

MEMORANDUM

Date: September 23, 2016
To: Congressional oversight meeting attendees
Cc: Daniel Stid, Jean Bordewich, Kelly Born, Dominique Turrentine
From: Julia Coffman, Tanya Beer, and Kathy Armstrong, Center for Evaluation Innovation
Re: **Congressional oversight learning memo**

As you know, the goal of the Madison Initiative is to help create the conditions in which Congress and its Members can deliberate, negotiate, and compromise in ways that work for more Americans. Through one of the initiative's thematic investment areas, the Foundation supports organizations working to improve congressional oversight of the executive branch. This includes programs that provide training and technical assistance to Members and staff on how to conduct more productive oversight in a bipartisan manner, as well as groups working to elevate the importance of oversight as a priority for Congress and develop new approaches for how it can and should be conducted.

The foundation is focusing on oversight with the hypothesis that improvements in the process and norms of oversight could help alleviate hyper-partisanship and materially strengthen Congress to play its constitutionally appointed role in our system. The team believes that philanthropy and 501c3 organizations can have a meaningful effect in buttressing, if not reversing, the shrinking capacity of Congress and its support functions to conduct oversight effectively and to move away from hyper-partisan forms of oversight that increase, rather than decrease, government dysfunction.

As part of a larger developmental evaluation of the Madison Initiative, we at the Center for Evaluation Innovation aimed to help the team understand the collective engagement grantees are having (or aim to have) with Members of Congress and their staffs, gather diverse perspectives on the extent to which productive and effective oversight can happen in the current political environment, and explore what it takes to properly support Members and their staff to undertake oversight.

Our data gathering included interviews with grantee organizations and scholars whose work directly addresses oversight, as well as a small number of legislative and executive staff working on oversight. (Interviewees are listed on the following page). We also conducted an extensive review of academic and think tank research on oversight and surveyed participants in two Congressional oversight training programs. We explored:

- 1) Definitions of oversight and defining characteristics of "quality" oversight
- 2) Factors affecting how oversight is conducted
- 3) Current bright spots of oversight and their enabling conditions
- 4) Likelihood that the quality of oversight can be improved in today's political climate
- 5) Ideas about what kind of external interventions or programs are most likely to result in observable changes in how oversight is conducted
- 6) Risks and benefits of increased investment in oversight by entities outside of Congress and its supporting institutions
- 7) Forecasts for how the outcome of the election could create or limit opportunities for improving oversight.

INTERVIEWEES

Grantees

Danielle Brian, Project on Government Oversight
Chris DeMuth, Hudson Institute
Dan Diller, Lugar Center
Lee Drutman, New America Foundation
Bradford Fitch, Congressional Management Foundation
Linda Gustitis, Levin Center
Kevin Kosar, R Street Institute
Wayne Palmer, Partnership for Public Service

Other Interviewees

Joel Aberbach, UCLA
Betsy Hawkings, Democracy Fund
Peter Kovar, former Chief of Staff for Barney Frank
*Senior Analyst, GAO (12 yrs)
*Senior Manager, OMB Perf. Measurement (10 yrs)
*Senior Democratic House Committee staff (10.5 yrs)
*Senior Republican House Committee staff (8 yrs)
*Senate Republican personal staff (11 yrs)
*Senate Democrat personal staff (6 yrs)
*Deputy Director, responsible for oversight management in a federal agency (7 years)

*Interviewee requested anonymity

While our data collection confirmed many findings shared in existing publications, it also resulted in some insights we think may be worth further discussion. Our aim with this memo is to share the main observations from the data and raise questions that can serve as the backdrop for our discussion on October 5th.

DEFINING EFFECTIVE OVERSIGHT

The Madison Initiative teams defines oversight broadly as the activities undertaken by the legislative branch to ensure agencies and programs are working cost effectively and serving their purpose, to protect Congressional prerogatives, and to help the public hold the executive accountable.¹ This includes a wide range of activities such as hearings, investigations, and ongoing monitoring carried out by various committees and sub-committees in Congress and by Members in their home districts, as well as work by entities that work in service of Congress such as the Government Accountability Office and the inspectors general. The majority of our interviewees focused on the ongoing oversight work of the appropriations, authorizing, and oversight committees and on congressional investigations and hearings as the primary mechanisms for oversight.

We asked interviewees to describe the characteristic markers of effective or high quality oversight that distinguish it from ineffective or purely symbolic oversight intended primarily if not solely for political point-scoring. While all interviewees outside the institution agreed that ideal oversight is fact-based and conducted by Members or staff with sufficient programmatic understanding to draw sound conclusions, there was no consensus on other “indispensable” or even aspirational characteristics. Interviewees tended to focus primarily on characteristics of the *process* of oversight (what steps are taken, with what regularity, and based on what information), with others highlighting the characteristics of who is engaged in oversight or the outcomes of oversight as the primary markers of effectiveness.

¹ Oleszek, W. (2010). Congressional oversight: An overview. Congressional Research Service.

Question: Given your operating definition of oversight, what would characterize “productive” or “high quality” oversight? What would that look like?

How oversight is conducted

- **Bipartisan** and not politically motivated
- **Regular**/systematic/scheduled/expected (on balance more “police patrol” than “fire drill”)
- **Fact-based** with independent sources
- **In-depth**—committed and tenacious
- **Courteous** or civil
- **Prepared** and informed in advance of hearings
- **Coordinated** with other relevant committees

By whom

- **Committee chair** who is committed to doing oversight on a sustained basis and with an eye toward quality
- **Committee Members** involved in a sustained way
- Experienced and professional **staff** with investigatory skills

To what end

- **Productive**—produces legislation, reforms or appropriate administrative actions
- **Followed through** to ensure substantive recommendations exist and are acted on
- **Exposes to the public** the workings of the executive to increase accountability

Although our sample size is much too small to draw conclusions about differences of opinion between types of respondents, we noticed that the current and former congressional staff we interviewed more frequently identified the degree to which oversight activities advance their party or Member’s agenda as a marker of effectiveness. Three interviewees (all current or former staff) asserted that oversight is always first a partisan tool and not a particularly effective mechanism for improving the effectiveness of government under any conditions.

The Foundation recognizes that identifying the full range of meaningful interventions in this area—or drawing conclusions about whether the field is making progress – will require more clarity about what we (collectively) mean by “effective oversight.” This raises questions for the foundation and those interested in the capacity and performance of Congress:

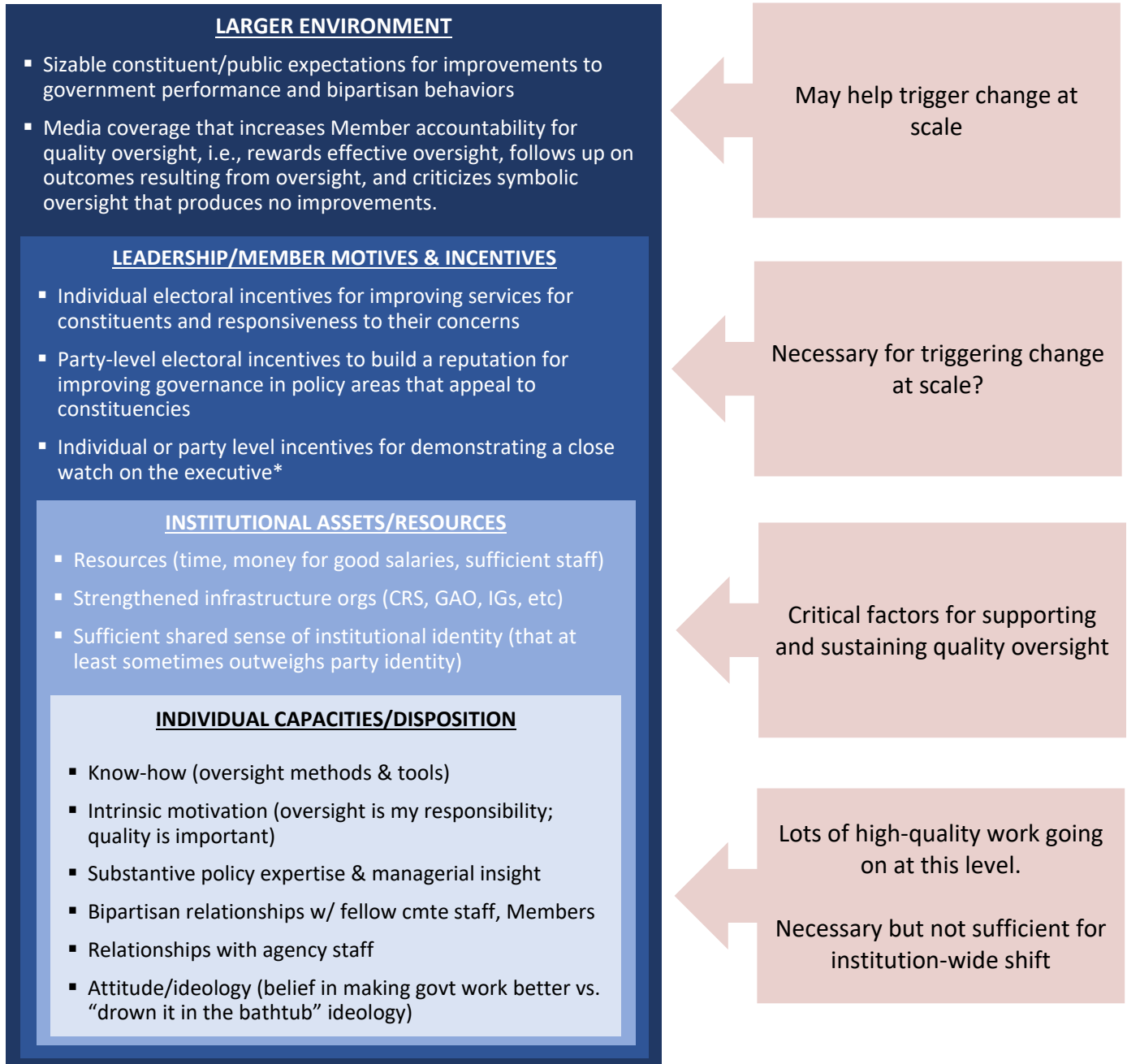
- ***What are the markers of quality and effective oversight that we want to hold up for Members and staff, given the political realities and personal incentives that affect their choices?***
- ***How might we track the extent to which the norms and practices of oversight reflect a better balance between partisan political imperatives and the institutional responsibilities of Congress?***

“MOVABLE” FACTORS AFFECTING THE QUALITY AND QUANTITY OF OVERSIGHT

We asked interviewees to identify what they view as the most important factors to address to improve the practice of oversight. By and large, the range of factors they identified mirrors existing literature, and we saw general agreement about which factors are most directly “movable” and which factors, if changed, would have the greatest impact on the norms and practices of institution as a whole. We find it helpful to

cluster the factors they identified in four different (though “entangled”) categories to facilitate thinking about where additional interventions might be needed.

QUESTION: What factors or conditions are necessary to drive more effective oversight?



*Respondents also cautioned that increasing individual or party level incentives for demonstrating a close watch on the executive could exacerbate hyper-partisanship, particularly in the context of divided government.

Interviewees unanimously believe that training and individual capacity building is an indispensable step toward improving Congressional oversight, given shrinking staff sizes and tenure and the growing complexity of the federal government. However, many believe that skills and know-how will make a *sustained, observable* difference only where other elements are already in place, such as bipartisan relationships, “permission” from leadership, and electoral incentives. Individual capacity building alone is unlikely to produce changes at sufficient scale or breadth to trigger a broader rebalancing of institutional responsibility with partisan imperatives in the oversight process. As a result, interviewees widely recommended finding additional complementary strategies for catalyzing or triggering change at the institutional level.

QUESTION: What else could foundations or nonprofit organizations be doing that could have a larger ripple effect on how Congress conducts its oversight responsibilities?

Interviewee Recommendations for Consideration

Focus on substantive policy areas rather than training in the abstract	Take control of the narrative by promoting successes and giving props to good oversight	Create political cover for re-investing in Congressional capacity
<ol style="list-style-type: none"> 1) Attract staff and members by integrating the training experience with their real work load and responsibilities. 2) Working with groups of staff or members who have to work together anyway so that you're building necessary relationships at the same time. 3) Bring in former staff who were successful to talk about how they got things done 4) Create opportunities for MOCs to learn about the specific realities of agencies. 	<ol style="list-style-type: none"> 1) Focus on improving oversight in areas that are “low hanging fruit”, i.e., where there are: <ul style="list-style-type: none"> • Existing bi-partisan relationships • Substantive policy areas where both parties risk damage if they do nothing 2) Create publicity and rewards both within the institution and in districts by: <ul style="list-style-type: none"> • Appealing to Member and staff egos with recognition within the institution & inside the beltway • Cultivating media coverage and in-district recognition for good work. • Score card? Rankings? 	<ol style="list-style-type: none"> 1) Take advantage of the political moment (i.e., Trump and Clinton anxieties) to demonstrate to Members and the public how much power Congress has ceded to the executive and the risks of that 2) Test and tailor messaging for MOCs to use with their conservative or liberal constituencies to make the case for increasing investments in Congressional capacity (and for engaging in bipartisan oversight)