visible action, the War Powers Resolution—passed, over President Nixon's veto in 1973—has had the least support in theory but close compliance in practice. Most members of Congress have considered it an important assertion of the institutional right of Congress to participate in committing the United States to war, but presidents have consistently argued that the War Powers Resolution unconstitutionally infringes upon their prerogatives as commander in chief. As a result, although they have reported military actions to Congress, they have avoided acknowledging the constitutionality of the War Powers Resolution in the course of that reporting.

In practice, however, presidents have not ignored the resolution's provisions. During the Ford administration there were six instances in which military action was taken and U.S. military personnel were in imminent danger from potential hostile action. In those cases the



White House informed Congress —without acknowledging the constitutionality of the War Powers Resolution itself. Although the White House considers this to be adequate consultation, Congress believes it to be merely notification. After the fact, President Jimmy Carter notified Congress of the “Desert One” operation in Iran in a manner consistent with the War Powers Resolution. Similarly, the Reagan administration chose not to confront Congress directly on the issue of the constitutionality of the resolution in the commitment of U.S. forces to hostilities a number of times.

In 1990-1991 during the Persian Gulf crisis, President Bush engaged Congress in the debate over U.S. interests at stake and whether or not to commit U.S. forces to the theater. January 1991 was perhaps the Congress’s moment of truth, as one by one each senator and representative announced his or her vote on the resolution for war against Iraq.

There has thus been significant debate over what form consultation should take. Presidents are generally agreeable to informing the Congress of decisions already made, while Congress expects to be involved in actually making the decisions. The resolution has not forced the president, before taking military actions, to consult with Congress in the manner many believe it should. In some instances presidents have consulted, and in some cases they have not; but presidential judgment has in fact been the determining factor for military action, as is anticipated by the War Powers Resolution.

In sum, the War Powers Resolution may or may not be an appropriate tool. It is not always effective, but it does force the president to consider Congress’s role and serves as a vehicle for debate. On the other hand, controversy over the resolution is certainly symptomatic of the larger problem with congressional oversight of national security.

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## The Budget

In the 1970s Congress struck back at the president for what it perceived to be the usurpation of its strongest constitutional weapon—the purse—by large-scale impoundment of funds. By means of a narrow and more rigorous set of procedures, the 1974 Congressional Budget and Impoundment Control Act established a new congressional budget process and severely limited the president’s ability to impound appropriated funds. The act was intended by Congress to restore in

part what had been its most powerful tool in dealing with the executive branch. The use of congressional power to cut off funds—by mandating that “no funds authorized or appropriated by this act may be spent on” a given objective—played an important role in ending the war in Vietnam, stopping the bombing of Cambodia, and interrupting U.S. support of the contras in Nicaragua. Of course, in theory Congress had had the power to cut off such funds all along, but it had found itself increasingly unable to apply it during the 1970s.

The use of the power of the purse to affect the broad direction of U.S. foreign and national security policy has also been applied to the management and details of that policy. Between 1960 and 1984 the Armed Services Committees in Congress extended their control over defense budgeting, as did other congressional committees in other policy areas, by requiring annual authorizations for increasing portions of the defense budget. In 1961 only 2 percent of the defense budget had to be authorized annually; in 1971 it was 31 percent; and by 1983 it was 100 percent.<sup>8</sup>

This reflected a general trend in Congress, not a singling out of defense. Before 1950, there were only two programs that required annual congressional authorization—foreign assistance and military construction. Now there are 15 annual authorizations covering not only defense, but also agencies such as the International Trade Commission, the Bureau of the Mint, and the Panama Canal Commission. Other federal government functions are covered in authorizations that run for several years or are, in a few cases, permanent.

The general institutional preference in the legislature among authorizing committees is for annual authorizations. This allows Congress to exercise more flexible control over executive agencies and creates opportunities for other committees and subcommittees to exert some influence over the Appropriations Committees. Annual authorizations also give members more frequent opportunities to influence the budget on behalf of constituent interests, to reach into other committee jurisdictions to affect other programs of similar character, and to extend oversight to new agencies. In practice, annual authorizations have sometimes served in fact to protect agency budgets in the legislature when they are under attack from within the executive branch.

But the overall effect of annual authorizations and appropriations has been to intensify the rivalry among the Committees on Armed Services, the Budget, and Appropriations in each house over control of defense policy. The authorizing committees have been much more



willing in recent years to challenge not only the judgments of the Defense Department, but also of the Appropriations Committees. As one of the Congressional Research Service's scholars on Congress, Louis Fisher, wrote in a particularly prescient article in 1983:

Nothing in congressional procedures is ever locked in concrete. Procedures change to meet legislative needs. Substantive committees may well decide that it is in their interest to adopt multiyear authorizations, but the justification will have to be something more solid than "better agency planning" and "improved committee oversight." Multiyear authorizations, and biennial budgeting in general, require a substantial degree of consensus on federal programs and their basic funding levels. It is difficult to conceive of a commitment to outyear spending in the present period of retrenchment and rapid change in budget priorities.<sup>9</sup>

In addition, the budget reviews of the six committees (Armed Services, Budget, and Appropriations each in the Senate and House) have come in recent years to overlap virtually completely. Members protecting their constituents' interests and rivalry among the committees have resulted in programs being funded by the Appropriations Committees that the Armed Services Committees had not considered or that had been approved at lower levels. In fiscal year (FY) 1986 this included 150 line items valued at \$5.7 billion.

Congressional oversight activities, especially hearings, have multiplied. The number of days of hearings before the Armed Services Committees increased from an average of about 60 days annually in the 1960s to about 100 days per year in the 1980s. Although the number of hearings per committee at which DOD officials testified has remained relatively stable since 1970, the number of committees claiming some level of jurisdiction has grown. Total numbers of witnesses on national security issues have also increased significantly.

The annual reports of the committees expanded from approximately 100 pages in 1947 to over 1,000 pages in the 1980s, and reports of the defense appropriations subcommittees expanded from 130 pages to over 700 pages in the same time period. Mandated budget justification books have swollen from 12,350 pages in 1977 to 30,114 pages in 1988. Intensified activism on the part of the Appropriations and Armed Services Committees in the House and Senate required more time from top defense officials who had to testify on the Hill, often repeating the same presentations before several committees.



Another indicator of increased congressional involvement in the defense area and the increased burden on the executive branch is the number of reports and studies required to be submitted to Congress. In 1970 Congress required 36 reports from DOD; by 1985 the total was 458 reports and studies; in 1988 the total was 719. Some in Congress have argued that such reporting requirements are necessary because the information provided by the Defense Department to Congress is inadequate. In any case, there was a noticeable decline in the number of reports required in 1990, although the latest report by the Defense Department, a March 1991 White Paper, stated that for 1992 these numbers were going back up. We hope that a clear downward trend can be established. At a minimum, Congress should conduct a thorough review of the reports that it required in recent years and grade their usefulness to its oversight responsibilities.

Response to congressional demands for reports requires the expenditure of considerable resources by defense personnel. DOD has estimated that it costs \$50 million to prepare annual reports to Congress each year. In 1984, according to reports from the department, there were 599,000 telephone inquiries from Congress, and in 1988 more than 245,000 hours were spent replying to thousands of letters from Congress. These requests cannot be ignored, and they far outnumber formal reports and statutory language. The administrative burden and cost of complying with congressional requests and inquiries are considerable and include coordination and clearance as well as drafting the response itself.

Perhaps the most striking and disruptive aspect of congressional involvement in the defense budget is the increase in the number of program line items each year that Congress changes in the budget request of the president. In 1970, 180 programs were changed in the authorizations process and 650 in appropriations. By 1988 the changes were 1,184 in authorizations and 1,579 in appropriations.

Of course, there is nothing inherently wrong with Congress making changes in the president's proposed defense budget. Ultimately, the allocation of taxpayer funds for defense and other governmental programs is a prerogative of the legislative branch. But Congress should focus such changes on areas in which it has greater competence—on policy and program direction rather than details of execution.

Greater activism and the more open process in Congress have resulted in more floor amendments than in the old days of committee reciprocity of the 1950s and 1960s. Defense bills have not escaped this trend. When the 100 individual senators—to say nothing of the 435

House members—submit amendments on the floor, the end product is deprived of both the specialized expertise of the committee system and the give-and-take deliberation of the legislative process. Most members do not have great expertise across a range of issues. When individual members—often at the urging of special interest constituent groups—propose technical amendments on the floor, few of their colleagues have the expertise to challenge their actions on the merits of the particular case. There is an understandable tendency not to challenge a colleague's favorite project unnecessarily. Former Senate Majority Leader Howard Baker used to say, "I don't have a dog in that fight," to indicate his reluctance to challenge his colleagues without good reason. When members view the defense authorization bill as an opportunity to raid the public trough on behalf of important constituent interests, it takes unusual insight and courage to stand up for something as abstract as "the national interest."

On the face of it these changes look like oversight taken to extreme lengths. But not all are caused by individual members picking apart every program they can get at, although it may seem that way at times. Some of these changes are the result of congressional efforts to curb the burgeoning growth of the federal budget deficit. Much of the turbulence in the domestic, as well as the defense, budget in the 1980s was due to the huge deficits of the mid-1980s and the inability of the president and Congress to reach an agreement to bring them down in an orderly way. This inability to deal with the bottom line of the deficit has affected the top line in defense budgeting as well as totals for domestic programs. In the 1980s this led to budget summits as well as using continuing resolutions to fund the government for whole fiscal years. Negotiations between the president and Congress have produced last minute changes that are very disruptive in executive branch budgeting. Inevitably, changes in the ceiling lead to ripple effects in many programs.

This trend was taken to an extreme in the passage of the Gramm-Rudman-Hollings legislation in 1985, which required every program in the defense area to be cut an equal amount in the event of sequestration, leaving no room for managerial judgment about which programs are more or less essential. Gramm-Rudman-Hollings was designed to be a doomsday device to force agreement between the president and Congress on spending priorities. That act was revised in 1987 and again in the 1990 Budget Enforcement Act. This latest revision divided the mandatory cuts into separate ceilings for domestic, defense, and international spending through FY 1993. It also maintained the across-the-board nature of the cuts within each



category if deficit spending reduction guidelines are not met for the budget ceiling.

In many ways the problems of budgetary oversight are a result of the failure to balance spending and revenues. Throughout the 1980s the executive branch negotiated differences with Congress over budget composition and totals. At stake were not merely the details of programs but the broad contours of the U.S. economy and the direction of government spending, although changes and deadlock about the latter necessarily affected the former. A series of budget summit agreements served as guideposts in 1987, 1989, and 1990 to steer managers around this problem where the defense budget ceiling was concerned.

The frustration of defense managers over the roller-coaster nature of defense spending is real and justified; it has such disruptive effects in defense management and procurement. Often turnover among program management personnel within the defense establishment can itself be a source of program instability. The tendency, however, to blame these negative conditions on congressional oversight is only partially correct. The executive branch has played its part in the sudden and extreme changes to the defense budget. After the Vietnam War, President Jimmy Carter came into office in 1977 with campaign promises to cut defense spending. After several years he reversed himself in response to international events and public opinion. When the president left office in 1980, his administration had promised a 5 percent yearly real increase in defense spending.

When President Ronald Reagan was elected, he began his term with promises to increase defense spending (7 percent annual real increases). But the administration was not able to sustain its proposed increases because of significant erosion of public support for continued growth in defense spending. This led Congress, after 1985, to reverse course. Although the subsequent cutbacks in projected spending were certainly disruptive to defense program managers, to attribute all of these flip-flops only to congressional oversight misses many of the complex realities of the U.S. system of government.

Thus, any reforms that are intended to decrease turbulence in defense budgeting at the program level must depend in part on the ability of the president and Congress to come to an accommodation on overall budget priorities and to agree on a stable downward path for the deficit. If consensus is not reached on these broad budgetary priorities, tranquility at lower levels will be doubtful, even if some improvements are made.



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## Procurement and Acquisition

Beyond the inherent complexities of the defense acquisition process, a major aggravating factor for defense program and project managers is constituency pressure. Demands on Congress from this source often affect weapons procurement decisions. Everyone has a favorite story about such decisions being made because of the location of firms in certain influential legislators' districts rather than because of the needs of the military. Pork-barrel politics has a long lineage in the U.S. system. But it is important to keep in mind that the executive branch also plays this game. Some weapon systems may be planned with conscious attention to placing contractors and subcontractors in the right congressional districts and states. Presidents have not been above using the leverage of defense spending in political negotiations with Congress. But spreading the blame this way does not excuse the practice of distorting defense acquisitions by political considerations.

One perennial example of the influence local politics has on defense management is the problem of closing military bases. The impact of a base closing on the local economy is perceived to be so great that members of Congress will go to dramatic lengths to protect any base in their district threatened with closure because of economy and efficiency.

Although defense analysts may agree that many military bases are not cost effective in terms of national defense, the political problem of overcoming local resistance and congressional protection is virtually overwhelming. Between 1977 and 1989 no bases were shut down. In response to this deadlock, Congress created the Commission on Base Realignment and Closure late in 1988.

The key to the plan was the provision that the commission's proposals for base closings would first be endorsed by the secretary of defense and approved by the president. The proposals would then be sent to Congress, where the legislature would have to accept or reject the entire package in a single vote "for" or "against." This made it much more difficult to protect individual bases. In 1989, the mechanism became a valuable tool to create consensus on the closure of more than 80 bases.

In January 1990 Defense Secretary Cheney proposed shutting down another 35 bases in the United States and 12 overseas. The Senate voted to let him close bases subject to congressional approval of each individual closure. The House proposed to put the plans on hold for two years. Again the commission's approach was used to

resolve the impasse and, in July 1991, Congress accepted another round of base closings. It appears that the commission approach can work as long as there is a consensus that cuts must be made. It allows individual representatives to avoid the political suicide that would come from a vote to close an individual base in his or her district. At the same time, they are able to join in the broader general voter disaffection with across-the-board inefficiency in defense spending.

As a practical matter, a representative who has a base on the closure list will vote against the recommendation, all the while realizing that Congress as a whole is going to override that vote. As a consequence, the representative can put up a stiff fight on behalf of a home district base because the number of bases at issue is relatively small in comparison to all of the congressional districts in the House. All members recognize this and expect to experience a vigorous defense from the member whose district is adversely impacted. In the long run though, they know the final outcome is assured—the entire list of cuts will be approved as a whole—no matter how the member opposes it. Congress may find it fruitful to pursue a similar approach to reforming its oversight of defense to be more broadly applied.

Another major political problem in defense oversight is in weapon systems acquisitions. Here the difficulty is that a system, once it is budgeted, creates such political momentum that it is well nigh impossible to shut it down. The jobs that depend on continuing production represent potent political forces that are difficult for Congress to resist. Thus, when determining what weapon programs to cancel, Congress and the president must both consider not only military needs but also nonmilitary factors such as economic impact.

Sometimes politicians would rather see two programs funded at lower levels than choose between them. Spreading a large cut by slowing several programs softens the impact and is more palatable than terminating a single large program, which would concentrate all the pain in a single voting bloc. This type of practice has led several congressmen to conclude that "Congress has made the defense bill a jobs bill" and to describe the House Armed Services Committee as "a real estate committee."

There may be agreement that some systems should be cancelled to save defense dollars, but there is seldom agreement among the Pentagon and the House and Senate Armed Services Committees on which systems to drop. Some of these disagreements represent policy differences about appropriate U.S. force structure and strategy, but others are clearly based on constituency politics on the part of Congress and the executive branch.



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## Rules and Regulations

Another problem of congressional oversight is the host of rules and regulations that govern the defense acquisition process. In 1989, the Office of Technology Assessment compiled a list of some of the goals that Congress has set for itself in trying to reduce abuse and to foster goals other than the efficient procurement of defense equipment.

Among these goals are

- civilian control over military procurement
- congressional control
- environmental protection
- fairness in access to contracting opportunities
- competition among contractors
- accountability
- honesty
- minority interests
- small business interests
- protection against conflicts of interest.<sup>10</sup>

Congress has adopted these goals over time in recognition of the need to do something about national problems rather than simply blame other institutions for causing them. Although we might be able to agree that any one of these objectives is laudable, there is no doubt that their cumulative effect on efficient defense procurement has been deleterious. In March 1987, a CSIS report estimated that taxpayers could save between 2 and 8 percent of the defense budget if unnecessary or duplicative oversight, auditing, and regulatory provisions were eliminated.<sup>11</sup>

But finding a resolution for these issues will not be simple. In part this difficulty stems from differences between the Federal Acquisition Regulation (FAR), managed by the Office of Federal Procurement Policy governing all government acquisition, and the Defense Federal Acquisition Regulations (DFAR). In theory DFAR is nothing more than a subset of FAR. In practice there are differences between them and difficulties in maintaining consistency among the two sets of regulations. The Pentagon has established a commission to assist in changing self-imposed regulations that can be eliminated or revised and to identify legislative changes needed to streamline defense acquisition even further. In its 1992 report to Congress, the Defense Department states that it has made significant progress toward its goals for streamlining as set forth in the 1989 Defense Management Report. The secretary of defense and Congress have been able to make



some progress on implementing legislative change similar to the administration's proposed Defense Management Improvement Act. This act identifies those initiatives that require statutory change in order to improve efficiency in the areas of military personnel, acquisition, civilian personnel, and property management. But the issues involved are power and values as well as efficiency, and not all of them can be maximized simultaneously. For these reasons the issues are particularly contentious and there are no easy answers.

# IV

## Reform

There are as many proposed solutions to the problems of congressional oversight as there are viewpoints on the nature of the problems. *Holding the Edge*, the 1989 report of the Office of Technology Assessment (OTA), offered three basic options to Congress. First, it suggested that Congress begin by assigning more emphasis to the goal of economic efficiency. Second, it recommended that Congress consolidate control over defense both in its own procedures and in the executive branch in fewer centers of power. Finally, OTA suggested that Congress could modify present procedures by taking a longer view on budgets and by loosening the rules of doing business with DOD to more closely approximate those with commercial operations.<sup>12</sup>

The Packard Commission's more far-reaching proposals in its 1985 report called for a number of specific measures for Congress, including:

- institute biennial budgeting and five-year planning
- reduce the overlap, duplication, and redundancy among committees and subcommittees
- build more stability into annual budget resolutions
- demand better discipline among committee and subcommittee jurisdictions and stricter adherence to schedules
- review and reduce reporting requirements.<sup>13</sup>

The CSIS-Foreign Policy Institute (FPI) review of progress in implementing these recommendations found no progress at all by 1989.<sup>14</sup>

The January 1990 Cheney White Paper calls for seven major areas of emphasis. First, steps to reestablish trust between Congress and the DOD must be taken, including broad agenda meetings between congressional leaders and senior DOD officials. Second, the time

horizon of the budget process needs to be lengthened by instituting a biennial budget process. Third, the authorization process should be focused away from line items. Fourth, Congress should change budget categories to focus on missions and forces. Fifth, the level of detail in the budget process should be reduced, particularly by eliminating and reducing the reporting requirements. Sixth, cost estimates should be appended to responses to congressional requests, after the fashion of Freedom-of-Information-Act procedures. Seventh, Congress should better integrate the multiple policy goals of the legislature by restricting the access of committees and subcommittees not related to defense from jurisdiction over defense matters.<sup>15</sup>

We find ourselves in general agreement with the thrust of all of these reform proposals. It is indeed time to undertake serious reform of the structure and process of congressional oversight of national security. We offer some specific measures that should be implemented to that end.

We caution that reform of congressional oversight of defense must not be seen a panacea for all the ills, whether perceived or real, of the U.S. political system. In fact, we believe that the system itself is basically sound; ours is not a clarion call for sweeping revolutionary change. The founders' concept of separate but overlapping powers is not the issue. But the delicate balance has been skewed and is in need of readjustment.

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## The Reform Process

Only Congress can reform itself. Thus, the impetus for reform should begin with the legislature. As a first step toward reform, bipartisan congressional leadership should endorse the concept of a fundamental review of congressional organization and operations. We believe the recent legislation sponsored by Senators David L. Boren (D-Okla.) and Pete V. Domenici (R-N.Mex.) and Representatives Willis D. Gradison, Jr. (R-Ohio) and Lee H. Hamilton (D-Ind.) to establish an ad hoc Joint Committee on the Organization of Congress is a promising initiative. We believe the committee should include an examination of ways to improve integrity, accountability, efficiency, and effectiveness of Congress and to raise public confidence in it, as proposed in an earlier initiative by Representative Frank R. Wolf (R-Va.). The measures provide for substantial participation by former members of Congress.



Such an examination should have, as part of its brief, a consideration of congressional oversight of defense. Reforming the way Congress is involved in defense oversight can only be effective in the context of reforming the congressional oversight process more generally. Many changes that we believe should apply to defense may also apply to other policy areas. Many changes needed for defense must be applied to more than defense. And all procedural reforms will have consequences beyond defense that merit close scrutiny from the perspective of the entire legislative process.

For these reasons we do not pretend to be able to comprehend the total impact of such change on all policy areas. Many rule changes and procedural reforms will be necessary to improve congressional oversight of defense, and we have considered several in our deliberations.

We are convinced that Congress itself will have the best ideas for specific procedural reforms and that the study panel Congress creates should consider a range of possible reforms. We offer the following menu of ideas, which we have discussed during our own deliberations, as worthy of consideration.

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## Parliamentary Procedure

There are a number of reforms Congress could impose on itself that would require no more than simple parliamentary rule changes. We expect that experienced legislative parliamentarians can provide a wealth of such suggestions, and we recommend that the ad hoc congressional reform committee tap this rich source of ideas. For example, Congress could rule that all hearings on regular authorization bills for the Department of Defense shall be concluded by a fixed date. Perhaps the secretary of defense and key leaders of the department should not be required to make more than one appearance at hearings on general legislation, although clearly there would be exceptions for special circumstances. No doubt the expert parliamentarians in Congress can come up with many such ideas.

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## The Budget

One fundamental problem with congressional oversight is that Pentagon officials do not come to Congress for a strategy. They come

for money to implement the president's strategy. Thus some of what many would consider to be micromanagement comes from the Defense Department itself. A two-year budget has been proposed as a means of disciplining both the Defense Department and Congress in this regard.

Biennial budgeting could logically lead to new rules that would influence the budget procedure followed by each chamber. Including the Future Years' Defense Plan in the budget submission would provide all three principal defense committees (Budget, Authorization, and Appropriation) with the basis for greater stability in planning, programming, and budgeting.

Biennial budgeting is endorsed by a growing consensus of Congress watchers as a way to introduce more stability into defense planning. Some in Congress have argued that it is an impractical idea and point to the fact that no major business conducts its corporate budget on a two-year basis. But technically, authorizations are already passed on a two-year basis, and the idea of a government run on a two-year budget has real merit. The basic barrier to implementing such a budget is the reluctance of Congress to put its constitutional prerogatives over the power of the purse on hold for a year. No Congress can appropriate funds for a subsequent Congress, but technical exceptions permit so-called permanent appropriations. These appropriations finance close to half the national budget, and even the current annual process provides a given Congress only two opportunities to pass on defense programs and budgets.

This congressional reluctance can be overcome by adopting provisions for emergency revision along with biennial appropriations. Built-in mechanisms can be established for revision of the defense obligation and the outlay authority that is contingent on economic conditions such as foreign exchange rates, inflation, and economic growth. Certainly the Pentagon should be capable of constructing programming systems to enable rapid resubmission of budgets as needed. In 1962, when the Program and Evaluation Division of the Office of the Secretary of Defense was made up of a total of 12 people with no computers or copiers, the budget cycle was only seven months from Joint Chiefs' Guidance to Five Year Defense Program. And crisis management provisions can be adopted to permit rapid adjustment of authorities in time of war or imminent hostilities. Finally, program performance thresholds can be established in the biennial budget that, if exceeded, would trigger automatic legislative reconsideration.

Another area of potential improvement on oversight involves executive-legislative budget agreements. The experiences of the late



1980s and early 1990s with these agreements were particularly constructive in reducing the demands for detailed oversight. We recommend the institutionalization of a process that will produce such agreements on a regular basis.

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## Committee Structure

Scholars of Congress have pointed out that committee jurisdictions are a result of both formal and informal structural mechanisms. Formal mechanisms consist of the established committee and subcommittee structures with defined jurisdictions that are revised pro forma by each Congress every year but in fact do not change much over time. They have been significantly changed only during times of comprehensive reform such as took place as a result of the 1946 Legislative Reorganization Act or the 1974 reforms. Informal structures affect jurisdiction in a more evolutionary way and occur in a continuous process of rule making and internal brokering by the congressional leadership. The most common forms of informal changes are the results of procedural rules and bill referrals.

Congress does not need fewer committees as much as it needs better integration of the work undertaken by those committees that have some jurisdiction over defense. Congress needs to focus its efforts more on the big picture than on the details of defense management. The assignment of jurisdiction need not be revised if discipline can be imposed on those committees and subcommittees that have a range of authority over public policy on national security. Congress has achieved that kind of discipline in other policy areas, notably in intelligence oversight, taxation, and economic policies; there is no reason to believe that it cannot achieve the same kind of discipline over its oversight of national security policy. The first order of business for committee jurisdictions is a comprehensive review of the committees and subcommittees, which ones are doing what and how to reduce the numbers of overlapping jurisdictions over defense matters.

A mechanism suggested by some scholars for achieving the kind of congressional self-discipline desired is the creation of a permanent joint House/Senate committee on national security policy. We have debated the potential utility of such a permanent committee and, while not unanimous on the idea, we recommend that Congress carefully examine the concept while considering legislative reform but



adopt it only as it would contribute to the process of consolidating and integrating oversight.

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### Congressional Staff

The defense establishment in the executive branch will shrink in the 1990s. At least a fourth of the force structure will be cut and the defense budget will decline to a post-World War II low in terms of percent of gross national product. The number of civilian employees of the Pentagon will also decrease proportionately. The congressional defense establishment might bear some reduction as well. Logically, the congressional staff involved in overseeing national security should shrink in some proportion to the reductions at the Department of Defense. In practice, the specific number of staff reductions and where they should be made should be considered with great care.

# V

## Comity

In the end, Congress and the president must reach a form of accommodation within the bounds of conflict established by the Constitution. Without agreed upon or understood rules of the game the U.S. form of the democratic republic cannot function to preserve the common defense. There are some basic steps that Congress and the president can take to restore comity to their relationship. There is a need to institutionalize a process that would provide the opportunity for such a restoration.

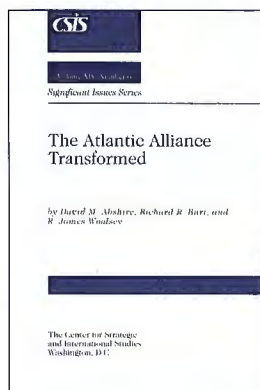
Other steps could be more informal in nature to encourage open discussion of issues between the executive and legislative branches. Recent experiences with budget summits in both the Reagan and Bush administrations suggest that informal procedures can be highly effective in overcoming the difficulties inherent in divided government. They can create a political "win-win" situation for both branches. Secretary Cheney's proposal for an informal congressional briefing system would serve to enhance this process further by providing congressional and executive branch policymakers and lawmakers with an off-the-record opportunity to express ideas and opinions before positions become publicly and politically entrenched. As Secretary Cheney wrote, "Congressional involvement in the policy-formulation process may help to preclude congressional over-involvement or intrusion in the policy execution phase."<sup>16</sup>

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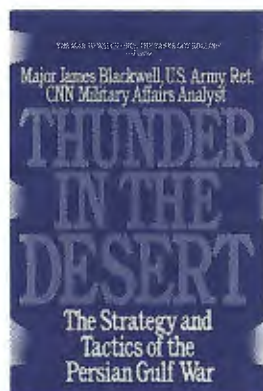
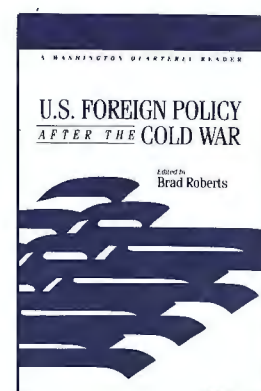
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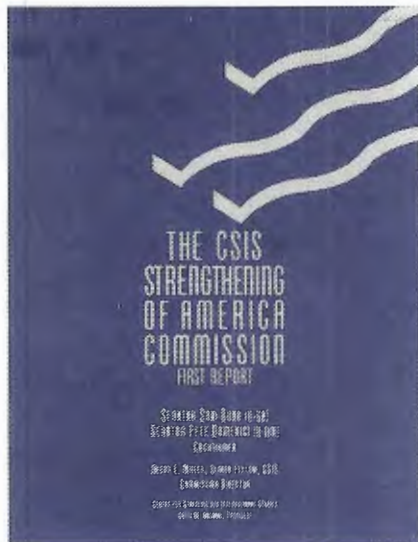
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