Contesting Policy Implementation:
Presidential Signing Statements, Executive Orders, and Congressional Oversight

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Signing statements and executive orders are generally viewed as tools of unilateral presidential action. As publicly recorded unilateral actions allow presidents to redirect policy implementation, congressional committees can use presidential directives to guide their own oversight activities. With congressional oversight data from the Policy Agendas Project and original data on the policy-specific contents of signing statements, we estimate an empirical model of congressional responses to presidential unilateral actions. Our empirical analyses focus on congressional responses to unilateral presidential actions in nineteen different policy areas from 1997 to 2014. We use a multilevel, ARFIMA estimation with varying slopes and intercepts to investigate the conditions yielding greater oversight activity within policy areas. The results show that more focused, issue-specific unilateral actions generate heightened congressional oversight.
Virtually no policy areas are left untouched by a president’s unilateral efforts. As instruments of unilateral action, signing statements and executive orders have engendered public reprobation when sensitive policies are at stake. Generally, unilateral presidential actions are viewed as powerful tools that afford the president greater control over policy implementation and opportunities to secure policy advantages over Congress (Cooper 2002; Kelley and Marshall 2008; Pfiffner 2009). Although many scholars have examined how specific instruments of unilateral policymaking operate, few have considered how members of Congress might react to signing statements and executive orders – the unilateral actions most directly tied to policy implementation. We argue that the effectiveness of unilateral actions as instruments of presidential control over policy depends on the actions of the other branches in government.

Regarding the implementation of policy, the president has discretion in implementation, but such discretion is not unlimited (Epstein and O’Halloran 1994; 1999; Huber and Shipan 2002). As Howell (2003, 23) notes, “the limits of unilateral powers are as wide or as narrow as Congress … permits,” and “Congress’s ability to constrain the president is principally a function of its members’ preferences” (p. 65). Given the separation of powers in the United States, the means and institutional structures to resist a president’s unilateral actions exist. When and under which conditions members of Congress also have the incentives to counter unilateral actions is the focus of this paper.

Howell considers how the possibility of new legislation and veto overrides affect a president’s willingness to act unilaterally. We examine congressional oversight, a lower-level congressional reaction. New legislation and veto overrides often require supermajorities, but congressional oversight by committees does not. So, while the Howell (2003) and Moe and Howell (1999) formulation of presidential unilateral politics is remarkably useful, its focus on supermajoritarianism does not fit the situation we explore here—of congressional oversight in
response to signing statements and executive orders. If signing statements and executive orders are means by which presidents can direct bureaucratic implementation, then congressional committees can use the directives in signing statements and executive orders to guide their own oversight activities and thereby remain central to the policymaking and implementation processes. To explore this possibility, we model oversight within nineteen policy areas and over time using a multilevel ARFIMA estimation.

Before presenting the empirical models, in the next section we report on recent struggles between former President Obama and U.S. legislators and review literature on the interaction between the president and Congress with respect to the policymaking process. The final sections reexamine how legislators can avoid blame and claim credit as they engage in ex-post evaluations of the implementation of policy.

**LEGISLATIVE-EXECUTIVE INTERACTION AND POLICY IMPLEMENTATION**

On January 2, 2013, President Obama signed the National Defense Authorization Act (NDAA), which strengthened whistleblower protection for defense and non-defense contractor employees. At the same time, Obama issued a signing statement that was perceived by Senators McKaskill (D-MO) and Grassley (R-IA) and Representatives Cummings (D-NC) and Issa (R-CA) as “undermining congressional intent.” In their January 17, 2013 letter to the White House, they admonished the president, “the Legislative Branch has the Constitutionally-mandated authority and responsibility to oversee the Executive Branch … [and] we encourage you to enforce the law as written.” Clearly, the signing statement caught the attention of members well-positioned to respond to presidential unilateralism—the Chair and Ranking Member of the

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1 We are indebted to Ian Ostrander for bringing this letter to our attention.
House Committee on Oversight and Government Reform, the Chair of the Senate Sub-Committee on Contracting, and the Ranking Member of the Senate Judiciary Committee.

The president’s insistence that he would interpret the law “consistent with … [his] authority to direct the heads of executive departments to supervise, control, and correct employees’ communications with the Congress in cases where such communications would be unlawful or would reveal information that is properly privileged or otherwise confidential” indicated to the bipartisan group of legislators that executive non-compliance with specific provisions of the NDAA was likely. Debates about Obama’s use of executive orders related to the Affordable Care Act and immigration were less bipartisan than the NDAA debates, insuring the potential for triggering congressional reaction remained real. Indeed, the possibility of legal action against Obama by the U.S. House of Representatives appeared to revolve around Obama’s use of executive orders. Threats of congressional oversight when executive implementation counters congressional intent indicate that the struggle over policy implementation is an ongoing process.

In light of the executive-congressional interactions illustrated by the NDAA implementation and the debates over executive orders, we suggest that presidential unilateralism is just one element of the struggle over policy placement (Korzi 2011; Ostrander and Sievert 2013). These struggles also illustrate how ideology and presidential actions frequently become intertwined, especially as constitutional debates about institutional prerogatives and the separation of powers emerge (Garber and Wimmer 1987; Lee 2008). Kelley (2006), Waterman (2009, 492), and Skowronek (2009) go a step further and note that conservative legal scholars have been most supportive of the unitary executive model. The unitary executive model suggests that the presidential oath of office and the “take care” clause in Article II of the Constitution require that the president resist encroachments on presidential prerogatives. A unitary executive
prescribes unilateral actions by the president. The ascendancy of the unitary executive, Skowronek (2009) states, has dramatic consequences for collective restraint on the exercise of arbitrary power by an executive. Skowronek writes, “Democracy’s claims on presidential power now end with the administration of the oath of office” (p. 2096).

Writing about scholarship on unilateral actions, Howell suggests that considerable work remains. “Missing … is a sustained analysis of the political forces that dictate when presidents will act administratively, when they will pursue legislation, when they entertain both strategies simultaneously, and when they forego action entirely. Insights abound, but no single theory holds them together” (Howell 2003, 134). We suggest that a sustained analysis of reactions to unilateral actions is also missing. If “all three branches … have the power and duty to interpret the Constitution and … [if] the meaning of the Constitution is determined through dynamic interactions of all three branches,” then models of presidential unilateral actions must include more than just the president (Calabresi and Yoo 2003, 668-669).

As Whittington (2009) and others have long noted, the constitutional order can only be understood in a political context. Challenges to constitutionalism posed by emergency powers of executives, for example, and the means by which constitutional questions are resolved are both found within politics itself. The fact that constitutional meaning is made within politics implicates each of the branches of the federal government. If constitutionalism is understood as maintained and constrained within politics, then the character of our politics has implications for the constitutional order as actors in each branch anticipate the reactions from the other branches (e.g., de Figueiredo, Jacobi, and Weingast 2008; McGrath 2013). For instance, numerous scholars consider delegation as strategic and anticipatory rather than as congressional acquiescence (e.g., Epstein and O’Halloran 1994, 1999; Huber and Shiman 2000, 2002; Huber, 2

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2 Departmentalism or coordinate construction are sometimes used to refer to unitary executives.
Shipan, and Pfahler 2001; Kiewiet and McCubbins 1991). Thus, despite its strong, forceful labeling, unilateralism cannot be studied in isolation. Congressional resilience in the face of presidential unilateralism is an important dimension of the competition between partisans and branches of government as they contest the implementation of policy.

Presidential versus Legislative Dominance

Many scholars explore the tension between congressional and presidential control of agency decision-making. The presidential control literature suggests presidents are advantaged in the “polities of structure” whenever conflicts arise between the executive and Congress over issues of institutional design (e.g., Howell 2003; Moe 1989, 1993; Moe and Wilson 1994). Moe (1993) and Howell (2003) argue that presidents retain important residual decision rights, reflecting their opportunities for centralized control and unilateral action. Similarly, Huber and Shipan (2002) consider the president to be a privileged actor with respect to Congress, while Lewis (2003) and Howell (2003) note the advantages presidents have over policy outcomes because of their ability to shape the design and guide the actions of agencies. The delegation and congressional dominance literatures, however, tend to emphasize congressional effectiveness in achieving desired policy results due to the design of administrative arrangements and congressional budgetary authority (e.g. Balla 1998; Balla and Wright 2001; Bawn 1995, 1997; Epstein and O’Halloran 1994, 1999; Huber and Shipan 2002; McCubbins, Noll, and Weingast 1987; 1989).


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\(^3\) Legislative vetoes are commonly studied in the congressional dominance literature.
with an eye toward legislative support coalitions.\(^4\) Thrower (2013) explores interbranch competition with a game theoretic model of the interactions between the president, Congress, and the Supreme Court.

Congress provides a backdrop for several pieces exploring the use of executive orders. Mayer (2001) provides a detailed look at presidents’ extensive, wide-ranging use of executive orders, but he does not empirically examine congressional reactions to executive orders. Bailey and Rottinghaus (2014) consider the authority invoked by a president’s executive order. Depending on the relative strength of Congress, a president uses statutory or non-statutory authority. Deering and Maltzman (1999) deem executive orders as means to circumvent a recalcitrant Congress, but a president, in their view, still must consider likely congressional reaction. In these works, the issuance of executive orders is modeled empirically, but there is no assessment of actual congressional reaction.

*Signing Statements, Executive Orders, and Oversight*

Presidential signing statements, executive orders, and congressional oversight are all connected to the political control of bureaucracies. For too long, oversight was deemed a neglected function, unable to enhance legislators’ careers (Aberbach 1990; MacDonald and McGrath 2013; McGrath 2013, 351-52). Some scholars have suggested that as members of Congress adjust to the strategic deployment of signing statements, such statements will gradually become less useful (e.g., Ostrander and Sievert 2013). Indeed, as seen in Figure 1, the use of signing statements peaked around 2000 and has generally declined since. For our purposes, the total number of objections in signing statements and the average number of objections per

\(^4\) Howell and Kriner (2007) focus more narrowly on congressional reaction—short of new legislation—to unilateral actions by President George W. Bush.
statement are more meaningful, and those trends, as seen in Figures 2 and 3, peaked in the mid 2000s and show less decline.

Figure 1: Annual Number of Signing Statements, 1997-2017

Source: Authors
Figure 2: Annual Number of Signing Statement Objections to Provisions of Law, 1997-2017

Source: Authors

Figure 3: Average Number of Objections per Signing Statement, 1997-2017

Source: Authors
We propose that members of Congress respond to troublesome unilateral actions with increased oversight. Two factors reinforce the importance of oversight. First, \textit{ex-post} oversight by Congress in response to unilateral actions is partly a consequence of the difficulty Congress faces in crafting new statutes explicitly limiting policy drift. Second, legislators cannot predict or guard against every possible circumstance of presidential unilateralism (cf. Huber and Shipan 2000).

Even though statutes often include mechanisms designed to trigger automatic oversight, such \textit{ex-ante} controls sometimes fail. For example, executive orders do not always rely on statutory authority and signing statements attached to complex bills can question congressional authority in a multitude of ways not readily predicted by members of Congress. Given that legislators guard against changes in implementation with \textit{ex ante} procedures, it seems unlikely that those same legislators would ignore presidential attempts to bypass congressional strictures.

Explicit executive orders mandating particular agency actions allow members of Congress to consider and refine their own \textit{ex-post} oversight activities. Similarly, by issuing a signing statement with specific objections, Congress is alerted to areas of possible non-compliance, and Congress can exercise \textit{ex-post} oversight to counteract drift away from its preferred policies (e.g., Ainsworth, Harward, and Moffett 2012). Congressional oversight does not automatically negate presidential influence. But executive orders, signing statements, and congressional oversight exemplify the ongoing interbranch struggle to guide policy implementation.

\footnote{Presidential preferences are also conveyed to Congress by Statements of Administration Policy, veto threats, and public pronouncements. However, the signing statement and executive orders remain the most proximate to policy implementation. Since 1986, signing statements are considered part of the formal legislative history.}
HYPOTHESES AND DESCRIPTIVE STATISTICS

There is no reason to presume that all unilateral actions spur congressional pushback. However, many unilateral actions and congressional reactions are issue (or dimension) specific, and we hypothesize that concentrated losses in a narrow policy area spur more oversight than diffuse losses spread over numerous policy areas. To measure indications of policy losses, we recorded the number of unique objections in each of the signing statements within our data. Rhetorical signing statements typically contain rosy pronouncements or congratulatory comments.

Constitutional signing statements highlight areas of a statute that the president deems to be inconsistent with his interpretation of the Constitution. In short, objections in signing statements presage policy adjustments in the implementation of law. We hypothesize that Congress will respond to signing statement objections and executive orders in specific policy areas with increased oversight in those same policy areas.

**H1:** Elevated levels of unilateral action one month spur oversight in the following months.

To capture changing political circumstances that might affect the incidence of congressional oversight, we consider presidential approval and year-to-year salience of different issues.

Regardless of presidential actions, various circumstances can affect the importance of an issue area. Simply put, Congress responds to issue saliency.

**H2:** A less popular president experiences more congressional oversight.

**H3:** As measures of policy sensitivity increase, legislators engage in more oversight.

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6 Presidents typically refer to the presentment clause (*Article I, Section 7*), the unitary focus of the commander-in-chief responsibilities (*Article II, Section 2*), or the take care clause (*Article II, Section 3*).
Linking the substance of unilateral actions to the substance of oversight hearings is a monumental task. Some descriptive statistics related to signing statements help to illuminate key issues. As indicated in Figure 4, there is substantial variance in the number of objections in signing statements by policy area of the bill on which the signing statement was placed. Defense-related objections clearly dominate, and this is true for each president in our data. Aside from defense, there is considerable variation in objections by presidents across policy areas. Reading the signing statements and recording their objections was key to our ability to link objections in signing statements to oversight hearings. We recorded objections in signing statements by month and year. As seen in Figure 5, there is annual periodic variation and secular variation over the entire time period. Signing statements typically spike once or twice in the second half of the calendar year.

Using data from the Policy Agendas Project and excluding appropriations hearings, we gathered data on every oversight hearing held during each month, by policy area, from 1997 to 2014. By organizing our data by the policy areas displayed in Figure 4 instead of committees, we are able to use policy-related controls that are largely orthogonal to events in Congress. There is some disagreement about what constitutes an oversight hearing. Smith (2003) states that any hearings that are not about legislation or the creation of a new government program or agency are, by definition, about oversight. McGrath (2013, 358) narrows the definition of an oversight hearing because the Policy Agendas Project data would otherwise include many hearings that do not focus on the “review or control of policy implementation” (Dodd and Schott 1979, 156). Thus, we follow McGrath’s (2013) operationalization and filter the hearings data from the Policy
Agendas Project using keywords related to oversight. By being more restrictive when constructing our dependent variable, we are more likely to underestimate congressional sensitivity to unilateral actions than if were we to use the Smith (2003) definition of oversight hearings.

Figure 4: Number of Objections in Signing Statements by Policy Area, 1997-2014

[Bar chart showing number of objections by policy area, with the highest number in the 'Defense' category.]

Source: Authors

Following McGrath (2013), we defined a hearing as related to oversight if it included one or more of the following keywords: administration, budget request, consultation, contract, control, examination, explanation, impact, information, investigation, oversight, president, report, request, or review.
Figure 5: Number of Signing Statement Objections by Month, 1997-2014

Source: Authors

Figure 6: House Oversight by Month, 1997-2014

Source: Authors
Figures 6 and 7 show the number of oversight hearings by month and year in the House and Senate. As with the objections data, distinct patterns emerge with oversight occurring more in the early part of the year and more often in the House than the Senate.

Figure 7: Senate Oversight, 1997-2014

Source: Authors

**DATA AND METHODS**

A variety of factors, including secular trends, might explain variance in oversight activity across different policy areas. We are primarily interested in how signing statements and executive orders affect the number of oversight hearings. We aggregated our data by month, year, and policy area. In so doing, we generated a repeated cross-sectional (RCS) dataset with over 3,500 observations. RCS designs recognize that the cross sectional units can vary in composition over time. That is, features of a policy area (say its most active legislators) vary over time, so we cannot use simple differencing or lagged dependent variables that reflect the unit (i.e., policy) level. Multilevel ARFIMA procedures account for the two types of autocorrelation that plague RCS (as well as cross sectional time series).
First, for a given time period t, policy i might correlate with policy j, but for 
t+1, 2, 3, … that correlation generally dissipates. Second, within a single policy area i, 
autocorrelation over time is likely.

ARFIMA employs fractional integration to filter out the influence of past values on a series. 
The mean of $Y_t$ is regressed on its noise model to create a stationary series. The same filtering is 
used for the X, and Z, variables. Z variables only vary over time, whereas X variables also vary 
within time units. Combining ARFIMA with multilevel modeling (Lebo and Weber 2015) allows us 
to nest policy area activities within our units of time. A multilevel model that allows for varying 
intercepts and slopes fully leverages the structure of our data, since the systematic variance in 
oversight activity comes from both temporal and policy levels. Additionally, we can include 
variables (say, presidential approval) that do not vary across policy areas within time units.

**Signing Statements**

To test our primary theoretical expectations, we identified all bills from 1997 through 2014 
on which the president placed a constitutional signing statement. We did not consider rhetorical 
signing statements, as these tend to do things like thank specific members of Congress for their help 
on a bill or commend Congress for its work on a specific piece of legislation (Kelley 2007, 285). We 
simply have no reason to believe that congressional committees are induced to engage in oversight 
activity by rhetorical signing statements. After we read each signing statement, we connected it to its 
relevant public law. From there, we drew upon bill categorization data from the Policy Agendas 
project to connect signing statements and public laws to policy areas.

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8 These procedures are similar to centering variables (Lebo and Weber 2015). If we were to center oversight 
activity, we would contrast oversight in a particular month and year with the average oversight within that 
labeled month across all years. Indeed, we ran various models after centering our variables and secured results 
very close to those reported herein.

9 See Gelman and Hill (2007) for a thorough treatment of multilevel or hierarchical modeling.
To investigate whether the contents of signing statements might invite congressional oversight activity, we read the signing statements and ascertained the number of objections to provisions of law, recording them by month, year, and policy area. Signing statements can contain a variety of objections, including constitutional concerns, expressions of concern about the cost or scope of congressional action, or objections to specific policy provisions. There were 393 signing statements issued from 1997 to 2014. Regarding objections, President Clinton raised 262, President Bush 1130, and President Obama 94. On average, signing statements contained 3.78 objections (1.27 for Clinton; 7.29 for Bush; and 2.94 for Obama).

We employed one, two, three, four, and five month lags for signing statement objections. Lags were employed because we expect that the effect of objections in signing statements will occur within the few months immediately after statements are placed on bills. Distributed lags are appropriate because we have very little temporal aggregation in our data and there are severe institutional constraints that prevent immediate congressional responses to presidential actions.\(^\text{10}\) In a well-behaved time series, we anticipate that the impact of these lags should dissipate over time. Thus, we anticipate a naturally dissipating impact from our signing statements variables as time progresses.

*Executive Orders*

We identified all nonclassified executive orders from 1997 through 2014 and used policy area categorization data on each order from the Policy Agendas project to connect public laws to policy areas. We thereby recorded the number of executive orders by month, year, and policy area. There were 599 executive orders issued from 1997 to 2014—164 by President Clinton, 291 by President

\(^{10}\) Institutional constraints revolve around planning and scheduling hearings when Congress meets for fewer than eleven days a month on average (min=0, max=23).
Bush, and 144 by President Obama. We again employed one, two, three, four, and five month lags for our executive order variables.

Institutional Controls

Many scholars investigate the effects of divided government on a wide array of legislative activities, including congressional oversight (see e.g., Aberbach 1990, Mayhew 2005). If the president and Congress hold similar policy preferences, then we anticipate that Congress is more apt to give the executive branch broad discretionary authority in implementing statutes. Conversely, when at least one house of Congress has a majority of members from the president’s opposition party, then Congress is less likely to delegate that control (Ainsworth and Harward 2009, Epstein and O’Halloran 1999; Huber and Shipan 2002). We consider the effects of ideology by examining the distance between the president and the median member of each chamber, using common space NOMINATE scores (Poole and Rosenthal 1997).

We utilize four additional institutional controls in the analysis. First, we considered the number of days that the House and Senate were in session per month and year, as Congress is less able to conduct oversight hearings as the number of days in session decreases. Second, we used a binary variable to control for the effects surrounding the second session in each Congress. Third, we include bill counts in the House and Senate because we expect that legislators face time constraints making it difficult to pass bills and engage in oversight simultaneously. Finally, we considered the effects of presidential popularity on oversight activity, as Congress might hesitate to confront a popular president. We measure these effects by using the average approval rating for the president’s job performance in the Gallup poll taken during the previous month. We then filtered the series for autocorrelation. Finally, we separated House and Senate oversight activity in our modeling to investigate whether systematic differences exist between the chambers.
Policy-Related Variables

We employ two variables to consider the effects of fiscal issues on oversight activity. First, we use the percentage of discretionary spending during the previous fiscal year. We consider spending to be discretionary if it is neither mandated by law nor a mandatory payment to individuals, such as social security or Medicare. Second, we measure the size of the federal budget deficit (or surplus) as a percentage of the total budget during the previous fiscal year. We acquired data for both variables from the Office of Management and Budget (OMB).

We utilized four policy variables. First, we gathered OMB data on the percentage of the federal budget during the previous fiscal year that was devoted to defense spending. We interacted this variable with the defense policy area, since any effects of defense spending should manifest themselves in that policy category, rather than across all policies. Second, we acquired OMB data on the percentage of the budget during the previous fiscal year that was devoted to Medicare or Medicaid spending. We interacted this variable with the health care policy area, since the effects of Medicare or Medicaid spending should be confined to that policy area, as opposed to all policies.

Third, we acquired data on the number of violent and property crimes per 100,000 people across the entire country during the previous reporting year from the Federal Bureau of Investigation. We interacted this variable with the Law, Crime, and Family Issues policy area, since we expect the effects of heightened crime on oversight activity to be limited to that policy area, rather than public policies in general. We expect a positive sign on all of the interactive terms, as Congress should be more likely to hold oversight hearings on: 1) defense when spending in this policy area takes up a higher percentage of the federal budget; 2) health care when spending in this policy area takes up a higher percentage of the federal budget; and 3) law, crime, and family issues when the crime rate is high.
Finally, we tested whether the Iraq war and counterterrorism policy affected oversight activity, as a sizable portion of the controversy over the use of signing statements surrounded the Detainee Treatment Act (Kelley and Marshall 2008; Savage 2006b). To consider these effects, we constructed a binary variable for the International Affairs and Defense policy areas in the months and years after the September 11, 2001 attacks.

RESULTS
Table 1 shows the results for the House and Senate models with and without executive orders. Table 1 separates the variables into four groups – signing statements, executive orders, policy-related variables, and institutional controls. When assessing the impact of the estimated coefficients, one should keep in mind that key variables are filtered. Given that the dependent variables are filtered and have means of zero, small coefficients can still indicate considerable impact. Our key variables of interest are the signing statements, executive orders, and policy-related variables. That said, our second hypothesis allowed us to sign key institutional control variables. More specifically, each additional day in session that Congress is in session increases our filtered oversight activity by a quarter of a day in the House and an eighth of a day in the Senate. Presidential approval, ideological measures, and second session show no significance in any of the four models. Bill count in the House is statistically significant but not particularly compelling substantively.

Salience of policy issues exerts significant effects on oversight activity when interacted with associated policy areas in Congress. The defense, healthcare, and counterterror interactions are each strongly influential. The crime policy interaction is statistically significant by traditional standards in the House model, but it appears to have little substantive effect. The effects of the September 11 attacks on oversight activity more strongly manifested themselves in the House as opposed to the
Senate. Finally, broader fiscal policy issues, such as the deficit or discretionary spending, exerted no discernible effect on oversight activity in either the House or the Senate.

Signing statements and executive orders remain our primary variables of interest. Even after controlling for a wide range of concerns, our key variables of interest show considerable statistical and substantive impact. In each chamber, the impact of signing statements and executive orders follows a similar temporal pattern, rising over the first three or four months and clearly dissipating in impact by the fifth month. Clearly, unilateral actions on the part of the president generate congressional response through increased oversight activity. Although objections above the monthly mean lead to an immediate decrease in House oversight activity in the following month, oversight in the subsequent months increases dramatically. We observe a similar pattern in the Senate. Executive orders have an even greater effect on oversight than signing statements, especially in the House. The reaction to executive orders is more immediate than to signing statements. The effects of each of these lagged variables dissipate over time, suggesting that we have a well-ordered time-series. Overall, our key variables operated as we hypothesized and show substantive significance.
### Table One: Congressional Oversight, Signing Statements, and Executive Orders, 1997-2014

<table>
<thead>
<tr>
<th></th>
<th>House of Representatives</th>
<th>Senate</th>
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<tbody>
<tr>
<td><strong>Independent Variable</strong></td>
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<td>Model Three</td>
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<tr>
<td>Objections in Signing Statements</td>
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<tr>
<td>Signing Statement Objections (_{t-1})</td>
<td>-0.0639576(**) (0.0221453)</td>
<td>-0.0664161(**) (0.021621)</td>
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<td>Signing Statement Objections (_{t-2})</td>
<td>0.0198716 (0.0221559)</td>
<td>0.0174403 (0.0216362)</td>
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<td>Signing Statement Objections (_{t-3})</td>
<td>0.0846156(***) (0.0221858)</td>
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<td>Signing Statement Objections (_{t-4})</td>
<td>0.1302052(***) (0.0221561)</td>
<td>0.125046(***) (0.0216337)</td>
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<tr>
<td>Signing Statement Objections (_{t-5})</td>
<td>0.093096(***) (0.0221463)</td>
<td>0.0872795(***) (0.0216221)</td>
</tr>
</tbody>
</table>

**Number of Executive Orders**

|                | | | | |
| Number of Executive Orders \(_{t-1}\) | - | 0.4494163\(**\) (0.1623856) | - | 0.111325 (0.1208564) |
| Number of Executive Orders \(_{t-2}\) | - | 1.0418359\(***\) (0.1624866) | - | 0.5456284\(***\) (0.1209317) |
| Number of Executive Orders \(_{t-3}\) | - | 1.2265904\(***\) (0.1622278) | - | 1.2257386\(***\) (0.1207391) |
| Number of Executive Orders \(_{t-4}\) | - | 0.580468\(***\) (0.1623432) | - | 0.3526941\(**\) (0.1208249) |
| Number of Executive Orders \(_{t-5}\) | - | 0.4697753\(**\) (0.1618759) | - | 0.4410866\(***\) (0.1204771) |

**Policy-Related Variables**

|                | | | | |
| Budget Deficit | -0.0108871 (0.0119192) | -0.0109854 (0.0111823) | -0.0087328 (0.0088181) | -0.0081522 (0.0088111) |
| Discretionary Spending | 0.0690415 (0.1600251) | 0.0719171 (0.1598984) | 0.0097632 (0.0910955) | 0.0117281 (0.0910223) |
| Defense Spending | 0.0134972 (0.2683447) | 0.0333908 (0.2681349) | 0.0565501 (0.1529181) | 0.0671212 (0.1527966) |
Table One (Continued): Congressional Oversight

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<th>Independent Variable</th>
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<th>Senate</th>
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<td>Model One</td>
<td>Model Three</td>
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<td>Health Care Spending</td>
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<td>Crime Rate</td>
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<td>Defense Policy * Defense Spending</td>
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<td>0.1726293*** (0.0229329)</td>
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<td>0.0022046*** (0.0006652)</td>
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<td>Iraq/Counterterror Policy</td>
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**Institutional Control Variables**

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<tr>
<td>Days in Session</td>
<td>0.2597928*** (0.0326882)</td>
<td>0.2599368*** (0.0326623)</td>
</tr>
<tr>
<td>House Bill Count</td>
<td>0.0711011** (0.0227161)</td>
<td>0.0707887** (0.0226981)</td>
</tr>
<tr>
<td>Senate Bill Count</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>President-House Ideological Difference</td>
<td>-0.4437527 (1.1632869)</td>
<td>-0.4259951 (1.1623663)</td>
</tr>
<tr>
<td>President-Senate Ideological Difference</td>
<td></td>
<td>-0.5419915 (0.8473037)</td>
</tr>
<tr>
<td>Second Year</td>
<td>0.3807717 (0.3397573)</td>
<td>0.3834994 (0.3394883)</td>
</tr>
<tr>
<td>Constant</td>
<td>0.9151367 (6.7556982)</td>
<td>1.2397625 (6.7503729)</td>
</tr>
</tbody>
</table>
Table One (Continued): Congressional Oversight

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>House of Representatives</th>
<th>Senate</th>
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<tr>
<td></td>
<td>Model One</td>
<td>Model Three</td>
</tr>
<tr>
<td><strong>Random Effects, Variance and Standard Deviation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time Intercept</td>
<td>3.643 (1.909)</td>
<td>3.686 (1.920)</td>
</tr>
<tr>
<td>N</td>
<td>3553</td>
<td>3553</td>
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<tr>
<td>Number of Time Units</td>
<td>187</td>
<td>187</td>
</tr>
<tr>
<td>Number of Policy Areas</td>
<td>19</td>
<td>19</td>
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<tr>
<td>Log-Likelihood</td>
<td>-10524.80</td>
<td>-10444.00</td>
</tr>
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</table>

Notes: First, the values in parenthesis denote standard errors. Second, * denotes p<.05, ** denotes p<.01, and *** denotes p<.001, all two-tailed tests.
CONCLUSION

As constituents’ voice concerns related to unfavorable assessments of specific policy losses, legislators attempt to justify policy development, implementation, and impact. Weaver (1986) and McCubbins and Schwartz (1984) both write about legislators’ desires to avoid blame (as well as claim credit). Avoiding blame has a clear electoral foundation. Arnold (1990, 51) states, “[c]itizens are far more likely to pursue traceability chains [of policy responsibility] when they incur perceptible costs than when they reap an equal measure of benefits … [because] … costs produce more intense preferences than do benefits.” It is generally accepted that unilateral actions routinely indicate policy losses for Congress. We showed how unilateral actions in specific policy areas countering congressional aims triggers oversight responses in those same policy areas. If there is also constituent sensitivity, legislators get to reassert themselves on the moral high ground, fighting the imperial executive.

The compulsion to overreact to presidential unilateralism is tempered by the recognition that members’ are not typically focused on a desire to protect their institutional powers. For legislators, electoral concerns remain prominent. For presidents, concerns about institutional prerogatives remain prominent. Moe (1999, 448) writes, “… presidents care intensely about securing changes that promote their institutional power, while legislators typically do not. They are unlikely to oppose incremental increases in the relative power of presidents unless the issue in question directly harms the special interests of their constituents” (quoted in Howell 2003, 111). In this paper, we uncovered evidence that legislators are sensitive to signing statement objections and executive orders. Attempts by the president to affect policy implementation contrary to the statutory designs are countered by Congress with increased oversight. The salience of defense, counterterror, and health policy concerns, and crime policy in the House, affect oversight when the associated variables are
interacted with their related policy areas. Important institutional controls are in days in session and the House bill count.

Many scholars investigate the effects of divided government on a wide array of legislative activities, including congressional oversight (see e.g., Aberbach 1990, Mayhew 2005). Most scholars argue that Congress is more apt to give the executive branch broad discretionary authority when both actors hold similar policy preferences. Conversely, under divided government, Congress is less likely to delegate control (Epstein and O’Halloran 1999; Huber and Shipan 2002). Signing statements complicate these claims because if the president and Congress share preferences there could be less for presidents to object to, and therefore less need for signing statements. Kelley and Marshall (2010) have found, however, that more signing statements are issued under unified government than under divided. In our models, ideological differences between the president and the chambers of Congress are not statistically significant.

In the canonical view in the literature on unilateral actions, the signing statement is an effective device for presidents to rein in bureaucratic drift, move policy closer to presidential preferences, influence future judicial decisions, and ultimately assert presidential power in the coordinate construction of the constitution (c.f., Halstead 2008). We suggest that there is more nuance to the story. If legislators are sensitive to policy implementation and impact because of their own reelection motives, then they are clearly motivated to assess unilateral presidential actions through increased oversight and especially when policy losses are concentrated within issue areas. Our efforts here are the first to link the policy content of signing statements and executive orders to the focus of oversight hearings, and our empirical results provide support for our central claim about congressional reactions to issue-specific unilateral actions in the contestation over policy implementation.
REFERENCES


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


## Appendix A: Summary Statistics for Variables

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
<th>Standard Deviation</th>
<th>Minimum</th>
<th>Maximum</th>
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<tr>
<td>House Oversight</td>
<td>3.88</td>
<td>5.69</td>
<td>0</td>
<td>62</td>
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<tr>
<td>House Oversight Filtered</td>
<td>0</td>
<td>5.98</td>
<td>-53</td>
<td>54</td>
</tr>
<tr>
<td>Senate Oversight</td>
<td>2.32</td>
<td>3.83</td>
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<td>448</td>
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<td>45</td>
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<td>Signing Statement Objections</td>
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<td>3.56</td>
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<td>Number of Executive Orders</td>
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<td>Budget Deficit</td>
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<td>67.11</td>
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<td>Discretionary Spending</td>
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<td>2.09</td>
<td>33.4</td>
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<td>Defense Spending</td>
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<td>1.54</td>
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<td>Health Care Spending</td>
<td>19.27</td>
<td>1.41</td>
<td>17.25</td>
<td>23.47</td>
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<tr>
<td>Crime Rate</td>
<td>492.8</td>
<td>65.05</td>
<td>387.1</td>
<td>636.6</td>
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<td>Iraq/Counterterror Policy</td>
<td>.07</td>
<td>.26</td>
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<td>1</td>
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<tr>
<td>Presidential Approval</td>
<td>51.99</td>
<td>12.41</td>
<td>26.5</td>
<td>88</td>
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<td>Days in Session</td>
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<td>5.73</td>
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<td>23</td>
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<tr>
<td>House Bill Count</td>
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<td>22.79</td>
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<tr>
<td>Senate Bill Count</td>
<td>7.46</td>
<td>19.40</td>
<td>0</td>
<td>711</td>
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<tr>
<td>President-House Ideological Difference</td>
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<td>.19</td>
<td>.88</td>
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<td>President-Senate Ideological Difference</td>
<td>.52</td>
<td>.21</td>
<td>.16</td>
<td>.76</td>
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<tr>
<td>Second Year</td>
<td>.5</td>
<td>.5</td>
<td>0</td>
<td>1</td>
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