

Essays on the Political Power of Bureaucrats

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*To KPL and CJL.*

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## INTRODUCTION

Elected politicians must secure the cooperation of unelected bureaucrats to govern. They are rarely alone in that effort. Administrators serve multiple principals whose interests sometimes diverge. These basic facts present executive agencies with the opportunity to wield political power. In this dissertation, I select three distinct cases that demonstrate this opportunity. In the first, presidents are said to change policy by their signature alone. In the second, members of Congress are said to freely make informal demands of subservient agencies. In the third, Presidents are said to harness bureaucratic discretion in service of partisan and electoral incentives. Not surprisingly, these admittedly terse summaries do not hold up to scrutiny.

In the first essay, I move towards a new theory of presidential policymaking. Unilateral presidential directives often face implementation problems in the executive branch. I argue these directives can be more fruitfully studied as instances of delegation. I present a theory of delegation *within* the executive branch, modeling the conditions under which the president is likely to delegate—and provide discretion—to administrative subordinates outside the Executive Office. This theory demonstrates that members of Congress benefit from agency discretion when the President acts alone. I show that it is often optimal for the President to knowingly permit agencies to deviate from a directive’s mandate—in some cases, delegating to agencies insulated from presidential control. Ultimately, the model demonstrates how the politics of direct action are influenced by the necessity for bureaucratic cooperation.

The second essay provides an empirical investigation of agency fulfillment of daily, informal requests from members of Congress. I ask a fundamental, often considered question: what makes agencies more (or less) responsive to elected principals? To investigate this question, I leverage a dataset of over 20,000 congressional requests made by individual members of Congress to 12 executive agencies between 2007-2015. I find that executive agencies systematically prioritize majority party legislators but that this effect can be counter-acted when presidents politicize agencies through



appointments. An increase in politicization produces a favorable agency bias toward presidential co-partisans. This same politicization, however, has a net negative impact on agency responsiveness; agencies are less responsive to members of Congress, but even *less* responsive to legislators who are not presidential co-partisans. The results suggest that presidents have the capacity to influence the flow of information between Congress and the bureaucracy.

Finally, in the third essay, I investigate an additional avenue of responsiveness: the geographic distribution of billions of dollars in federal grants. Recent studies find evidence that presidential preferences influence the allocation of federal spending. Yet these findings leave two largely open questions: how those outcomes are achieved and what (if any) role Congress plays in a presidency-centered understanding of distributive politics. I investigate both questions through a detailed analysis of grant allocation by the National Science Foundation (NSF) and Department of Energy (DOE) from 2007-2014. The former case provides a “hard test” for presidential influence due to the political insulation of the NSF, whereas the latter presents a case that ought to be consistent with existing findings of “presidential particularism.” Both allow me to leverage novel data on grant-related correspondence between the agency and members of Congress to provide an initial test of the efficacy of congressional casework. Contrary to standard expectations related to bureaucratic structure, I find evidence of political allocation in the NSF. Contrary to standard expectations related to presidential particularism, I find no evidence of political allocation in the DOE.

My hope is that the essays—while standing alone as contributions to distinct research agendas—demonstrate the benefit of studying bureaucratic behavior in the full context of the American system of separate powers. Without that context, studies risk aggrandizing the role of any single elected politician and downplaying the agency of bureaucrats.

# DELEGATION OR UNILATERAL ACTION?

## 2.1 Introduction

When Congress passes a law or the President issues a directive, both actors rely on bureaucrats for policy change. Though most scholars and practitioners would agree with this assertion, a generation of research proceeds from the assumption that presidents unilaterally alter the status quo (Moe and Howell 1999; Howell 2003, 2005; Rottinghaus and Maier 2007; Fine and Warber 2012; Chiou and Rothenberg 2014; Bolton and Thrower 2015). The primary constraint on this power, according to these studies, are legislative and judicial veto points. This largely neglects the fact that Presidents rely on bureaucrats who possess political power and serve multiple principals.

A well-known example underscores this basic point. When Harry Truman issued an executive order that seized the property of dozens of American firms, his order did not immediately alter the status quo (Neustadt 1960). It *delegated* the authority to seize the steel mills to Charles Sawyer, then-Secretary of Commerce. Moreover, the order did not prescribe in legal minutiae how the Secretary should seize and manage the mills, it gave him substantial *discretion* to determine the terms of employment at the plants, and even to return them to their owners.<sup>1</sup> This implies Executive Order 10340 should be deemed an instance of delegation to bureaucratic agents (Bawn 1995; Epstein and O'Halloran 1999; Volden 2002*a*; Gailmard and Patty 2007), as opposed to a policy change “with the stroke of a pen” (Mayer 2001).

I study policy change initiated by the President by viewing presidential directives as delegation. I present a model of delegation within the executive branch designed to approximate bureaucratic

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<sup>1</sup>The Secretary was permitted to “act through or with the aid of such public or private instrumentalities or persons as he may designate,” to “determine and prescribe terms and conditions of employment under which the plants [...] shall be operated,” and to issue regulations.

implementation of such directives. Placed in the context of the unilateral action paradigm, I argue that bureaucratic agency is a mechanism by which members of Congress secure better policy outcomes when the President acts alone. The general point that presidential directives are not self-executing has been made by a growing body of presidency research (Dickinson 2009; Krause 2009; Krause and Dupay 2009; Kennedy 2015; Rudalevige 2009, 2012, 2015).<sup>2</sup> though de-emphasized in light This work has highlighted political phenomena like bureaucratic non-compliance (Kennedy 2015) and negotiation (Rudalevige 2012) at play in the formulation and execution of presidential orders. The model I present offers several related contributions to this area.

First and foremost, the theory organizes observable features of unilateral action identified by previous studies. While this empirical research has made the case that implementation matters, it is less clear how scholars should expect bureaucrats to systematically influence outcomes. In contrast, my model presents implications that take into account congressional influence, presidential control, agency insulation, and bureaucratic non-compliance. Relatedly, the model provides a clear way forward for empirical studies of the unilateral presidency. It provides predictions about when presidents delegate, to whom they delegate, when they provide substantial discretion, as well as when we should observe non-compliance with presidential directives. It also provides guidance for measurement of those concepts, by redirecting attention to the *content* of presidential orders, rather than their mere issuance.

The theory extends existing work by highlighting several downstream implications of bureaucratic implementation. First, Congress’s ability to sanction bureaucrats means that policy outcomes reflect congressional preferences—even in the absence of legislation that explicitly overturns presidential directives. Second, the model suggests that policy disagreement between the President and Congress induces bureaucratic non-compliance. Thus, this disagreement not only limits the President’s opportunities to shift the status quo—as Howell (2003) shows—it reduces the probability such orders will be carried out. Third, the theory implies that presidents without expertise are *more* likely to delegate when the agent is insulated from potential punishment. Insulated agencies are less compliant by design. This generates more uncertainty about when they will use their dis-

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<sup>2</sup>Moreover, this point was acknowledged by Howell (2005): “All presidents, and all politicians, struggle to ensure that those who work below them will faithfully follow orders.”

cretion to implement a policy the President dislikes. Thus, as long as policy development is costly for the President to undertake, delegating to insulated agencies makes the President better off. Counterintuitively, these are precisely the agents most likely to bend to congressional pressure.

Finally, this perspective provides a bridge between presidential studies in political science and public administration—generating a variety of avenues for future research. By developing a model of unilateral action that incorporates bureaucratic agency, I synthesize the existing paradigm with studies of the “managerial” and “administrative” presidency, which were largely at odds with unilateral action theory’s emphasis on separation of powers.

## 2.2 Unilateral Action, Agency Problems, and the Executive Branch

In his seminal work, Howell (2003) writes that “modern presidents often exert power by setting public policy on their own and preventing Congress and the courts—and anyone else for that matter—from doing much about it” (14). This perspective, elaborated in Moe and Howell (1999), has influenced a generation of quantitative research on the presidency, which attempts to uncover the precise political circumstances that enable the President to act alone. Much of this research focuses on the empirical study of presidential directives: executive orders (Mayer 1999; Fine and Warber 2012; Chiou and Rothenberg 2014), proclamations (Rottinghaus and Maier 2007; Rottinghaus and Lim 2009), signing statements (Kelley and Marshall 2010; Ostrander and Sievert 2013), and memoranda (Cooper 2002; Lowande 2014). More recently, the conceptual focus on what presidents can accomplish alone has informed investigations of the president’s role in the distribution of federal spending (e.g. McCarty 2000; Berry, Burden, and Howell 2010; Kriner and Reeves 2015*b*; Rogowski N.d.).

This work sheds important light on the president’s influence over policymaking. However, there are several reasons to believe an alternative theoretical base might be appropriate. First, as the Truman Steel-seizure case suggests, unilateral action’s stylized depiction of policy change does not capture the essence of presidential directives themselves. Second, as Mayer (2009) points out, taking the unilateral action paradigm to its logical end results in a conclusion that may not be normatively appealing.

If the ambiguities of presidential authority mean that the boundaries of presidential

power are determined by precedent [...] if presidents have incentives to act first [...] if Congress and the courts face hurdles [...] presidential power becomes uncontrollable and sinister. (443)

Thus, an important question remains: in an era of congressional polarization, what prevents the president from becoming “all powerful”? If we take into account that acting independent of Congress requires cooperation from bureaucratic agents, then the implications of unilateral action are less “sinister” and more contingent. Presidential history is replete with cases of agency heads reinterpreting presidential directives, or refusing to comply outright.<sup>3</sup> More generally, presidency scholars have long recognized that coordination problems within the executive branch pose managerial challenges that often thwart policy change (e.g. Nathan 1983; Miller 1992; Burke 1992). In fact, recent work has argued this past emphasis is largely at odds with the implicit assumption of perfect implementation (Krause 2009; Dickinson 2009; Rudalevige 2009; Kennedy 2015).

This is not to say that “unilateral action” is a misnomer, or that the paradigm is not useful. However, it is important to build on a central point: that *when Congress passes a law or the President issues an executive order, both are relying on bureaucrats for policy change*. Absent that recognition, theories risk aggrandizing the capabilities of the president and downplaying the agency of the bureaucrat. Reframing the issuance of presidential orders as instances of delegation sheds light on the content, rather than the frequency of unilateral action. By implication, it provides more information about the *degree* to which action is unilateral, and the potential for *deviation* from the president’s preferred outcomes.

Benchmark studies of legislative delegation to bureaucratic agents provide a conceptual way forward. They have highlighted the critical trade-offs for members of Congress looking to delegate power: between policy outcomes and discretion (Epstein and O’Halloran 1994, 1996), between outcomes and executive aggrandizement (Volden 2002*a*), and between informed and ideological personnel (Gailmard and Patty 2007, 2013). Additionally, some theoretical work on delegation and information sharing conceives of the key principal as either a legislature or an executive (e.g. Patty

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<sup>3</sup>For instance, Secretary of the Treasury Louis McLane under Andrew Jackson (during the Bank of the US controversy). A more recent example is Melissa Hathaway, former Cyber Security Czar under Barack Obama, who inside sources said resigned after “spinning her wheels” under the administration—after serving under George W. Bush (Gorman 2009). Many other cases are outlined by Neustadt (1960).

2009; Ting 2009). This suggests a delegation framework may shed light on a principal beyond the median voter in Congress.

### **2.2.1 The Presidential Branch**

I build on the idea that agency problems are pervasive in the executive branch. That is, when presidents want policy changed, they must rely on subordinates with agency. Their wishes and directives are not self-executing. Perfect monitoring is implausible. The multiplicity of policy areas and the limitations of a single office generate an asymmetry of time, energy, and knowledge. This fundamental feature of the President’s position has been the basis for the study of presidential management of the bureaucracy and influence over policy outcomes. Among scholarship on politicization, for example, the notion that presidential and bureaucratic preferences often diverge is at the core of most explanations for the politics of appointments (Lewis 2008; Hollibaugh 2014; Hollibaugh, Horton, and Lewis 2014). Moreover, bureau responsiveness, even after politicization, is not guaranteed (Dickinson and Rudalevige 2004). Agency problems are a well-known, systemic part of presidential administrations. Conceiving of presidential directives as acts of delegation, then, incorporates much of what is already assumed (explicitly or implicitly) in scholarship on the president’s relationship with the Executive Branch.

However, this literature also highlights an important challenge. That is, under the broadest definition, nearly every action the President takes can be considered an act of delegation. A “delegation-all-the-way down” perspective risks returning to an understanding of the President as overwhelmed and ultimately incapable of seriously influencing policy (e.g. Lowi 1985). Thus, it is essential to acknowledge that when delegating, the President faces a range of potential agents, who vary in terms of ideological disposition (Clinton and Lewis 2008; Clinton et al. 2012; Chen and Johnson 2015), institutional independence (Selin 2015), and ultimately, monitoring cost. While precise specification of the institutional cost to monitoring the President’s agents may be worthwhile, I show that analytical and empirical leverage can be gained through a necessary simplification. That is, I conceive of the president’s decision to delegate as a dichotomous choice: delegate to “external” agents—those in government corporations, independent agencies, and cabinet departments—or, delegate to actors within what has been called the “presidential” branch—the White House (WHO)

and Executive Office (EOP).<sup>4</sup> The growth of the president’s immediate institutional apparatus has been well documented and studied (Dickinson 1996; Rudalevige 2002; Dickinson and Lebo 2007). Presidents have the capacity to develop policy in a wide variety of issue areas with the resources at their disposal within the WHO and EOP. Thus, this simplification nonetheless preserves an essential point, made first by Moe (1985) in his work on presidential politicization and centralization: that within the WHO and EOP, presidents face fewer collective action problems (compared with Congress) and lower risks of policy drift (compared with the rest of the executive bureaucracy). Building on these premises, I present the following model of presidential delegation.

## 2.3 A Theory of Presidential Delegation

A theory of delegation from the Oval Office should answer two questions. First, when will the President delegate to agents outside the White House and Executive Office? Second, and relatedly, what affects the level of discretion provided to these agents? I present a spatial model of delegation *within* the Executive Branch with three actors: the President ( $P$ ), a congressional committee ( $C$ ), and an external agent ( $A$ ). The congressional committee may be thought of as the committee with oversight jurisdiction over the corresponding agency.<sup>5</sup> In the model, the President attempts to implement a policy outcome (realized by the equation  $x = \hat{x} + \omega$ , where  $\hat{x}$  is the policy selected and  $\omega$  is a uniformly distributed shock) nearest to their preferred ( $x_P$ ), while minimizing the resource

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<sup>4</sup>The conceptual distinction between policy development “in-house” and external delegation has a long lineage in economics, which Epstein and O’Halloran (1999) applied to congressional delegation. Rudalevige (2002) also utilized this distinction in his work on management of legislative policy proposals. Note, by “White House” and “Executive Office,” I mean the collection of administrative agencies for whom the President submits a yearly budget under the “Executive Office of the President.” As of 2015, for example, this includes White House staff, the Council of Economic Advisers, the Office of Management and Budget, and the Council on Environmental Quality. Thus, cabinet departments, independent agencies, and government corporations would all be considered external delegates.

<sup>5</sup>This is particularly important, given the broad understanding of sanctioning behavior I put forth. Drafting punitive legislation and holding hearings occur at the committee level, such that assuming  $C$  to be the congressional floor median may inappropriately limit the threshold of political support that determines whether Congress engages in sanctioning activity.

cost ( $\tau$ ) associated with developing policy in the White House and EOP.<sup>6</sup> To avoid that cost, the President may delegate via directive to an external agent ( $e \in \{0, 1\}$ ) and provide them with a level of discretion ( $d \in [0, \mathbb{R}^+]$ ).<sup>7</sup> As the elected heads of the federal bureaucracy, presidents have acquired institutional resources designed to centralize decision-making in the Executive Office of the President (EOP). Nonetheless, complete centralization is impossible (Rudalevige 2002). Presidents must set priorities, engaging in a key trade-off when selecting bureaucratic agents. Thus, a core assumption of the argument is that presidents have limited resources to formulate policy within their immediate domain.<sup>8</sup> In the context of the model, this means that the cost of external delegation is lower than the cost of making policy in the presidential branch.

The congressional committee looks to obtain a policy closest to its bliss point ( $x_C$ ) through the lever of agent sanctioning ( $s \in \{0, 1\}$ ). Here, they engage in *ex post* actions in response to the President. That is, Congress could enact a law that directly punishes the agent, subject to well-known coalition thresholds for lawmaking (filibuster and veto-override pivots). These coalition thresholds are what provide existing theories of unilateral action with their implications. In absence of large Congressional majorities, it is difficult for Congress to marshall the political resources to enact a law intended to supersede a presidential directive. However, in absence of a super-majority, there are still sanctions Congress can impose on the agents. Limitation riders can be inserted into appropriations bills (MacDonald 2010).<sup>9</sup> Bureaucrats can be called to testify on Capitol Hill (Aberbach 1990; McGrath 2013). They can be held in contempt of Congress. This suggests that Congress can impose targeted sanctions on executive branch agents that do not require the

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<sup>6</sup>It is important to note that the model’s key result generalizes to the case in which there is no private information. A model of perfect information produces the same results, so long as the president’s resource cost is sufficiently high.

<sup>7</sup>I define “discretion” (like Epstein & O’Halloran 1999) as delegated authority, together with the severity of procedural and oversight constraints placed on that authority.

<sup>8</sup>It may be useful to think of the analogous legislative environment: A “make-or-buy” framework views Congressional committees as appendages of floor majorities (the “make” option) and bureaucratic agencies as contractors (the “buy” option; Epstein and O’Halloran 1999). In the Presidential context, the EOP would be the equivalent “in-house” producer, whereas agents in Cabinet departments, independent agencies, and commissions would play the role of contractors.

<sup>9</sup>Because members of Congress imbed this instrument within “must pass” legislation, it arguably requires a lower political threshold to enact.



political capital demanded by lawmaking. This secondary action imposes costs directly on the agents implementing the president’s program.<sup>10</sup>

**Figure 2.3.1** – Model Notation

Players

- $P$ , the President
- $A$ , an Agency
- $C$ , a congressional Committee
- $N$ , Nature

Actions

- $e \in \{0, 1\}$ , where “1” indicates delegation to  $A$
- $d \in [0, \mathbb{R}^+]$ , the level of discretion given to  $A$ .
- $v \in \{0, 1\}$ , where “1” indicates compliance with presidential directive
- $x$ , the policy selected by either  $P$  ( $x \in \mathbb{R}$ ) or  $A$  ( $x \in [-D, D]$ ).
- $s \in \{0, 1\}$ , where “1” indicates congressional sanctioning

Parameters

- $\omega \sim \text{Unif}[-R, R]$ , random policy shock
- $\theta_s \in [0, \mathbb{R}^+]$ , the cost of sanction punishment
- $\theta_v \in [0, \mathbb{R}^+]$ , the cost of non-compliance punishment
- $\tau \in [0, \mathbb{R}^+]$ , the cost of developing policy within the WHO/EOP
- $\mathbb{E} \in \{0, 1\}$ , where “1” indicates  $P$  observes  $\omega$

Another important feature of the model is that the agent, if chosen to make policy, can opt out by refusing to comply ( $v \in \{0, 1\}$ ) with the president’s directive. If it opts in, it selects a policy conditional on the level of discretion supplied by the President. While outright non-compliance is not a typical feature of delegation models, there is reason to believe that this activity influences policy-making in this case.<sup>11</sup> Deviation and resignation is a regular part of presidential administrations. For example, in 1933, Treasury Under Secretary Dean Acheson resigned rather than implement

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<sup>10</sup>This is akin to the “subversion cost” highlighted by Gailmard (2002), wherein Congress imposes a cost via investigation.

<sup>11</sup>Ting (2002) explores legislative strategies for achieving agency compliance in terms of policy selection. Huber and McCarty (2006) consider non-compliance as a result of bureaucratic (in)capacity. Though both of these uses of “compliance” represent important phenomena to study, they are distinct from the idea that an Agent would simply fail to implement a policy entirely.

FDR’s Executive Order 6102, which required all newly mined gold bullion to be delivered to the federal government. To pick a more contemporary example, in 2004, then-acting Attorney General James Comey refused to reauthorize a wiretapping program under George W. Bush. More generally, since the Clinton Administration, presidents have used directives to set (or reset) rule making deadlines—which are frequently broken or ignored entirely. Moreover, this feature may render the model more generalizable beyond the American context. Bureaucratic noncompliance is a pervasive issue which underlies many comparative studies on corruption. Thus, assuming that bureaucrats have the capacity to disobey provides a more accurate, general depiction of executive politics. Ultimately, the model suggests that in equilibrium, observations of bureaucratic non-compliance should be low. Thus, as with other political phenomenon with equilibrium effects, like the presidential veto (Cameron 2000), observed cases may understate their overall impact on the broader process.

If the Agency opts out of policymaking, it pays a non-compliance cost that can be thought of as an *ex post* presidential sanction. Presidents have a variety of tools to impose costs on non-compliant agencies—including the removal of appointed program managers and, in some cases, the reassignment of agency functions. Moreover, variation in this parameter allows the model to incorporate institutional variation among line agencies. More specifically, I define the following to aid in illustrating the implications:

**Definition 1** An “insulated” or “independent” Agency ( $A$ ) has non-compliance costs less than the cost of congressional sanction ( $\theta_v < \theta_s$ ).

Scholars have long recognized that some agencies are designed to render them less subject to presidential manipulation (e.g. Moe 1985; Lewis 2003; Selin 2015). In the context of the model, I operationalize this in terms of an agency’s vulnerability to presidential punishment—relative to congressional punishment. The effectiveness and availability of punishments often subject to institutional features of agencies that the President cannot alter. For example, fixed service terms effectively inhibit the President’s ability to punish agencies by replacing (or leaving vacant) their appointed heads. Note, however, this category need not be defined on institutional features alone. As Lewis (2016) demonstrates, a majority of agencies—even those that do not bear the institutional hallmarks of insulation—report that Congress has more influence on agency spending post-appropriation (Lewis and Richardson 2015). That is, agencies tend to perceive Congress as

the principal to whom they must be more responsive.

The utility<sup>12</sup> of the President is given by

$$U_P = -|x - x_P| - (1 - e)\tau$$

so that they attempt to minimize the disutility associated with distant policy and the cost of developing policy in-house. The committee's utility is governed solely by the policy outcome, such that

$$U_C = -|x - x_C|$$

Finally, the Agent's utility is governed by policy outcomes and (if incurred) the costs associated with congressional sanction ( $\theta_s \in [0, \mathbb{R}^+]$ ) and non-compliance ( $\theta_v \in [0, \mathbb{R}^+]$ ).

$$U_A = -|x - x_A| - s\theta_s - v\theta_v$$

### 2.3.1 Sequence of Play

1. Nature selects the expertise level in the EOP,  $\mathbb{E} \in \{0, 1\}$  and a random shock,  $\omega$ , which is uniformly distributed between  $[-R, R]$ . If  $\mathbb{E} = 1$ , then the President observes  $\omega$ .
2. The President chooses whether to delegate or develop policy within the White House and EOP ( $e \in \{0, 1\}$ ).
3. (a) If  $e = 0$ , then the President pays a resource cost,  $\tau$ , and the EOP selects a policy,  $x$ .  
 (b) If  $e = 1$ , then the President selects a level of discretion,  $d$ .  
 i. The Agent chooses whether or not to comply,  $v \in [0, 1]$ , after observing  $\omega$ .  
 A. If  $v = 0$ , then  $s = 0$  and policy is developed by the EOP.  
 B. If  $v = 1$ , the Agent selects a policy,  $x$ .  
 C. The Committee (according to its sanction rule) chooses whether to sanction the Agent ( $s$ ).
4. Play ends and payoffs are distributed.

In addition, I assume that  $s = 1$  when  $-|x - x_P| > -|x - x_C|$ , that is, though the committee does not know exactly where the policy is, it does know when it is “getting a raw deal”—when the

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<sup>12</sup>The main results of model are not sensitive to the choice between linear and quadratic utility. Though I am largely agnostic as to whether the actors are risk averse (e.g. Bendor and Meirowitz 2004), linear utility produces results and comparative statics which are more readily interpretable.

president is made better off by agency actions. In this way, the committee is modeled as largely reactionary. In my view, this presents a balanced picture of the committee’s role. On the one hand, it is problematic to assume that Congressional committees have perfect knowledge of the policy implementation process, such that they are capable of perfect monitoring. On the other, assuming they have *no* knowledge seems equally divorced of the basic political phenomenon. Here, I assume they have enough knowledge to know, broadly, whether the policy implemented makes the President better off.<sup>13</sup>

It is also important to note that because of  $\mathbb{E}$ , information asymmetry between the “presidential branch” and the rest of the executive bureaucracy is a special case. I take this to be a more accurate characterization of the principal-agent problem encountered by the President—particularly when compared to the substantive justifications for the information asymmetry between Congress and the bureaucracy. Members of Congress are said to have limited time, staff, and knowledge that renders them less able to match the expertise of agents. But the President is surrounded by a full-time staff of experts, many of whom are employed at will and possess specialized knowledge in substantive areas. Thus, in some cases, the expertise needed to develop policy will be duplicated within the WHO/EOP.

Before moving on to solutions, it is important to highlight ways in which the model differs from relevant foundational work. First, in contrast to Howell (2003), presidential directives are seen as the beginning of the process by which the president resets the status quo. Notably absent are critical pivots in Congress, the Judiciary, or the lawmaking process, more generally. This reflects a key distinction: whereas the unilateral politics model outlines conditions that lead to presidential action, the model below attempts to explain how the agency of bureaucrats influences final outcomes—*after* the decision to act alone has been made.<sup>14</sup>

Second, in contrast to many models of delegation (Bawn 1995; Epstein and O’Halloran 1999; Volden 2002a; Gailmard and Patty 2007), the principal’s key trade-off is not *always* motivated by

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<sup>13</sup>Moreover, a model that does not assume this sanction rule is likely to produce similar results. In a repeated game, the congressional committee would end up employing a cut-point strategy. This approximates that strategy without unnecessary complication.

<sup>14</sup>Relatedly, a more complicated—but potentially interesting—extension might build-in those additional elements, to determine whether agency problems influence the *frequency* of presidential action.

gains in expertise. In some cases, delegation is attractive because it reduces the cost of policymaking for the President—presumably reserving limited resources for other policy initiatives. In addition, unlike Epstein and O’Halloran (1999)—who model information transmission *within* Congress—the theory focuses on forces that impact policymaking *within* the Executive Branch. In their model, the President unproblematically sets the ideal point of the bureaucrat and Congress has no ex-post ability to punish—which eliminates all potential agency problems from the President’s perspective.

A few simple examples underscore the applicability of this setup to the political process in question. Presidents, in pursuit of their goals, observe some existing policy that they desire to move. They are faced with an initial choice of whether to use resources within their immediate domain, or delegate to external agents. In 1976, for instance, Gerald Ford chose to delegate policymaking functions to the Federal Energy Office within the Executive Office, rather than vest those functions in the newly created Federal Energy Administration (predecessor to the Department of Energy).<sup>15</sup> If a President delegates, they are then faced with the task of formulating the agent’s mandate to make policy. Their directive can be limited, or it can provide the agent policy latitude. The President could, for example, require that the agent consult with other agencies or departments, as Harry Truman did when he redelegated wartime employment functions to the Department of Labor in 1945.<sup>16</sup> Relatedly, the President could simply specify the new policy in great detail, to limit the range of policies the agent could implement.

Next, Congress, observing the President’s directive, makes its preferences known to the agent. This kind of Congressional posturing has become particularly salient recently, as members of Congress reacted to Barack Obama’s series of immigration-related directives in November 2014. Senator Jeff Sessions (R-AL), for example, reminded the applicable departments that “Congress has the power and every right to deny funding for unworthy activities.”<sup>17</sup> This sequence appears to reflect another recent presidential initiative, Barack Obama’s proposed ban on armor-piercing ammunition. In response, Rep. Jim Sensenbrenner (R-WI) introduced legislation to abolish the

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<sup>15</sup>E.O. 11930 - “Performance by the Federal Energy Office of Energy Functions of the Federal Energy Administration” (July 30, 1976). Note, this order is included in most studies which regress macro-political characteristics on counts of executive orders.

<sup>16</sup>“E.O.9617 - Transfer of Certain Agencies and Functions to the Department of Labor,” (September 19, 1945)

<sup>17</sup>November 20, 2014. Quoted in Shabad (2014).

agency responsible for the president’s initiative, the Bureau of Alcohol, Tobacco, and Firearms (ATF).<sup>18</sup> Though the President pays political costs for overturned or impeded policies, bureaucrats endure punishments which vary in severity. Thus, appropriately, the Committee has the ability to sanction them directly, which influences the agent’s decision-making.

## 2.4 Results

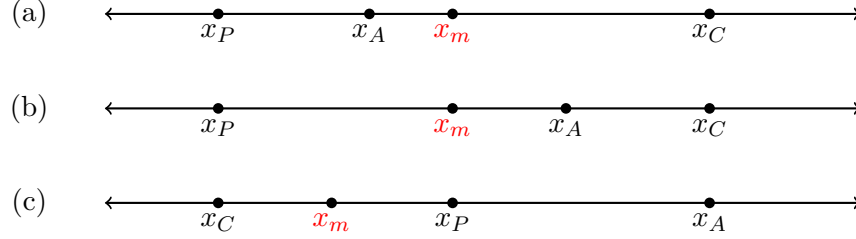
The model produces several key results. First, since the committee has the power to punish the Agent *ex post*, delegation results in additional policy loss (from the perspective of the President) beyond the canonical problems associated with principal-agent relationships. The Agent takes into account its own preferences and the preferences of Congress during implementation. Second, since policy is costly to develop in the WHO/EOP—and since, in some cases, the Agency has superior expertise—it is often still optimal for the President to delegate to external agents. Surprisingly, whenever the Agent has superior knowledge of the state of the world and is insulated from presidential punishment, the President is *always* better off delegating. This underscores an important dependency in the President’s effort to circumvent Congress.

Despite the fact that the Agent has multiple principals, all arbitrary spatial orientations reduce to two cases. Let  $x_m$  denote the midpoint between  $x_P$  and  $x_C$ , a policy outcome that would result in  $s = 0$ . Thus, the relevant cases are  $x_m > x_A$  in which, the Agent is closer to the President; and  $x_m < x_A$ , when the Agent is closer to the committee. Though I show this later, Figure 2.4.1 provides the basic intuition behind these scenarios. In examples (a) and (b), the Agency operates under an ideologically divided President and Committee. If closer to the President, as in (a), the Agency’s bliss point forces it to engage in policy trade-offs—given the knowledge that its preferred policy will result in punishment. Whereas, in (b), its incentives are aligned with the congressional Committee, and it can select policies as though it were pursuing its own interest indiscriminately. Note, the Agency’s tradeoffs in (a) and (c) are identical. Here, a “rogue” Agency faces a policy dilemma similar to (a), because blind pursuit of its own interest would result in sanctioning. The added benefit of the sanction assumption is that the results of the model are less sensitive to specific

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<sup>18</sup>Marcos, Cristina. 2015. “Republican proposes abolishing the ATF amid bullet ban controversy,” *The Hill* March 5th. The ATF has since withdrawn the proposal—preserving the status quo.

spatial orientations of the actors. As a consequence, the model's results generalize to a variety of important scenarios in American politics—both divided and unified government, and politically controlled or “runaway” bureaucracies.



**Figure 2.4.1** – Cases

Without loss of generality, assume that  $x_P = 0$ . Let  $\bar{\theta}_s > |x_A - x_m|$ , the value of the sanction punishment which exceeds the Agency's policy payoff from moving the outcome from its ideal point to the sanction-free point. Working backwards, it is apparent that the optimal policy choice for the bureaucrat (denoted by  $x^*$ ) depends on  $\theta$  and  $x_A$ . When the cost the Committee imposes is sufficiently low ( $\theta_s < \bar{\theta}$ ), or the bureaucrat is sufficiently distant from the president ( $x_A > x_m$ ), then the Agency's choice follows the intuitive, well-known result regarding policy selection (Epstein and O'Halloran 1999; Volden 2002a; Gailmard and Patty 2007):<sup>19</sup>

**Lemma 1** *When  $x_A > x_m$ , or  $\theta_s < \bar{\theta}$*

$$x^* = \begin{cases} d & \text{if } -R < \omega \leq x_A - d \\ x_A - \omega & \text{if } x_A - d < \omega \leq x_A + d \\ -d & \text{if } x_A + d \leq \omega < R \end{cases}$$

For any given random shock, the Agent pulls policy as close as possible to its ideal point, given the bounds of its discretion. However, the results diverge from Lemma 1 when sanctioning imposes a sufficient cost. More specifically, the power of the committee influences the President's agent to use the directive to implement a Congress-friendly policy.

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<sup>19</sup>All proofs appear in the appendix.

**Lemma 2** When  $\theta_s \geq \bar{\theta}$  and  $x_A < x_m$

$$x^* = \begin{cases} d & \text{if } -R < \omega \leq x_A - d \\ x_A - \omega & \text{if } x_A - d < \omega \leq x_m - d \\ x_m - \omega & \text{if } x_m - d < \omega \leq x_m + d \\ -d & \text{if } x_m + d \leq \omega < R \end{cases}$$

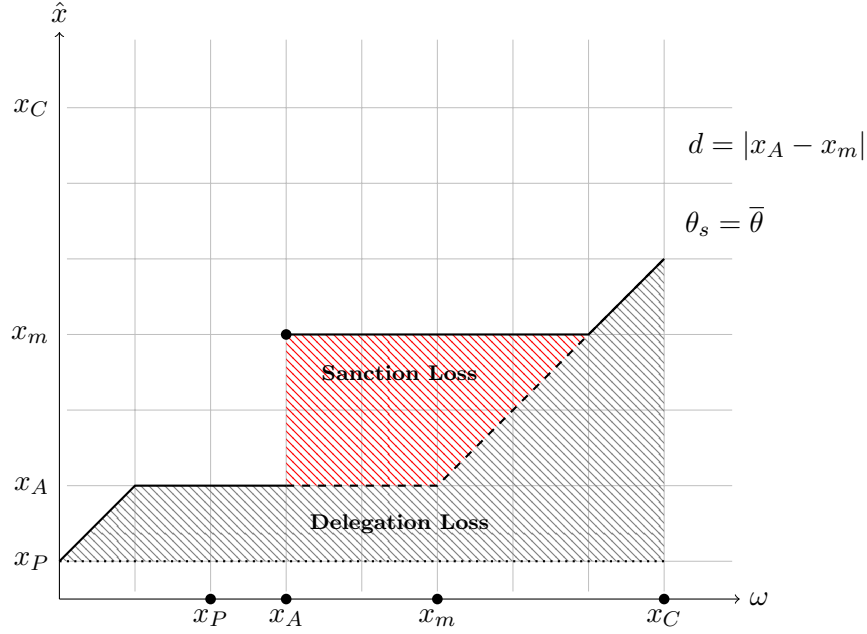
When the random shock is between  $-R$  and  $x_m - d$ , the Agent shifts policy as close as possible to its ideal point because it cannot select  $x_m$ . On the other hand, when the shock exceeds  $x_m - d$ , the Agent shifts policy as close to  $x_A$  as possible, while avoiding sanctioning by selecting  $x_m - \omega$  at minimum. This change in bureaucratic behavior is relatively minor, but it directly impacts the utility of direct presidential action.

Figure 2.4.2 illustrates this basic point by plotting the outcome,  $\hat{x}$ , on the y-axis, and the random shock,  $\omega$ , on the x-axis. The key behavior change is highlighted in red. For any given random shock, the Agent would like to move policy closest to its ideal point—but it is constrained by how much latitude the President has provided. If there is no informational asymmetry between the President and the Agency, all delegation implies some policy loss for the President because the Agent is presumed to have its own political preferences.<sup>20</sup> However, the presence of a powerful congressional Committee implies an additional cost. Given a fixed level of discretion, the Agent's optimal policy selection shifts when the sanction midpoint is available. In Figure 2.4.2, for example, the Agent selects the policy  $d + \omega = x_m$  when  $\omega = x_A$ , despite the fact this will move policy away from its ideal point. That is, under the right conditions, the bureaucrat's optimal strategy is to appease the congressional Committee. Counterintuitively, this appeasement only occurs when the Agency is close to the President. Otherwise, the Agent's behavior is indistinguishable with pursuit of its own preferred policy.

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<sup>20</sup>Strictly speaking, this holds so long as  $x_P \neq x_A$ .





**Figure 2.4.2** – Committee Influence and Presidential Policy Loss

### 2.4.1 Bureaucratic Non-compliance

Next, the model sheds light on the conditions that lead to non-compliance with presidential directives. Given  $x^*$ , I characterize whether the Agent will comply with the President's order, or opt out, leaving policy to be developed in the Presidential Branch. The agent's choice depends on a comparison of  $x^*$ , the possibility of punishments, and how policy would be implemented if it did not comply. Since non-compliance results in presidential implementation, this is the President's optimal policy selection given  $e = 0$ . In this case, it is immediately apparent that  $x^* = x_P$  (the president selects his ideal point) if  $\mathbb{E} = 0$ , and that  $x^* = x_P - \omega$  if  $\mathbb{E} = 1$ . Thus, the agent complies if either of the following inequalities are satisfied:

$$-|x^* - x_A| - s\theta_s > -|x_A| - \theta_v \text{ if } \mathbb{E} = 1$$

$$-|x^* - x_A| - s\theta_s > -|x_A + \omega| - \theta_v \text{ if } \mathbb{E} = 0$$

In each case, the right-hand side of the equation shows the policy that would be developed if the Agent refused to implement the order. Thus, the Agent must consider whether the WHO/EOP is informed or uninformed—and, importantly, the comparative costs imposed by each principal.

This comparison has direct implications on compliance, discretion, and ultimately, the utility of delegation. For line agencies comparatively vulnerable to presidential sanction, the implications for non-compliance are fairly straightforward:

**Lemma 3** *For uninsulated ( $\theta_v > \theta_s$ ) agencies: when  $\mathbb{E} = 0$ ,  $v^* = 1$ . When  $\mathbb{E} = 1$ ,*

$$v^* = \begin{cases} 0 & \text{if } -R < \omega \leq -x_A - d - \theta_v + \theta_s \\ 1 & \text{if } -x_A - d - \theta_v + \theta_s < \omega \leq 2x_A + d + \theta_v \\ 0 & \text{if } 2x_A + d + \theta_v < \omega \leq R \end{cases}$$

That is, under most circumstances, the uninsulated agencies comply because congressional threats pale in comparison to the cost of presidential sanction. For insulated Agencies, this process is far more dynamic. I characterize their choice of compliance in Lemmas 4 and 5:

**Lemma 4** *For insulated ( $\theta_v < \theta_s$ ) agencies: When  $\mathbb{E} = 0$  and  $\theta_s - \theta_v > |x_A - \omega|$*

$$v^* = \begin{cases} 0 & \text{if } -R < \omega \leq x_m - d \\ 1 & \text{if } x_m - d \leq \omega < R \end{cases}$$

*When  $\mathbb{E} = 0$  and  $|x_A - \omega| > \theta_s - \theta_v > 0$*

$$v^* = \begin{cases} 0 & \text{if } -R < \omega \leq \theta_s - \theta_v - d \\ 1 & \text{if } \theta_s - \theta_v - d \leq \omega < R \end{cases}$$

Thus, when the Presidential branch is uninformed, the Agent complies with the directive only when the policy shock puts a beneficial policy within reach. A beneficial policy is one that either (1) allows the Agent to avoid sanctioning, or (2) allows the Agent to select a policy that effectively outweighs the cost of congressional sanction. However, removal of the informational asymmetry between the President and the Agency results in a change in non-compliance. Formally,

**Lemma 5** *For insulated ( $\theta_v < \theta_s$ ) agencies: when  $\mathbb{E} = 1$  and  $|x_A| > \theta_s - \theta_v > 0$*

$$v^* = \begin{cases} 0 & \text{if } -R < \omega \leq \theta_s - \theta_v - d \\ 1 & \text{if } \theta_s - \theta_v - d < \omega \leq 2x_A + d + \theta_v \\ 0 & \text{if } 2x_A + d + \theta_v < \omega \leq R \end{cases}$$

When  $\mathbb{E} = 1$ ,  $\theta_s - \theta_v > |x_A|$ ,  $x_m - d < 2x_A + d$

$$v^* = \begin{cases} 0 & \text{if } -R < \omega \leq x_m - d \\ 1 & \text{if } x_m - d < \omega \leq 2x_A + d \\ 0 & \text{if } 2x_A + d < \omega \leq R \end{cases}$$

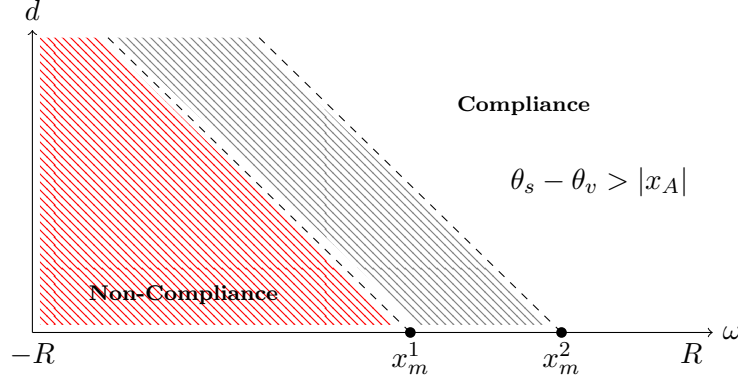
When  $\mathbb{E} = 1$ ,  $\theta_s - \theta_v > |x_A|$ ,  $x_m - d > 2x_A + d$

$$v^* = 0$$

As in Lemma 4, if the random shock does not exceed a critical value (either  $\theta_s - \theta_v - d$  or  $x_m - d$ , depending on the value of  $\theta_s - \theta_v - d$ ), the Agent will not comply because it will be unable to select a beneficial policy. However, in the above cases, if  $\omega$  exceeds the inflection point  $2x_A + d + \theta_v$ , then the Agent does not comply because it knows the informed President will shift policy back to  $x_P$ , which renders the Agent better off than if it had selected policy itself within the bounds of its discretion. Thus, when the President and the Agent are equally informed, the knowledge that the President will select  $x_P$  restricts the Agent's compliance region.

This reveals three important points about compliance with presidential directives. First, bureaucratic agencies tend to be more compliant when they are better informed *vis-à-vis* the President. The incompetence of the presidential branch means that for more extreme policy shocks, the Agent cannot “pass the buck” under the presumption that the President will select their ideal point. Second, as  $d$  increases, so does the region of random shocks for which the bureaucrat will opt-in to policymaking. Given that  $\omega$  is uniformly distributed, this means that *discretion increases the probability of compliance with the president's directive*. The Agent implementing a “unilateral directive” must necessarily consider the range of exigencies, the political orientation of both principals, and any potential costs external to the policymaking process itself. Discretion provides the flexibility needed to act under a broader range of political scenarios. Third, for insulated agencies, when the Agency is closer to the President and the Committee is sufficiently powerful, the non-compliance region is increasing in the distance between the President and the Committee.

Figure 2.4.3 illustrates these basic implications. An increase in discretion contracts the non-compliance region (in red). This particular case is analogous to Lemma 4. Because the Agent is



**Figure 2.4.3** – Discretion and Non-Compliance

more informed and insulated from presidential control, the Agent complies when  $\omega$  allows her to implement  $x_m$ . When  $x_A < x_m$ , increases in policy disagreement between the President and the committee increase the probability of non-compliance. In Figure 2.4.3, for example, the shift from  $x_m^1$  (a “close” committee) to  $x_m^2$  (a “distant” committee) results in a reduction of the compliance region. This reduction is depicted in Figure 2.4.3 in gray. Note also, that because this region is partly a function of the “state of the world” as determined by  $\omega$ , in any equilibrium in which  $x \in [-d, d] \neq [-R, R]$  and  $A$  is insulated, there is some probability of non-compliance. The basic dynamic, however, is not limited to insulated agencies. When the President is informed and dealing with an uninsulated Agency—what may be intuitively her strongest position—increasing the cost of congressional sanction ( $\theta_s$ ) contracts the compliance region.

## 2.4.2 Bureaucratic Discretion

Like other models of delegation, the theory also offers predictions about the level of discretion offered to the Agent. Let  $d^*$  denote the President’s optimal choice of  $d$ . Given the equations above, the President’s maximization problem takes one of many forms, which suggest some differing predictions based on agency insulation,  $x_A$ , and  $\mathbb{E}$ . Specifically, I find that

**Proposition 1** *For both insulated and uninsulated agencies, if  $\mathbb{E} = 1$ , then  $d^* = 0$ . For insulated*

agencies, if  $\mathbb{E} = 0$  and  $R > x_i$ ,

$$d^* = \begin{cases} \frac{x_m - 2x_A + R + \tau}{2} & \text{if } x_A > x_m \text{ and } \theta_s - \theta_v > |x_A - \omega| \\ \frac{\tau + R - x_m}{2} & \text{if } x_A < x_m \text{ and } \theta_s - \theta_v > |x_A - \omega| \\ \frac{\theta_s - \theta_v + R + 2R\tau - 2x_A}{2} & \text{if } x_A < x_m \text{ and } |x_A - \omega| > \theta_s - \theta_v > 0 \end{cases}$$

This proposition reveals several key points.<sup>21</sup> The first is relatively straightforward, but stark: *no information asymmetry, no discretion*. That is, when the President and the Agent have comparable knowledge of  $\omega$ , discretion provides no additional benefit when the President delegates via directive. This holds despite the fact that developing policy in-house is costly. Surprisingly, it also holds for uninsulated agencies—despite the fact that they are subject to both presidential punishment and *ex post* enforcement of the discretion region.

For insulated agencies, when the President is uninformed, discretion becomes a function of ideological proximity and the cost of making policy in-house. Specifically, when the Agent is more ideologically proximate to the President, and the committee is sufficiently powerful (as in Figure 2.4.2), discretion is decreasing in  $x_m$ , the sanction midpoint. Thus, discretion decreases as the policy conflict between the President and the committee increases.<sup>22</sup> This compounds the dynamic shown in Figure 2.4.3. A more distant committee means a higher probability of non-compliance and less discretion—which, in turn, leads to an even higher probability of non-compliance. In other words, policy disagreement between the President and the Committee has a direct impact on the ability of the President “act alone.”

Proposition 1 also implies an exception to the “ally principle,” which suggests that principals ought to rely more on ideologically proximate agents.<sup>23</sup> Here, the Agent and the President have similar policy preferences—yet, ideological divergence with the Committee results in *less* discretion. In this case, the President’s ally cannot be expected to act in the President’s best interest because it serves two masters. This highlights a broader point in the context of “unilateral action”: even

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<sup>21</sup>Note, discretion results for more informed, uninsulated agencies are omitted because they are essentially identical to results found in Epstein and O’Halloran (1999). Nonetheless, full results can be found in the Appendix.

<sup>22</sup>Note that,  $\frac{\partial d^*}{\partial x_m} < 0$ . **QED**

<sup>23</sup>For other examples of violations of this principal, see Huber and McCarty (2004).

when Congress is powerless to overturn a presidential directive outright, it can change outcomes by influencing those who implement the President’s policies. On the other hand, when the Agent is closer to the Committee (or the Committee is sufficiently weak), the optimal level of discretion instead depends on the ideological proximity of the Agency—hewing to the basic notion of the ally principle.

Importantly, when an insulated Agency has a monopoly on expertise, discretion increases as the cost of developing policy “in-house” ( $\tau$ ) increases.<sup>24</sup> Higher levels of  $\tau$  render bureaucratic non-compliance more costly. By increasing the policy latitude given to the Agency, the President reduces the probability she will be forced to use valuable resources in the White House and EOP to develop policy. Note, this relationship holds even when the President expects the the Agency to condition its policy choice on the Committee’s preferences. This implies that for sufficiently high levels of  $\tau$ , unilateral action results in a policy which the President and the Committee find equally palatable ( $x_m$ ).

### 2.4.3 Delegation and the Presidential Branch

Finally, the model reveals the conditions that must be satisfied for the President to delegate to an external Agency. Let  $e^*$  be the optimal choice of delegation. Under most conditions, there are values of  $\tau$  that render delegation beneficial. However, the underlying motivation for this delegation differs depending on the presence or absence of expertise. First, when there is expertise in the presidential branch, the President delegates under the following conditions.

**Proposition 2** *For insulated agencies,  $\mathbb{E} = 1$ ,  $R > x_i$ ,  $\theta_s - \theta_v > x_A$ , and  $x_A > x_m$ ,*

$$e^* = \begin{cases} 0 & \text{if } \frac{2x_A + x_m + \theta_v}{2} > \tau \\ 1 & \text{otherwise.} \end{cases}$$

*Given  $\mathbb{E} = 1$ ,  $R > x_i$ ,  $x_A > \theta_s - \theta_v > 0$ , and  $x_A > x_m$ ,*

$$e^* = \begin{cases} 0 & \text{if } \frac{2x_A + \theta_s}{2} > \tau \\ 1 & \text{otherwise.} \end{cases}$$

---

<sup>24</sup>Note that,  $\frac{\partial d^*}{\partial \tau} > 0$ . **QED**

Overall, as the distance between the President and the insulated Agent increase, the utility of delegation declines. Thus, the cost of in-house policy development must be sufficiently high to offset the policy loss incurred through delegation and Committee influence. When the President and the Agency are equally informed ( $\mathbb{E} = 1$ ), the president delegates to avoid paying resource costs. In other words, presidents could competently pursue the initiative within arm's reach, but they would rather shift the cost of development onto an external Agency. This could reflect a variety of underlying motivations. The policy could demand time and staff the President would rather have pursuing other initiatives. The policy might demand discretionary funds—which may be more easily reprogramed in external agencies. This illustrates a trade-off between efficiency and policy—rather than expertise and discretion.

When the President is uninformed, the equilibrium decision to delegate becomes far more stark. Specifically, the risk associated with bureaucratic non-compliance results in delegation under less restrictive conditions:

**Proposition 3** *For insulated agencies, if  $\mathbb{E} = 0$  and  $R > x_i$  then  $e^* = 1$ . For uninsulated agencies, if  $\mathbb{E} = 0$ ,  $R > x_i$ ,  $x_A > x_m$  and  $\theta_s < |x_A - \omega|$ ,*

$$e^* = \begin{cases} 0 & \text{if } \frac{-x_A^2 + x_A R}{R} > \tau \\ 1 & \text{otherwise.} \end{cases}$$

*Given  $\mathbb{E} = 0$ ,  $R > x_i$ ,  $\theta_s > |x_A - \omega|$ , and  $x_A < x_m$ ,*

$$e^* = \begin{cases} 0 & \text{if } \frac{-x_A^2 + 2x_A x_M - x_M^2}{4R} > \tau \\ 1 & \text{otherwise.} \end{cases}$$

In words, when the Agent is insulated from Presidential control and more informed, the President delegates. Irrespective of policy disagreement, delegation results in gains in expertise that cannot be matched within the Presidential Branch. The importance of this result should not be understated. It implies that if the President wants to act in an area of policy in which there is not some existing store of expertise within the WHO/EOP apparatus, then *unilateral action is dependent on bureaucratic agency*. This holds even if the policy is “free” ( $\tau = 0$ ) to produce. More generally, this result shows that presidents have clear incentives to foster the expertise needed to “act alone”—

since this determines whether action independent of Congress will result in the President’s preferred policy.<sup>25</sup>

Surprisingly, this result does not hold for uninsulated agencies, since there are values of  $\tau$  that would render in-house development optimal. In other words, whereas uninformed presidents are always better off delegating to insulated agencies, there are values of  $x_A$ ,  $x_M$ , and  $R$  that make delegation to uninsulated agencies less appealing. The logic behind this finding is directly tied to the role non-compliance plays in the trade-offs associated with unilateral action. Non-compliance generates the possibility that the President will have to pay the resource cost ( $\tau$ ). This uncertainty prevents the President from isolating the circumstances in which in-house development is more optimal. Uninsulated agencies are perfectly compliant when they are more informed vis-à-vis the President. Their compliance allows the President to know precisely when they will use their discretion to select a policy worse than the one generated by a presidential branch that lacks expertise. Absent that guarantee, the President delegates to avoid wasting resources needlessly.

## 2.5 Implications

The model points to the need for empirical consideration of the content of presidential directives like executive orders, memoranda, and proclamations. In fact, these directives offer a rare opportunity for verification of a positive theory of bureaucracy. Systematic empirical support for delegation models rests on a few essential studies.<sup>26</sup> Since then, as Moe (2012) notes, formal work on delegation has largely outpaced empirical testing.<sup>27</sup> Thus, the content of presidential directives like executive orders, proclamations, and memoranda provide an underutilized source of information about the president’s strategic behavior. For this reason, it is important to highlight several empirical implications of the model, which all involve observable behavior that can be (or has been) measured. Though I have mentioned several potentially interesting results, four merit emphasis:

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<sup>25</sup>Moreover, this follows the basic intuition of Gailmard and Patty (2013), who show that *Congress* has incentives to foster expertise in the presidential branch.

<sup>26</sup>E.g. Balla (1998); Potoski (1999); Epstein and O’Halloran (1999); Volden (2002*b*); Huber and Shipan (2002)

<sup>27</sup>For other key examples of theoretical development in this area, see Huber and McCarty (2004); Callander (2008); Wiseman (2009); Fox and Jordan (2011); Callander and Krehbiel (2014).



*All else equal, presidents delegate more to external agents when the presidential branch lacks applicable expertise.*

Expertise in the presidential branch has varied over time with the development new offices and instrumentalities in the White House and Executive Office. In some cases, the substantive mission of these offices overlaps considerably with agencies outside the presidential branch. The Council on Environmental Quality, Environmental Protection Agency, and Department of Interior share related tasks associated with natural resource preservation. This substantive overlap implies the President may draw on personnel with applicable knowledge of environmental policy. In the area of transportation and aviation, on the other hand, there is no standing office that duplicates the policymaking expertise of the Federal Aviation Administration. Thus, variation over time and across policy areas could be leveraged—and, in expectation, we should see more delegation in presidential directives to agents outside of the WHO/EOP when there is no plausible institutional redundancy in a given policy area.<sup>28</sup>

*When the presidential branch lacks relevant expertise, presidential directives should delegate more authority to agencies insulated from presidential control.*

Institutional variation among bureaucratic agencies—and its impact on presidential control—has been the subject of a large body of research (e.g. Moe 1989; Moe and Wilson 1994; Wood and Waterman 1991; Lewis 2003; Selin 2015). Much of this research has sought to determine how politically responsive agencies are to elected institutions. Here again, presidential directives offer an opportunity to validate the intuition of the model. In effect, uninsulated—and thus, comparatively more compliant—agencies should allow presidents to better determine when delegation makes them worse off. Absent that clarity, delegation is the safe option. Therefore, in expectation, we ought to see presidents choose to delegate more often when dealing with an insulated agency.

*As the policy disagreement between the President and the relevant oversight committee increases, bureaucratic non-compliance with presidential directives should increase.*

Though it remains difficult to track, recent studies have attempted to measure non-compliance through rule promulgation (Kennedy 2015) and legislation that constrains agency power (Yaver

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<sup>28</sup>For a detailed investigation of the strategic sources and general efficiency of such redundancy, see Ting (2003).

2015). Additionally, it may be fruitful to measure compliance with the efficacy of deadlines in presidential directives. In expectation, political conflict between the President and applicable committees should increase non-compliance. Here again, researchers could take advantage of variation both over time and across committee jurisdictions.

*For insulated agencies, as the cost of developing policy in-house increases, discretion in presidential directives should increase.*

Though operationalizing the cost of policy development in the presidential branch presents a clear measurement challenge, several contributing variables seem apparent. For example, the resource cost might be thought of as the relative proportion of the President’s institutional apparatus that the policy requires to be produced. For that reason, one might look to WHO/EOP budgetary authorizations and staff levels (e.g. Dickinson and Lebo 2007). Additionally, since presidential administrations tend to accumulate policy objectives over time, the resource cost might be extrapolated from the President’s time in office. The model also validates theoretical expectations of past work—suggesting they ought to be operative in the context of unilateral action. Epstein & O’Halloran (1999) studied discretion in landmark legislation by implementing a content analysis procedure that identified administrative procedures that constrain policy latitude. To test the straightforward implications of the ally principle, a similar approach could be adopted in the examination of presidential directives, which often exhibit similar language. Presidents—like legislators—impose time limits, reporting requirements, and express varying levels of detail in their orders.

Thus, the essential data sources (e.g. presidential directives) exist and have been collected by existing research. The critical task is an empirical consideration of the content of those directives, as opposed to their frequency. In short, though a proper empirical evaluation cannot be undertaken in the context of this article, the model provides clear predictions and measurement guidance that can be taken to available data.

## 2.6 Conclusion

I sought to address two general limitations of unilateral action as a theory of presidential policymaking. The first is the theory may say more about the frequency of presidential *attempts* at unilateral

action, rather than their efficacy. That is, we observe the issuance of an executive order, but the theory cannot explain whether (and why) that order will translate into a preferred outcome. A second, more important limitation is that—taken to its logical conclusion—the theory aggrandizes the power of the President in American politics. Presidential policymaking is remarkably contingent, despite the President’s apparent ability to make law via directive. This is both the result of constitutional checks and balances and the inherent challenge of wielding the administrative state.

I organized empirical facts surrounding unilateral action that had gone largely unexplained. Policies prescribed by presidential directives are often a reflection of the preferences of bureaucrats (Rudalevige 2012, 2015). These orders are not self-executing. They often provide discretion to the bureaucrats charged with implementation and involve the strategic choice of agents. In the absence of outright invalidation of presidential orders, congressional committees often threaten and punish the agents who implement the President’s policy initiatives. Compliance is never guaranteed, and non-compliance is occasionally observed (Kennedy 2015). In short, policy change is uncertain.

By incorporating the above, I argued unilateral action is dependent on bureaucratic agency in several key ways. Under certain conditions, bureaucrats enable Congress to influence final outcomes. This result provides the basis for future work both to verify its empirical content, and to study a variety of other political phenomenon: bureaucratic non-compliance, congressional oversight, and the development of the presidential branch. Moreover, the model reveals a secondary consequence of agency insulation—that the threat of non-compliance effectively prevents the President from determining when policymaking within the White House and Executive Office would be optimal. Counterintuitively, this means directives targeted to insulated agencies should delegate more authority.

This leads to a number of possible directions for future work. As the previous section laid out, the model motivates a variety of possible empirical studies. Beyond this, one direction for future study is immediately apparent. Namely, features of delegation ought to be incorporated within the broader framework of separation of powers in order to address the original question empirically evaluated by Howell (2003): *when* will (or can) the President act alone? Ultimately, the key dependencies revealed by the model may impact the President’s initial decision to act alone—and indeed, Congresses choice to veto those actions.

## 2.7 Appendix: Proofs

### Lemma 1

For discussions of the result in Equation 4, see Epstein and O'Halloran (1999; 248), Volden (2002a; 113), or Gailmard and Patty (2007; 879).

### Lemma 2

Given the discussion of Equation 5, its proof is omitted.

### Lemma 3

Given the discussion of Equations 8, the proof is omitted.

### Lemma 4

Given the discussion of Equations 9-10, the proof is omitted.

### Lemma 5

Given the discussion of Equations 11-13, the proof is omitted.

### Proposition 1

Given Lemmas 1-5, the President's maximization problem reduces to the following set of scenarios.

For uninsulated agencies, when  $\mathbb{E} = 0$ ,  $x_A > x_M$  and  $\theta_s < |x_A - x_M|$ ,

$$\max_d EU_P = - \int_{-R}^{x_A-d} (\omega + d) \frac{1}{2R} d\omega - \int_{x_A-d}^{x_A+d} x_A \frac{1}{2R} d\omega - \int_{x_A+d}^R (\omega - d) \frac{1}{2R} d\omega \quad (2.1)$$

which reduces to

$$\max_d EU_P = \frac{x_A^2 - 2x_A d - (d - R)^2}{2R} \quad (2.2)$$

Since  $\frac{\partial EU_P}{\partial d} = -\frac{2x_A - 2d - R}{2R}$ ,  $d^* = R - x_A$ . When  $\mathbb{E} = 0$ ,  $x_A < x_M$  and  $\theta_s > |x_A - x_M|$ ,

$$\max_d EU_P = - \int_{-R}^{x_A-d} (\omega + d) \frac{1}{2R} d\omega - \int_{x_A-d}^{x_A+M} x_A \frac{1}{2R} d\omega - \int_{x_M-d}^{x_M+d} x_M \frac{1}{2R} d\omega - \int_{x_A+d}^R (\omega - d) \frac{1}{2R} d\omega \quad (2.3)$$

which reduces to

$$\max_d EU_P = \frac{3x_A^2 - 2d^2 - 2x_Ax_M - 4dx_M + x_M^2 + 4dR - 2R^2}{4R} \quad (2.4)$$

Since  $\frac{\partial EU_P}{\partial d} = -\frac{-d-m+R}{R}$ ,  $d^* = R - x_M$ . When  $\mathbb{E} = 1$ ,  $x_A > x_m$ , and  $\theta_s < |x_A - x_M|$ ,

$$\max_d EU_P = - \int_{-R}^{-x_A-d-\theta_v+\theta_s} \tau \frac{1}{2R} d\omega - \int_{-x_A-d-\theta_v+\theta_s}^{x_A-d} (w + d) \frac{1}{2R} d\omega - \int_{x_A-d}^{x_A+d} x_A \frac{1}{2R} d\omega \quad (2.5)$$

$$- \int_{x_A+d}^{2x_A+d+\theta_v} (w - d) \frac{1}{2R} d\omega - \int_{2x_A+d+\theta_v}^R \tau \frac{1}{2R} d\omega \quad (2.6)$$

which reduces to

$$\max_d EU_P = \frac{-3x_A^2 + \theta_s^2 + 4\tau(d - R + \theta_v) - 2x_A(2d + \theta_s - 3\tau + \theta_v) - 2\theta_s(\tau + \theta_v)}{4R} \quad (2.7)$$

Since  $\frac{\partial EU_P}{\partial d} = -\frac{x_A-\tau}{R}$ ,  $d^* = 0$ . Finally, when  $x_A < x_m$ , and  $\theta_s > |x_A - x_M|$ ,

$$\max_d EU_P = - \int_{-R}^{-x_A-d-\theta_v+\theta_s} \tau \frac{1}{2R} d\omega - \int_{-x_A-d-\theta_v+\theta_s}^{x_A-d} (w + d) \frac{1}{2R} d\omega - \int_{x_A-d}^{x_M-d} x_A \frac{1}{2R} d\omega \quad (2.8)$$

$$- \int_{x_M-d}^{x_M+d} x_M \frac{1}{2R} d\omega - \int_{x_M+d}^{2x_A+d+\theta_v} (w - d) \frac{1}{2R} d\omega - \int_{2x_A+d+\theta_v}^R \tau \frac{1}{2R} d\omega \quad (2.9)$$

which reduces to

$$\max_d EU_P = \frac{-2x_A^2 - 4dx_M + x_M^2 + \theta_s^2 + 4d\tau - 4R\tau - 2\theta_s\tau - 2\theta_s\theta_v + 4\tau\theta_v - 2x_A(x_M + \theta_s - 3\tau + \theta_v)}{4R} \quad (2.10)$$

Since  $\frac{\partial EU_P}{\partial d} = -\frac{x_M - \tau}{R}$ ,  $d^* = 0$ . Therefore, uninsulated agencies receive no discretion when there is no information asymmetry. For insulated agencies, when  $\mathbb{E} = 1$ ,  $\theta_s - \theta_v > x_A$ , and  $x_A > x_m$ ,

$$\max_d EU_P =$$

$$-\int_{-R}^{x_M-d} \tau \frac{1}{2R} d\omega - \int_{x_m-d}^{x_A-d} (w+d) \frac{1}{2R} d\omega - \int_{x_A-d}^{x_A+d} x_A \frac{1}{2R} d\omega - \int_{x_A+d}^{2x_A+d+\theta_v} (w-d) \frac{1}{2R} d\omega - \int_{2x_A+d+\theta_v}^R \tau \frac{1}{2R} d\omega \quad (2.11)$$

which reduces to

$$\max_d EU_P = \frac{-4x_A^2 - 4dx_A + x_m^2 + 4x_A\tau - 2x_m\tau + 4d\tau - 4R\tau}{4R} \quad (2.12)$$

Given that  $\frac{\partial EU_P}{\partial d} = \frac{\tau - x_A}{R}$ ,  $d^* = 0$ . Likewise, when  $\mathbb{E} = 1$ ,  $x_A > \theta_s - \theta_v > 0$ , and  $x_A > x_M$ ,

$$\max_d EU_P =$$

$$-\int_{-R}^{\theta-d} \tau \frac{1}{2R} d\omega - \int_{\theta-d}^{x_A-d} (w+d) \frac{1}{2R} d\omega - \int_{x_A-d}^{x_A+d} x_A \frac{1}{2R} d\omega - \int_{x_A+d}^{2x_A+d} (w-d) \frac{1}{2R} d\omega - \int_{2x_A+d}^R \tau \frac{1}{2R} d\omega \quad (2.13)$$

which reduces to

$$\max_d EU_P = \frac{-4x_A^2 + \theta_s^2 + 4\tau(d - R + \theta_v) - 4x_A(d - \tau + \theta_v) - 2\theta_s(T\tau + \theta_v)}{4R} \quad (2.14)$$

and  $\frac{\partial EU_P}{\partial d} = \frac{\tau - x_A}{R}$ ,  $d^* = 0$ . When  $\mathbb{E} = 1$ ,  $\theta_s - \theta_v > x_A$ ,  $x_A < x_M$ , and  $x_M < 2x_A$ ,

$$\max_d EU_P = - \int_{-R}^{x_M-d} \tau \frac{1}{2R} d\omega - \int_{x_M-d}^{x_M+d} x_M \frac{1}{2R} d\omega - \int_{x_M+d}^{2x_A+d+\theta_v} (\omega-d) \frac{1}{2R} d\omega - \int_{2x_A+d+\theta_v}^R \tau \frac{1}{2R} d\omega \quad (2.15)$$

which reduces to

$$\max_d EU_P = - \frac{4x_A^2 + 4dx_M - x_M^2 - 2d\tau + 2x_M\tau + 2R\tau - 8x_AR\tau - 4dR\tau + 4R^2\tau + 4x_A\theta_v - 4R\tau\theta_v + \theta_v^2}{4R} \quad (2.16)$$

Again, since  $\frac{\partial EU_P}{\partial d} = \frac{\tau-2x_M+2R\tau}{2R}$ ,  $d^* = 0$ . When  $\mathbb{E} = 1$ ,  $\theta_s - \theta_v > x_A$ ,  $x_A < x_M$ , and  $x_M - d < 2x_A + d < x_M + d$ ,

$$\max_d EU_P = - \int_{-R}^{x_M-d} \tau \frac{1}{2R} d\omega - \int_{x_M-d}^{2x_A+d+\theta_v} x_M \frac{1}{2R} d\omega - \int_{2x_A+d+\theta_v}^R \tau \frac{1}{2R} d\omega \quad (2.17)$$

which reduces to

$$\max_d EU_P = \frac{-2x_Ax_M - 2dx_M + x_M^2 + 2x_A\tau + 2d\tau - x_M\tau - 2R\tau - x_M\theta_v + \tau\theta_v}{2R} \quad (2.18)$$

and, given  $\frac{\partial EU_P}{\partial d} = \frac{\tau-x_M}{R}$ ,  $d^* = 0$ . Finally in the case that  $\mathbb{E} = 1$ ,  $\theta_s - \theta_v > x_A$ ,  $x_A < x_M$ , and  $x_M - d > 2x_A + d$ —that is, there is no policy that  $A$  would want to select that would allow her to avoid sanctioning—the President’s expected payoff is simply  $-\tau$ . Therefore, for all scenarios in which the President and the Agent are equally informed ( $\mathbb{E} = 1$ ),  $d^* = 0$ .

Next, when  $\mathbb{E} = 0$ , the president has one of three maximization problems. When  $x_A > x_M$  and

$$\theta_s - \theta_v > |x_A - \omega|,$$

$$\max_d EU_P = - \int_{-R}^{x_M-d} (\tau + \omega) \frac{1}{2R} d\omega - \int_{x_M-d}^{x_A-d} (w + d) \frac{1}{2R} d\omega - \int_{x_A-d}^{x_A+d} x_A \frac{1}{2R} d\omega - \int_{x_A+d}^R (w - d) \frac{1}{2R} d\omega \quad (2.19)$$

which reduces to

$$\max_d EU_P = - \frac{2x_A d + (d - x_m - r)(d - \tau)}{2R} \quad (2.20)$$

and

$$\frac{\partial EU_P}{\partial d} = - \frac{2x_A + 2d - x_m - R - \tau}{2R} \quad (2.21)$$

Given  $\frac{\partial EU_P}{\partial d} = 0$ , this equation has one solution:  $d^* = \frac{x_m - 2x_A + R + \tau}{2}$ . When  $x_A < x_M$  and

$$\theta_s - \theta_v > |x_A - \omega|,$$

$$\max_d EU_P = - \int_{-R}^{x_M-d} (\tau + \omega) \frac{1}{2R} d\omega - \int_{x_M-d}^{x_M+d} x_M \frac{1}{2R} d\omega - \int_{x_M+d}^R (\omega - d) \frac{1}{2R} d\omega \quad (2.22)$$

which reduces to

$$\max_d EU_P = \frac{d^2 + \tau(x_m - R) - d(\tau + R - x_m)}{2R} \quad (2.23)$$

and

$$\frac{\partial EU_P}{\partial d} = \frac{-2d - x_m + R + \tau}{2R} \quad (2.24)$$

Given  $\frac{\partial EU_P}{\partial d} = 0$ , this equation has one solution:  $d^* = \frac{\tau + R - x_m}{2}$ . Finally, when  $|x_A - \omega| >$



$\theta_s - \theta_v > 0$  and  $x_A < x_M$ ,

$$\max_d EU_P = - \int_{-R}^{\theta_s - \theta_v - d} (\tau + \omega) \frac{1}{2R} d\omega - \int_{\theta_s - \theta_v - d}^{x_A - d} (\omega + d) \frac{1}{2R} d\omega - \int_{x_A - d}^{x_A + d} x_A \frac{1}{2R} d\omega - \int_{x_A + d}^R (\omega - d) \frac{1}{2R} d\omega \quad (2.25)$$

which reduces to

$$\max_d EU_P = - \frac{2x_A d + (d - 2R\tau)(d - R - \theta_s + \theta_v)}{2R} \quad (2.26)$$

and

$$\frac{\partial EU_P}{\partial d} = - \frac{2x_A + 2d + \theta_s - \theta_v + R + 2R\tau}{2R} \quad (2.27)$$

Given  $\frac{\partial EU_P}{\partial d} = 0$ , this equation has one solution:  $d^* = \frac{\theta_s - \theta_v + R + 2R\tau - 2x_A}{2}$ .

## Proposition 2

In general, the President delegates when the following condition is satisfied

$$EU_P(e = 1) > EU_P(e = 0) \quad (2.28)$$

Given Proposition 1, for insulated agencies, when  $\mathbb{E} = 0$ ,  $x_A > \theta_s - \theta_v > 0$ , and  $x_A > x_m$

$$EU_P(e = 1) = \frac{-4x_A^2 + \theta_s^2 + 4\tau(0 - R + \theta_v) - 4x_A(0 - \tau + \theta_v) - 2\theta_s(\tau + \theta_v)}{4R} \quad (2.29)$$

$$EU_P(e = 0) = -\tau \quad (2.30)$$

Since  $d^* = 0$ ,  $e^* = 0$  iff

$$-\tau > \frac{(-4x_A^2 + \theta_s^2 + 4\tau(0 - R + \theta_v) - 4x_A(0 - \tau + \theta_v) - 2\theta_s(\tau + \theta_v))}{4R} \quad (2.31)$$

which is satisfied when

$$\tau < \frac{2x_A + \theta_s}{2} \quad (2.32)$$

Likewise, given Proposition 1, when  $\mathbb{E} = 1$ ,  $\theta_s - \theta_v > x_A$ , and  $x_A > x_m$ ,  $e^* = 0$  iff

$$-\frac{4x_A^2 - x_M^2 + 2x_M\tau + 4R\tau - 2\tau\theta_v + \theta_v^2 + 4x_A(0 - \tau + \theta_v)}{4R} < -\tau \quad (2.33)$$

which is satisfied when

$$\tau < \frac{2x_A + x_M + \theta_v}{2} \quad (2.34)$$

When  $\mathbb{E} = 1$ ,  $\theta_s - \theta_v > x_A$ ,  $x_A < x_m$ , and  $x_M - d < 2x_A + d + \theta_v$ ,  $e^* = 0$  iff

$$\frac{-2x_Ax_M + x_M^2 + 2x_A\tau - x_M\tau - 2R\tau - x_M\theta_v + \tau\theta_v}{2R} < -\tau \quad (2.35)$$

which is only satisfied when  $\tau < x_M$ . Finally, in the case where  $x_M - d > 2x_A + d + \theta_v$ , presidents' expected utility is  $-\tau$  regardless of the choice of Agent, so they are indifferent.

For the sake of completeness, also note that for uninsulated agencies, given Proposition 1, when  $\mathbb{E} = 1$ ,  $\theta_s < |x_A - x_M|$ , and  $x_A > x_m$ ,  $e^* = 0$  iff

$$\frac{-3x_A^2 + \theta_s^2 + 4\tau(-R + \theta_v) - 2x_A(+\theta_s - 3\tau + \theta_v) - 2\theta_s(\tau + \theta_v)}{4R} < -\tau \quad (2.36)$$

which is satisfied when

$$\tau < \frac{x_A + \theta_s}{2} \quad (2.37)$$

When  $\mathbb{E} = 1$ ,  $\theta_s > |x_A - x_M|$ , and  $x_A < x_m$ ,  $e^* = 0$  iff

$$\frac{-2x_A^2 + x_M^2 + \theta_s^2 - 4R\tau - 2\theta_s\tau - 2\theta_s\theta_v + 4\tau\theta_v - 2x_A(x_M + \theta_s - 3\tau + \theta_v)}{4R} < -\tau \quad (2.38)$$

which is satisfied if

$$\tau < \frac{2x_A^2 + 2x_Ax_M - x_M^2 + 2x_A\theta_s - \theta_s^2 + 2x_A\theta_v + 2\theta_s\theta_v}{6x_A - 2\theta_s + 4\theta_v} \quad (2.39)$$

### Proposition 3

Note that  $EU_P(e = 0) = -\int_{-R}^R (\tau + |\omega|) \frac{1}{2R} d\omega$ , which reduces to  $-\tau$ . For insulated agencies, given  $d^* = \frac{x_m - 2x_A + R + \tau}{2}$  when  $\mathbb{E} = 0$ ,  $\theta_s - \theta_v > x_A$ , and  $x_A > x_m$ ,  $e^* = 0$  iff

$$-\tau > \frac{4x_A^2 + (x_m + R - \tau)^2 - 4x_A(x_m + R + \tau)}{8R} \quad (2.40)$$

Assuming  $R > x_A$ , this condition cannot be satisfied, so  $e^* = 1$ . In the case of  $x_A < x_m$ ,  $e^* = 0$  iff

$$-\tau > -\frac{\tau(x_m + R) - \frac{1}{4}(r - x_m + \tau)^2}{2R} \quad (2.41)$$

Again, given  $R > x_A$ , this condition cannot be satisfied, so  $e^* = 1$ . Finally, when  $x_A > \theta_s - \theta_v > 0$  and  $x_A < x_m$ , the President develops policy in-house if the following condition holds.

$$-\tau > \frac{4x_A^2 + (\theta_s - \theta_v + R - \tau)^2 - 4x_A(\theta_s - \theta_v + R + \tau)}{8R} \quad (2.42)$$

Given the assumptions specified, this inequality cannot be satisfied and  $e^* = 1$ . Thus, the President always delegates to insulated agencies.

For uninsulated agencies, given Proposition 1, when  $\mathbb{E} = 0$ ,  $x_A > x_m$  and  $\theta_s < |x_A - \omega|$ ,  $e^* = 0$  iff

$$\frac{x_A^2 - 2x_A(-x_A + R) - ((-x_A + R) - R)^2}{2R} < -\tau \quad (2.43)$$

which is satisfied when

$$\tau < \frac{-x_A^2 + x_A R}{R} \quad (2.44)$$

When  $x_A < x_M$  and  $\theta_s > |x_A - \omega|$ ,  $e^* = 0$  iff

$$\frac{3x_A^2 - 2(-x_M + R)^2 - 2x_A x_M - 4(-x_M + R)x_M + x_M^2 + 4(-x_M + R)R - 2R^2}{4R} < -\tau \quad (2.45)$$

which is satisfied if

$$\tau < \frac{-3x_A^2 + 2x_A x_M - 3x_M^2 + 4x_M R}{4R} \quad (2.46)$$

Thus, delegate is not always optimal when dealing with an uninsulated agency.

## POLITICIZATION AND RESPONSIVENESS IN EXECUTIVE AGENCIES

### 3.1 Introduction

In April 2013, Rep. Bill Posey (R-FL) recounted a recent interaction with the Department of Commerce—complaining it failed to reply to a letter in a timely manner or answer any of his questions: “They have no problem demanding [...] information from the private sector, but the government sector is completely unwilling to go through the least little amount of trouble to provide Congress with that same information.”<sup>1</sup> His comments are indicative of a common refrain among legislators. The accountability of unelected officials is a perennial concern for politicians and scholars alike. To study the responsiveness of these officials, scholars most often focus on watershed moments—statutory delegation of authority (e.g. Epstein and O’Halloran 1999; Krause 2010; Moe 2012) or high-profile investigations (e.g. Kriner and Schwartz 2008; McGrath 2013; MacDonald and McGrath N.d.)—leaving out the vast majority of day-to-day interactions. I study bureaucratic responsiveness by examining the most frequent type of contact among the branches: direct requests made by members of Congress to executive agencies.

Though policymaking in the United States is punctuated by lawmaking, these congressional requests fill the governance void on a daily basis. To put this in perspective: the Federal Communications Commission (FCC) appeared in six oversight hearings in the 113th Congress. By contrast, they received around 125 congressional requests *per month* in that same period. These requests are important enough that most agencies have bureaus and offices dedicated to processing

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<sup>1</sup>Congressional Record Vol. 159, No. 58: H2302-H2303 (Thursday, April 25, 2013), <http://www.gpo.gov/fdsys/pkg/CREC-2013-04-25/html/CREC-2013-04-25-pt1-PgH2302-2.htm>.

them.<sup>2</sup> The requests themselves are diverse. Some are classic examples of congressional casework.<sup>3</sup> Others voice complaints about agency decisions, request private briefings on a particular subject, or recommend agency actions (Ritchie 2016). The data set I present contains over 20,000 of these cases between 2007-2015 collected through a series of Freedom of Information Act (FOIA) requests. I use these new data to reveal the influence of elected principals on bureaucratic responsiveness in the American system.

In brief, I argue that that bureaucratic agencies prioritize congressional requests to minimize the probability of sanctioning and serve broader agency goals. By implication, there is considerable variation in responsiveness *within* Congress as public officials balance the preferences of multiple principals (Wood and Waterman 1994; Hammond and Knott 1996; Whitford 2005; Gailmard 2009; Bertelli and Grose 2009). In keeping with a conventional understandings of institutional power in Congress, I argue that agencies are more responsive to committee chairs and majority party legislators (Arnold 1979). This study differs from existing work, however, by highlighting the role of the president—arguing that presidents have significant capacity to channel benefits to co-partisans. Specifically, I argue that through the use of political appointments, presidents can generate a co-partisan bias that matches—and even exceeds—the institutional advantage of majority and committee chair status. In this way, this study makes contributions to existing lines of inquiry in the study of congressional-bureaucratic relations, agency behavior, and presidential influence.

Focusing on congressional requests allows me to examine the behavior of many agencies simultaneously. The diversity of executive agencies complicates the study of bureaucracy. It is problematic to compare the provision of healthcare in the Veterans Administration (VA) with the licensing of nuclear power plants in the Nuclear Regulatory Commission (NRC). As a result of these limitations, past work seldom analyzes the behavior of more than one agency. Nearly all federal agencies handle congressional requests, providing a uniquely comparable function performed across time. Thus, the process by which requests are fulfilled provides an opportunity to test claims about bureaucratic “outputs” that might generalize across the executive branch.

Empirically, I find support for the notion that bureaucratic responsiveness to Congress is me-

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<sup>2</sup>For example, in the Department of the Interior, requests flood the Office of Congressional and Legislative Affairs (OCL).

<sup>3</sup>I discuss categorizing types of requests in Section 3.4.

diated by presidential influence. My analysis reveals that members of the President’s party are strategically prioritized. This finding supports a growing literature that investigates the political implications of presidential control of the executive branch (McCarty 2000; Berry, Burden, and Howell 2010; Hudak 2014; Kriner and Reeves 2015<sup>a,b</sup>; Dynes and Huber 2015; Rogowski N.d.). This work demonstrates systematic political bias in the allocation of federal spending favoring the electoral interests of the President. I find similar bias in the responsiveness of bureaucratic agencies. Moreover, in keeping with work on political control and bureaucratic structure (e.g. Moe 1985), the analysis suggests that prioritization of presidential co-partisans is conditional on politicization of the bureaucracy: the effect increases in magnitude as the number of political appointees increases.

This study also supports existing research that suggests political control of bureaucratic agencies adversely affects performance (Huber and McCarty 2004; Krause, Lewis, and Douglas 2006; Lewis 2007, 2008). Political appointees complicate the approval of responses by adding managerial layers in agency hierarchy. Thus, despite the partisan difference outlined above, I find that appointees have a net-negative impact on responsiveness to Congress as a whole. In the following sections, I provide a theory of bureaucratic responsiveness based on the political incentives of agency officials. I present a new data set of agency correspondence with members of Congress. An analysis of patterns in agency response times supports the argument that these understudied channels of communication are, in part, governed by the political incentives of unelected officials.

### 3.2 Political Determinants of Bureaucratic Responsiveness

I study bureaucratic responsiveness by examining how agencies prioritize daily tasks generated by congressional contact. In this context, I equate responsiveness to the level of “effort” or “priority” an agency places on a given request. This is somewhat distinct from prior research, which understands responsiveness in a variety of alternative ways. A vast body of theoretical and empirical work, for example, conceptualizes responsiveness as spatial disagreement between agent-selected outcomes and the preferences of elected principals (e.g. Epstein and O’Halloran 1999; Volden 2002<sup>a</sup>; Huber and McCarty 2004; Bendor and Meirowitz 2004; Gailmard and Patty 2007; Wiseman 2009; Fox and Jordan 2011).<sup>4</sup> Bureaucrats are said to be more or less *responsive* in terms of the policies they

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<sup>4</sup>For recent reviews and evaluations of this work, see Moe (2012) and Carpenter and Krause (2015).

select—rather than the priorities they set. Related research has also investigated responsiveness by looking at patterns in federal spending (Berry, Burden, and Howell 2010; Hudak 2014; Kriner and Reeves 2015*a,b*; Rogowski N.d.; Berry and Gersen 2015; Hudak 2014; Anderson and Potoski 2016). In his foundational study, Arnold (1979) analyzes the distribution of grant spending—with the explicit notion that agencies are more responsive when they distribute resources to a given congressional district. This research tackles critically important aspects of responsiveness by focusing on outcomes that elected principals care about, but there are good reasons to suggest that the process of prioritizing and fulfilling information requests warrants theoretical and empirical consideration alongside those outcomes.

First and foremost, complaints about the timeliness of agency responses are quite common in the congressional record. Several liaisons described “frequent” complaints from members of Congress—in some cases, driven by particularly “aggressive” constituents whose contact with congressional staff motivates offices to seek expedited resolutions to inquiries.<sup>5</sup> At a minimum, this suggests a baseline congressional preference: all else equal, members of Congress would like to receive a response as soon as possible. Conceptually, then, effort and prioritization are somewhat analogous to the distribution of federal spending. Both draw on finite resources: labor and appropriations. In addition, most often, these resources provide benefits to individual legislators.<sup>6</sup>

Second, effort and prioritization offers an observable outcome that comports with canonical theoretical treatments of information sharing. The family of signaling models often used to study a variety of institutional settings typically assumes that the “receiver” cannot independently verify the veracity of the signal (e.g. Crawford and Sobel 1982; Gilligan and Krehbiel 1990; Gailmard and Patty 2013). In keeping with this conventional information asymmetry, this means that legislators have very limited capacity to evaluate the content of responses to congressional requests. On the other hand, the timeliness of response is known. To continue with the opening example, Bill Posey may not know whether the Commerce department was entirely truthful about the information provided. But he knows that he contacted them months ago, and can infer he was not first on their “to-do” list. Thus, effort and prioritization in request fulfillment offer a unique opportunity

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<sup>5</sup>Interview with EEOC staff, May 12, 2016; interview with FAA staff, May 5, 2016.

<sup>6</sup>In some cases, legislators make requests as groups. As I discuss in Section 3.3, the collective efforts of legislators is outside the scope of this study and poses additional measurement challenges.

to evaluate claims about bureaucratic responsiveness because members of Congress have clear preferences over an observable outcome that is easily quantifiable.

Given this understanding of responsiveness, I argue public officials face a dilemma when handling requests from members of Congress. Their agencies have information members of Congress desire, which leads to frequent requests. These requests require time and resources to fulfill, and the decision of how (and when) to respond is left almost entirely to the agency (Lewis, Selin, and Wood 2013; Wood and Lewis 2015).<sup>7</sup> Thus, this scenario offers two processes worthy of consideration. The first is the agency’s decision of how to *respond* to the request. The second is the legislator’s decision to *make* a request. Though the second process is interesting in its own right, the contribution of the present study is to analyze the first in depth.<sup>8</sup> Therefore, in this section, I present theoretical expectations for agency responsiveness based on the institutional position of a hypothetical public official. This is intentionally general, given agency-level variation in who holds primary responsibility for overseeing congressional requests.<sup>9</sup> The logic of this perspective is formalized in Appendix 3.7. However, since the basic intuition of this perspective is largely supported by existing work, I confine the main text to informal discussion. In brief, I argue that in a political system with multiple principals (e.g. Wood and Waterman 1994; Hammond and Knott 1996; Whitford 2005; Gailmard 2009; Bertelli and Grose 2009), bureaucratic responsiveness is conditioned by the relative capacity of each principal to reward or punish the agency. In the context of the United States, this means that agency responsiveness to Congress will be a function of the institutional power structure within the House and Senate, as well as the political control of the

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<sup>7</sup>Agencies are legally obligated to respond in somewhat rare circumstances. This generally involves an antecedent statute that explicitly requires the agency to provide Congress with a report. Even then, the deadlines for these reports are frequently missed or ignored entirely. Subpoenas do not appear in the correspondence logs herein considered (see McIntosh, Gitenstein, and McDonnell 2014).

<sup>8</sup>Note, the theory I present in Appendix 3.7 models both processes. In addition, the empirical strategy in Section 3.4 is designed with the antecedent data generating process in mind—accounting for all potential legislator-specific confounds. A recent study by Ritchie (2016) finds evidence that most policy-related requesting is a function of variation in constituency demands—which will be largely accounted for by the fixed-effects approach I rely on. Nonetheless, this remains a potentially fruitful line of inquiry for future research.

<sup>9</sup>Larger agencies typically have dedicated offices coordinate with relevant bureaus. For others, the office of the administrative head performs this function.



sitting president.

### 3.2.1 Institutional Power in Congress

Processing congressional requests is costly because it presents an additional task beyond the agency's core mission and the functions prescribed by congressional statutes. In many cases, the officials charged with handling such requests have additional responsibilities.<sup>10</sup> Agencies with dedicated personnel handling such requests face coordination problems with other offices, since the information demanded lies outside in the liaison office. Whether one argues bureaucrats care about policy (Epstein and O'Halloran 1994, 1999), budget maximization (Niskanen 1971), or some combination of policy and material self-interest (Arnold 1979; Gailmard and Patty 2007), responsiveness is costly. For zealots, slackers, and budget maximizers alike, responding to inquiries takes time and personnel, which does not directly serve any of the official's imputed goals. There are several potential considerations, however, which rule out complete non-responsiveness as a viable option. More specifically, Congress and the President prefer agencies to be responsive and wield a variety of rewards and punishments that the official must take into account.

Since members of Congress prefer a more responsive agency, balancing this uniform desire and the cost of fulfilling requests leads public officials to consider the institutional power of legislators. This institutional power is critical, since agencies draw delegated authority and appropriations from Congress—while laboring under the possibility of sanctioning. MacDonald (2010, 2013), for example, shows that members of Congress frequently target agents with limitation riders to influence policy implementation. Moreover, congressional oversight hearings and special investigations demand time and preparation that the official would prefer to avoid (McGrath 2013; Kriner and Schwartz 2008; Aberbach 1990). Additionally, though congressional efforts to curtail bureaucratic discretion via statute may be difficult in practice (Volden 2002*a*), punitive legislation is always constitutionally available. Each of these impose costs on the official, which vastly outweigh any effort that would be required to fulfill a request.

Therefore, public officials must determine which legislators have the capacity to reward and sanction their agency. Given the power structure within Congress, the most obvious legislators

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<sup>10</sup>This is particularly true in smaller agencies that handle fewer cases (Interview with FLRA staff, May 19, 2016).

who wield this authority are committee chairs. The capacity to impose sanction distinguishes these chairs from rank and file members. Calling and scheduling hearings falls within their direct purview.<sup>11</sup> As McGrath (2013) notes, hiring and supervision of committee staff provides them with expertise required to perform oversight. Additionally, though committee chair power is not static over time (e.g. Zelizer 2000), an extensive literature has placed committee chairs at the center of the lawmaking process (e.g. Fenno 1973). More recent work by Volden and Wiseman (2014), for example, has shown that committee chairs tend to be more effective lawmakers; the bills they introduce are more likely to clear procedural hurdles and become law.

**Committee Chair Hypothesis:** *Agencies will be more responsive to committee chairpersons than to rank-and-file legislators.*

Ultimately, committee chair status is a credible signal of institutional power in Congress which should lead officials to strategically prioritize their requests. However, it is not the only potential signal of the capacity to reward and punish. Though rank-and-file members of the majority party do not have the same expertise or institutional power of committee chairs, their collective voice wields tremendous power in the lawmaking process. This gives the bureaucrat a variety of reasons to favor the majority party. Securing favorable legislation may hinge on the cultivation of a reputation of expertise and competence the bureaucrat could foster through the handling of congressional requests (e.g Carpenter 2010). Launching special investigations and final passage of punitive legislation requires a floor vote. Thus, in addition to favoring chairs, the bureaucrat must take into account majority party status.

**Majority Hypothesis:** *Agencies will be more responsive to members of the majority party.*

### 3.2.2 Presidents and Politicization

The previous hypotheses largely comport with a perspective on congressional-bureaucratic relations that can be traced at least as far back as Arnold (1979). However, as much existing research highlights, bureaucrats are often forced to balance the demands of multiple principals. Recent

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<sup>11</sup>As of the beginning of 2015, chairs in the House have unilateral authority to issue subpoenas.

work on geographic allocation of federal spending suggests this fact warrants consideration. More specifically, a body of research that suggests the president strategically allocates federal largesse (Berry, Burden, and Howell 2010; Kriner and Reeves 2012; Hudak 2014; Kriner and Reeves 2015 *a,b*; Rogowski N.d.).<sup>12</sup> Though congressional request fulfillment does not necessarily provide the immediate, measurable benefit of within-district spending, co-partisans benefit from an administrative state systematically more responsive to their requests. Congressional casework, for example, is often considered a key component of incumbency advantage (Fiorina 1977; Johannes and McAdams 1981; Johannes 1983; Cain, Ferejohn, and Fiorina 1984). Agency responsiveness (in part) determines how quickly legislators process the demands of individual constituents. Moreover, direct correspondence allows members to gather policy-relevant information which may aid in the production of new legislation. Thus, influencing the flow of information and services between Congress and the bureaucracy would allow the President to channel tangible benefits to co-partisans. Beyond the hundreds of principals in Congress, then, the official must consider the preferences of the sitting President—who possesses a variety of tools for political control.

There are a variety of well-studied institutional factors that may influence the President’s capacity for influence. For example, past work has shown presidents strategically design agencies to promote compliance with presidential preferences (Howell and Lewis 2002; Lewis 2003). More broadly, existing studies have investigated structural features of agencies that may determine the degree to which they are capable of making decisions independent of supervision (Selin 2015). These features are important—in that, they may influence responsiveness to congressional requests. However, in the context of the present study, I largely set them aside in order to isolate the effect of personnel decisions for two reasons. First, the temporal focus of this study leaves few cases of over-time variation in agency structure that could be leveraged for empirical study. Absent such variation one would have to rely on cross-sectional analyses of agencies—which, for reasons I discuss in Section 3.4, is highly problematic. Second, aside from the rare opportunity to alter institutions, personnel decisions are a president’s critical mechanism for influencing agency decision-making (Lewis 2008, 2011; Hollibaugh 2014; Hollibaugh, Horton, and Lewis 2014; Bonica, Chen, and Johnson 2015).

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<sup>12</sup>See Dynes and Huber (2015) for an critique of some of this work, which suggests district preferences partly explain these patterns. It is also worth noting that this work largely contradicts Arnold (1979), who writes that “presidents usually have little influence over the many thousands of allocational decisions bureaucrats make annually.” (68)

Political appointees influence responsiveness in several ways. First, they enable presidential influence by introducing both *ex ante* and *ex post* checks on bureaucratic behavior. They place additional steps in the approval process for replies to certain requests—allowing them to influence responsiveness directly. For instance, as several liaisons suggested, these appointees ensure that agency decisions related to requests are consistent with the “message” of the acting agency head.<sup>13</sup> Second, political appointees can help the President monitor the official’s decision-making—revealing the degree to which the agent’s actions align with the President. In this way, responses which do not undergo executive review can still be observed after the fact by a political manager. Thus, just as institutional power within Congress helps to determine how responsive the official is to congressional preferences, we can expect political appointees to influence the official’s responsiveness to presidential preferences.

**Politicization Hypothesis:** *Agencies will be more responsive to members of the president’s party. This effect will increase in magnitude as politicization increases.*

This implies that presidents have the capacity to counteract the advantages afforded to legislators with institutional leverage in Congress by altering the structure of agencies through personnel choices. Though relatively intuitive, it presents a rare opportunity to adjudicate between alternative potential patterns of responsiveness. Under divided government, officials are faced with weighing the relative influence of Congress and the President—in effect, choosing between which principal to satisfy.

Finally, it is important to consider additional consequences of the influence above. Research on “organizational thickening” suggests that additional managerial layers negatively impact basic agency functions (Light 1995). There are good reasons to expect this general phenomenon extends to the context of handling congressional requests. Coordination is the primary function of the official tasked with handling these requests. Congressional liaisons must work with other offices to produce responses. In some cases, those responses must be approved by executives. In this way, political appointments directly disrupt the official’s coordination efforts. One common means of politicization, known as “layering,” adds political appointees as managers atop existing career

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<sup>13</sup>These requests require approval “to ensure that the response is consistent with the Chair’s message on the issue” (Interview with EEOC staff, May 12, 2016).

staff. Though these additional managerial layers facilitate more faithful pursuit of the President’s policy goals, they also create barriers to request fulfillment. The mere fact that an additional manager must review and sign off on the official’s decision stunts the flow of information between the branches.

**Performance Hypothesis:** *Agencies will be less responsive as politicization increases.*

Their impact on responsiveness is in-keeping with studies that suggest political appointees often damage agencies’ ability to carry out their basic functions. In the context of policy implementation, this means that political appointees can have a systematic, negative impact on the efficacy of public programs (Huber and McCarty 2004; Krause, Lewis, and Douglas 2006; Lewis 2007; Gallo and Lewis 2012).<sup>14</sup> In existing research, this effect is driven by significant differences in prior experience among political appointees and career civil servants. It also is important to distinguish the above expectations from the appointment process. Past studies demonstrate the allocation of appointees is a function of trade-offs with respect to patronage, effective governance, congressional preferences, and political control (Lewis 2008; Hollibaugh 2014; Hollibaugh, Horton, and Lewis 2014; Bonica, Chen, and Johnson 2015). This section explains the downstream impact of that allocation. Changing the incentives of the official may influence the “optimal” level of politicization in an agency. Holding this process constant is a key task for the empirical model I present in the following sections, but it is beyond the theoretical scope of this paper.

In summary, I argue bureaucratic responsiveness is largely a function of the broader power structure that agency officials operate within. In prioritizing congressional requests, they consider the preferences of multiple principals and the degree to which those principals can reward and punish their behavior.

### 3.3 Data

A dataset ideally suited to test the above argument would have three features. First, it would contain records from many administrative agencies—rendering any findings generalizable across

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<sup>14</sup>Note, however, several studies raise questions about whether other features of bureaucratic structure influence performance and responsiveness (Krause and Douglas 2005; Yackee and Yackee 2010).

the executive branch. Second, it would include a sufficiently long series of Congresses so that the relationships uncovered are less time-bound. Third, it would contain records of both congressional requests and agency responses so that an ideal measure of responsiveness could be extracted. Unfortunately, these three goals conflict in practice. As a result of decentralized record-keeping and the volume of records, it is infeasible to collect data with *both* ideal scope and measurement. Since the objective of this research is to produce generalizable findings about the nature of congressional-bureaucratic interactions, I constructed a dataset with the broadest possible scope.

In total, the dataset contains 24,845 requests made by individual members of Congress to administrative entities between 2007-2015.<sup>15</sup> Here, a “request” means any contact from a legislator to an agency that elicits a response.<sup>16</sup> This includes traditional congressional casework as well as general inquiries related to agency policies. Distinguishing between types of requests is taken up as a measurement task in Section 3.4 and Appendix 3.10, given that the primary goal is to account for variation in the typical time or effort it takes to process different requests. The expectations in the previous section, however, should generalize to all types of requests. Following Lewis and Selin (2012), “agencies” are defined as executive branch entities headed by Senate-confirmed appointees (5 U.S.C. §551(1)). The data are aggregated correspondence logs kept by agencies themselves and were collected via Freedom of Information Act (FOIA) request.<sup>17</sup>

In the data, agency correspondence with members of Congress covers a wide variety of policy areas and purposes. Some inquiries reflect classic examples of constituency service. For example, the Federal Labor Relations Authority (FLRA) adjudicates charges of unfair labor practices under 5 U.S.C. §7116. Thus, members of Congress routinely make inquiries that reference specific case numbers on behalf of an individual constituent. Moreover, the grant awarding functions of the

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<sup>15</sup>The dataset does contain several hundred “group” requests made by multiple legislators. In order to avoid assumptions about ideological composition and other relevant indicators of group power, these observations have been excluded.

<sup>16</sup>Note, in a small subset of cases, no response was ever received. These observations are omitted since, in most cases, the correspondence required no response (e.g. “thank you for attending this event..”).

<sup>17</sup>The bulk of these requests were made October 2014, many of which remain unfulfilled. Formal responses from each agency in the dataset are a matter of public record. These can be accessed via the corresponding agency’s website, and will be provided by the author upon request.

National Science Foundation (NSF) generate a substantial proportion of the agency’s inter-branch correspondence—as members write support letters for applicants seeking funding.<sup>18</sup> Though legislators often forward letters from concerned citizens, in other cases, they make inquiries about policy actions that are not on behalf of a particular constituent. Sen. Jack Reed (D-RI), for example, has expressed concerns over the Department of Veterans Affairs’ (VA) use of social security numbers as an identifier. In the U.S., nuclear plants cannot be operated without obtaining a license from the Nuclear Regulatory Commission (NRC). In February 2011, Sen. Jim Inhofe (R-OK) sent the NRC a letter voicing concerns about the license renewal process. Legislators also routinely demand descriptions of recent agency actions and briefing sessions. For example, during financial crisis of 2007-2008, Rep. Mike Capuano (D-MA) requested a report from the Board of Governors of the Federal Reserve after it agreed to provide \$25 billion to “bailout” Bear Stearns.<sup>19</sup>

Table 3.3.1 breaks down the dataset by agency and time series. Though the dataset represents a vast collection of inter-agency records, an agency’s inclusion is a function of data availability. Of the 76 agencies originally queried, this is the subset that has (as of this writing) provided complete, usable correspondence logs.<sup>20</sup> Overall, the agencies in Table 3.3.1 vary greatly in size and function—providing a record that transcends any particular policy area. Moreover, in any given year, these agencies collectively spend in excess of \$130 billion and employ over 400,000 people (excluding contractors).

Those with passing familiarity with the administrative state will recognize that the dataset over-samples commissions and government corporations. Independent agencies likely process FOIA requests of this type more quickly, precisely because they have fewer offices and bureaus with which to coordinate. Though features of agency structure other than appointments are largely beyond the scope of this paper, it may be that my findings may only generalize to agencies with similar

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<sup>18</sup>Political scientists might consider this fact during the next application cycle.

<sup>19</sup>Agency correspondence logs also include invitations to testify in committee. Since these letters do not satisfy the minimum condition of “seeking information” via informal correspondence and pertain to matters of scheduling, they have been excluded. Note also, because the Federal Reserve does not report employment data, they have been excluded from the analysis.

<sup>20</sup>Several agencies (the National Archives and Records Administration and the International Trade Commission, for example) provided logs that were incomplete, illegible, or otherwise unusable for the analysis below.

**Table 3.3.1** – Agencies and Time Series

Agency	From	To	<i>N</i>	Prop. Casework	Mean Response Time (Days)
Corporation for National & Community Service*	June 2009	Nov. 2014	660	0.96	22.3
Equal Employment Opportunity Commission	Jan. 2007	Nov. 2014	4,475	0.99	30.2
Federal Communications Commission	Jan. 2011	Nov. 2014	5,724	0.45	35.1
Federal Deposit Insurance Corporation*	Jan. 2007	Nov. 2014	6,319	0.27	59.1
Federal Labor Relations Authority	Jan. 2007	Dec. 2013	63	0.9	13.9
Federal Reserve*	Jan. 2008	Jan. 2012	1,057	0.01	45.9
Federal Trade Commission	Jan. 2008	Dec. 2009	121	0.18	24.6
Merit Systems Protection Board	Jan. 2007	Nov. 2014	515	1.00	15.0
National Science Foundation	Jan. 2008	Jun. 2015	1,087	0.53	18.8
National Labor Relations Board	Jan. 2011	Sept. 2014	165	0.98	43.9
Nuclear Regulatory Commission	Jan. 2007	Dec. 2010	179	0.16	50.2
U.S. Agency for International Development	Jan. 2007	Jan. 2014	1,088	0.44	139.3
Department of Veterans Affairs	Jan. 2010	Nov. 2014	3,125	0.41	104.2
Department of Interior	Jul. 2009	Dec. 2012	2,515	0.31	41.5
Department of Energy*	Jan. 2007	Sept. 2014	5,111	0.62	46.43

Note: *N* includes only those observations available for analysis; others that could not be included due to gaps in agency records—or those that where not correspondence from members of Congress—are excluded. \*= indicates agency excluded from primary analysis (due to data limitations); robustness checks that include some of these agencies are reported in Appendix 3.13.

levels of institutional independence (e.g. Selin 2015). I discuss this issue in depth in Appendix 3.11, but it is important to note that since these characteristics are time-invariant (given the relatively short time series), they will be accounted for by the fixed-effects design discussed in the following section.

Collecting evidence of congressional-bureaucratic relations on this scale provides a unique opportunity to evaluate the perspective laid out previously. However, this does require relying on an imperfect measure of responsiveness: the time between first contact and case closure. This outcome has several virtues. Metrics comparable across agencies are rare birds in the study of bureaucracy. Responding to individual congressional inquiries is a unique activity—in that all federal agencies do it. Thus, response time is uniquely comparable. In addition, and in contrast to alternative strategies like content analysis, all later empirical analyses will be presented in terms of a readily interpretable unit: days. However, ultimately, this decision is one of necessity. Correspondence logs *do not contain* the contact and response letters—such that no alternative content-based measure is available.

This results in a key tradeoff. Response time may not perfectly capture *responsiveness* in the way that theory demands. Suppose responsiveness has two primary dimensions: (1) the *quality* of the response and (2) the *timeliness* of fulfillment. I directly observe time, but not quality. This



raises a few possibilities. First, the dimensions could be inversely associated. Higher response times could be associated with lower quality responses. For my theory, this represents a “best case scenario.” It maps directly onto my conceptual understanding of responsiveness. Second, there could be no association between the two. That is, the quality of the response could be completely independent of timeliness. In this case, an additional assumption is required: all else equal, members of Congress prefer shorter response times to longer. Given that assumption, the data would still provide a meaningful test of the theory because response time, by definition, measures an aspect of responsiveness that legislators care about. This second possibility hews to the argument of this paper, which is that agencies strategically prioritize requests from members of Congress. They may fulfill the request “faithfully” by making every attempt to provide the MC with the information or service they desire, regardless of political affiliation or position. But the order in which they fulfill those requests is strategic. Third, and more problematically, response time and quality could be positively associated. Here, longer response times would indicate a “more thorough” response. The extent that time and quality are positively associated represents measurement error in the outcome of interest.

Thankfully, the results provide some leverage on this issue. The measurement error associated with “thorough” responses guard against Type II error, by making the null hypothesis difficult to reject. In the worst case, all or most of the data would contain thorough-responses, rendering any inferences reversed. In many cases, however, a “reversed direction” error seems implausible in light of the predictions and past work. For example, if I find shorter response times for committee chairpersons, I would have to conclude that bureaucratic agencies were *less* responsive to MCs in these positions. In summary, response time is not responsiveness—but response time does (in theory) represent a meaningful measurement of responsiveness under most circumstances. The circumstances in which it does not either bias against the proposed hypotheses, or would represent flatly implausible inferences.<sup>21</sup>

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<sup>21</sup>Its is also worth noting that the Legal Services Corporation (though not included in the analysis due to missingness of key covariates) reported the length of responses and the number of questions asked by legislators—plausible stand-ins for quality of response and complexity of request. In the log, the number of pages in a response is not predictive of response time. Moreover, there is no statistical association between the number of questions and response time. In this small sample log, therefore, there is little evidence that request quality or complexity are

### 3.4 Methods

To get at the influence of partisanship, appointments, and legislator power, I pool all agencies, employing fixed-effects regressions to identify the qualities of interest. This provides a conservative test of the hypotheses, since much of the variation in response time will be accounted for by legislator and agency fixed-effects. The unit of analysis is a request made by a member of Congress to an agency. Formally, the basic structure of the aggregate models is<sup>22</sup>

$$\ln(\text{ResponseTime}) = \beta_0 + \beta_1 \text{Chair}_{ijt} + \beta_2 \text{PresParty}_{it} + \beta_3 \text{MajParty}_{it} + \beta_4 \text{Politicization}_{jt} + \\ \beta_5 \text{PresParty}_{it} * \text{Politicization}_{jt} + \gamma \mathbf{X}_{it} + \zeta \mathbf{X}_{jt} + \alpha_i + \delta_j + \phi_t + \epsilon$$

where  $i$  indexes legislators,  $j$  indexes agencies, and  $t$  indexes time. Here,  $\alpha_i$ ,  $\delta_j$ ,  $\phi_t$  denote dummy variables for each legislator, agency, and year, and  $\mathbf{X}_{it}$  and  $\mathbf{X}_{jt}$  denote vectors of time-varying legislator and agency characteristics which I discuss in the following section. As a result of this model specification, the estimates leverage variation within an agency-legislator dyad across time.

Thus, identification in these models comes from four sources: appointment to (or removal from) a committee chair position, changes in presidential administration, changes in majority party within chamber, and variation in appointments over time.  $\beta_1$  answers the following question: When a member of Congress becomes a committee chair, does their typical response time change?<sup>23</sup> This specification is useful, in that it allows me to control for unobserved factors that may influence an individual legislator's propensity to *become* a committee chair (or lose it) and response time simultaneously. Likewise,  $\beta_3$  answers the question: When a member of Congress becomes a majority party legislator, do their response times within a given agency change?  $\beta_2$  is an estimate of the effect of the change in presidential administration (where possible). Given the scope of the data,

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determinants of response time.

<sup>22</sup>I estimate least squares models for the primary set of results. However, the results are not sensitive to this decision.

I present a replication of the main findings in a negative binomial regression in Appendix 3.13.

<sup>23</sup>During the time series in question, there was turnover in House and Senate standing committee chairs *within* periods of party control. That is, in the House 13 chair switches were not the result of changes in majority party status. In the Senate, there were 22 such switches. I discuss whether this turnover is sufficient in Section 3.5.3.

this means the presidential transition from George W. Bush to Barack Obama. In expectation,  $\beta_2$  should be negative, indicating that Republicans were prioritized under Bush, and Democrats were prioritized under Obama. Because of the interaction term, this effect will be conditional on agency appointments. This will be driven by quarterly variation in political appointments over time.

A key advantage of this approach is that all time-invariant, unobserved characteristics of both legislators and the agencies they contact will be accounted for by fixed-effects. Agencies vary meaningfully in their capacity to handle legislators' requests. This is apparent in the correspondence logs themselves: some are *handwritten*, some are spreadsheets kept by a single individual, others are generated by complex record management systems. This is also reflected in the distribution of response times by agency, shown in Appendix 3.11, Figure 3.11.3. While some agencies have strict manuals and procedures for accommodating requests that lead to clustering of responses, others appear to manage the process in a way that promotes delay. Thus, absent this specification, factors that might influence response times—such as heterogeneity in agency structure or request management procedure—might bias the estimates.

### 3.4.1 Variables

The dependent variable, *Response Time*, is the logged number of days between first contact and final response. This transformation was employed to normalize the distribution of response times, which are highly skewed: they range from from 1 (a next-day response) to 1,631 (or 4.5 years), with a median of 27 days. Figure 3.11.3 plots the kernel density of response times by agency, providing a visualization of this obvious non-normality. Because response times in excess of 10 months are extremely rare, one might worry that observations beyond that threshold are driving the results. I re-estimated each analysis, excluding these observations. Doing so does not substantively change the findings presented, so they are uncensored in the included results.

The first key independent variable is *Chair*, coded “1” if the legislator was the chairperson of a jurisdictionally-relevant standing committee.<sup>24</sup> This poses a measurement task. As King (1997)

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<sup>24</sup>Committee assignments through the 112th Congress come from Stewart (2011). I updated the data through the 113th Congress. Though I have included only standing committee chairs, I also investigated differences in responsiveness among subcommittee chairs and appropriations committee “cardinals.” In replications of the models below with these variables included, none appears significantly different from rank-and-file members.

notes, persistent jurisdictional ambiguities enable legislators to claim new oversight territory—rendering the precise purview of each committee difficult to define. To aid this effort, I used agency-reported jurisdictional overlap from the 2014 Survey on the Future of Government Service (Lewis and Richardson 2015; Richardson 2015). These self-reported jurisdictions have the benefit of tapping bureaucrats’ perception of the most relevant committee—which may more accurately condition their behavior.<sup>25</sup> Another concern is that committee chair status will function as a weak proxy for seniority. To account for this, I include seniority: a simple count of Congresses in office. *President’s Party* is a dichotomous indicator for whether the legislator and the President share partisan identification. *Majority Party* is an indicator variable coded “1” when the legislator is in the majority party of their given chamber. Committee leadership turnover is often a function of changes in majority party status—so inclusion of this variable also helps isolate the influence of chairpersons.<sup>26</sup>

*Politicization* is a ratio of the total number of political appointees in an agency over the number of career SES managers. A similar ratio has been employed by past work that studies politicization (Lewis 2008; Berry and Gersen 2015; Wood and Lewis 2015). As Lewis (2008) notes, measuring politicization as either the number of appointees or a ratio of the number of appointees to total employees is inappropriate. Larger agencies will have more appointees—irrespective of politicization. Moreover, a ratio of appointees to careerists would be driven by shifts in agency employment wholly unrelated to politicization. The ratio I employ, then, provides a measure of politicized management—the key theoretical concept discussed in Section 3.2. As in previous work, this ratio *does not* have an upper bound of 1 because the number of political appointees occasionally exceeds career managers. The sum of non-career Senior Executive Service (SES), Schedule C, and senate-confirmed political appointees (PAS) was obtained from the Office of Personnel Management’s Fedscope database.<sup>27</sup> This information is reported quarterly by most agencies in the

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<sup>25</sup>Self-reported jurisdiction maps closely to a variety of other alternative sources. For instance, annual House oversight plans tend to reference the same committee–agency dyads.

<sup>26</sup>Note, all variables are coded based on the date of initial contact. This is most appropriate because agency officials suggest that the prioritization decision is made, roughly at the time of contact. There are roughly 1,600 (depending upon the model) observations that span more than a single Congress.

<sup>27</sup><http://www.fedscope.opm.gov/>. Acquiring accurate counts of PAS employees is notoriously difficult—with some

sample. As an alternative to this measure, I re-estimate the results with the logged number of political appointees. I report these substantively similar results in Appendix 3.13.

The critical modeling task in my approach is to account for additional factors which vary over time within legislators and agencies. I include a dummy variable for whether a legislator served as the ranking minority member of the committee (*Ranking*). In an era of congressional politics in which both parties have realistic probabilities of controlling each chamber, agencies may anticipate who could harm them in the future.<sup>28</sup> I also control for budget, which is the yearly appropriation for a given agency—as well as, staff, which is the total number of employees (reported on a quarterly basis). Both could plausibly influence an agency’s ability to respond to a given request—as each is often used as a proxy measure for bureaucratic capacity. Most importantly, I control for agency workload at the time of request, defined as the number of cases which have yet to receive a final response. As Figure 3.11.2 demonstrates, workload provides a novel, granular measure of exogenous events and contact seasonality that may influence an agency’s ability to respond to a given request.

Another measurement task is distinguishing between different types of requests. Thus far, my discussion of congressional requests has been sufficiently broad to include nearly *any* contact

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relying on an alternative source, the *Plum Book*. However, this document is published only periodically—leaving much missing data. Though some discrepancies exist between the sources, the number of PAS employees appears relatively stable over time. Since my design leverages over time variation, any errors will have minimal impact on the estimates of  $\beta_4$  and  $\beta_5$ .

<sup>28</sup>For supplementary analyses, I included indicator variables for leadership positions. Again, majority party changes result in turnover of important leadership positions within both chambers and the key theoretical characteristic of legislators is the capacity to sanction. Thus, it would be inappropriate to treat a representative who becomes Speaker of the House as “just another legislator” given their capacity to shape policy by steering the party’s procedural cartel (Jenkins and Stewart 2013). I included indicator variables for House and Senate leadership positions in both the minority and the majority. Following Cox and McCubbins (1993), legislators are coded as part of the House majority leadership if they are appointed to one of the following roles: Speaker, Majority Leader, or Majority Whip. The corresponding minority positions are Minority Leader and Minority Whip. For the Senate, I classify the President Pro Tempore, Majority Leader, and Majority Whip as the majority leadership, and the Minority Leader and Whip as the minority. I combined individual leadership roles, providing an estimate of “leadership status” for the House Majority/Minority and Senate Majority/Minority legislators. Inclusion of these variables does not substantively change the main results because there is very little turnover in leadership positions independent of changes in majority party during the time series. For that reason, I do not report these results.

between an individual legislator and an executive agency. I argue that bureaucratic responsiveness is valuable because it provides legislators with information and services that advance their goals. Thus, the mere fact that an MC has contacted an agency is an indication that the data satisfy that baseline standard. Any categorization of request type requires subjective decisions about “borderline” classifications. Given the volume of requests, an analysis adopting this approach may be sensitive to these choices. However, ignoring differences in the content of requests is likely to have confounding effects for the purposes of the analysis.

With these trade-offs in mind, I make the minimal (but important) distinction between those requests which are classic examples of congressional casework, and those which are not. By “casework,” I mean an inquiry made by a legislator on behalf of a particular constituent which pertains to services provided by the agency to that constituent. These requests typically place the office of the MC as a mediator between agency and citizen.<sup>29</sup> The residual category, then, is policy-related requests which do not serve a specific constituent. For example, when Barbara Boxer (D-CA) contacted the NRC about constituents’ safety concerns regarding the San Onofre Nuclear Generating Station in San Clemente, CA, I classified her request as casework. When Boxer contacted the NRC about the commission’s reactor licensing procedures, I classified her request as non-casework. Even this distinction is subject to “gray-area”, in that, at some level all requests are about policy—regardless of whether they aim to serve a particular constituent. However, making this distinction is essential for modeling purposes, since some legislators may be more likely to make casework-related requests. All else equal, casework-related requests may take less time to fulfill, because they often require less coordination among offices. For the Equal Employment Opportunity Commission, responding to a case status inquiry might take less time than providing a response with justifications of their general enforcement patterns.

To implement this classification, I used a straightforward, supervised learning procedure for text analysis of correspondence subjects—described in detail in Appendix 3.10. Hand-coding tens of thousands of observations is time-consuming, expensive, and difficult to replicate. Instead, I hand-coded a small subset of subject lines which were then used to predict the category of the remaining requests. One important advantage of this approach is that alternative categorizations pursued in

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<sup>29</sup>Specific examples related to the agencies within the dataset can be found in Appendix 3.10, Table 3.10.2.

future research can be easily implemented. Overall, this method reproduced hand-coding extremely well. Out-of-sample accuracy for  $V$ -fold cross validation ranged between 0.93-0.99, depending on the agency.

### 3.5 Results

To recap, I estimate least-squares regression models that include agency, legislator, and year fixed effects in order to identify the effect of partisanship and politicization. The inclusion of agency fixed effects controls for both observed and unobserved time-invariant characteristics that may make agencies more or less capable of handling requests. The inclusion of legislator fixed effects controls for constituency and office-based characteristics that render request more or less difficult to process. Year fixed effects control for year-specific shocks.

As shown in Table 3.5.1, the estimation results strongly support the Majority, Politicization and Performance Hypotheses.<sup>30</sup> The coefficients for majority party, politicization, and the key interaction between presidential co-partisanship and politicization are all statistically significant in the expected direction. These findings are consistent with the bureaucratic responsiveness model described in Section 3.2 and formalized in Appendix 3.7. Moreover, they are not sensitive to a myriad of alternative model specifications—many of which, I present in Appendix 3.13. Overall, I find strong evidence that politicization depresses responsiveness in the bureaucracy—redounding to the benefit of presidential co-partisans.

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<sup>30</sup>Descriptive statistics for each variable are reported in Appendix 3.11, Table 3.11.1.

**Table 3.5.1** – Modeling Agency Responsiveness to Members of Congress

Variable	(1)	(2)	(3)	(4)
Majority Party	−0.09*** (0.02)	−0.09*** (0.02)	−0.11*** (0.03)	−0.12*** (0.03)
Presidential Co-Partisan	0.02 (0.04)	−0.03 (0.04)	0.02 (0.04)	0.02 (0.04)
Politicization Ratio	0.22** (0.10)	0.62*** (0.11)	0.78*** (0.11)	0.65*** (0.14)
Co-Partisan × Polit. Ratio	−0.42*** (0.11)	−0.27*** (0.10)	−0.34*** (0.10)	−0.38*** (0.10)
Agency Budget (in billions)	0.03*** (0.001)	0.02*** (0.003)	0.02*** (0.003)	0.02*** (0.003)
Staff (in thousands)	−0.01*** (0.0005)	−0.04*** (0.003)	−0.03*** (0.003)	−0.03*** (0.003)
Workload (in hundreds)	0.08*** (0.01)	0.01 (0.01)	0.01 (0.01)	0.01 (0.01)
Casework	−0.17*** (0.02)	−0.15*** (0.02)	−0.15*** (0.02)	−0.16*** (0.02)
Committee Chair	−0.32*** (0.05)	−0.31*** (0.05)	−0.11 (0.07)	−0.12* (0.07)
Committee Ranking	−0.04 (0.07)	−0.04 (0.06)	0.003 (0.08)	0.002 (0.08)
Seniority	0.0004 (0.002)	−0.002 (0.001)	−0.10*** (0.01)	−0.03 (0.02)
Constant	3.65*** (0.05)	3.37*** (0.05)	7.17*** (0.57)	5.28*** (0.72)
Agency Invariant Controls	✓			
Legislator Invariant Controls	✓	✓		
Agency Fixed Effects		✓	✓	✓
Legislator Fixed Effects			✓	✓
Year Fixed Effects				✓
N	17,925	18,949	18,949	18,949
Adjusted R <sup>2</sup>	0.18	0.22	0.25	0.27
Dependent variable: logged number of days from initial contact date to final response; least squares estimates with standard errors in parentheses; independence dimensions from Selin (2015) included as agency controls in (1); party & chamber dummies included as legislator controls for (1) and (2); fixed-effects and time-invariant controls omitted for readability; *p<0.05; **p<0.01; ***p<0.001				



### 3.5.1 Response Time and Presidential Control

How does co-partisanship and politicization influence agency response times? To contextualize the results in Table 3.5.1, column 4, consider the median request response time of 27 days. For an agency with zero political appointees (and thus, no politicization) I find no statistically distinguishable difference between co-partisan and the opposing party legislators. However, as the politicization ratio increases to 1, presidential co-partisans can expect to see their request fulfilled 8 days earlier than the opposing party legislators. I plot the marginal effect of this interaction for the full model in Figure 3.5.1. All specifications tell a similar story. For readers who prefer to rely on agency and legislator specific, time-invariant controls (such as party, chamber, agency independence), the estimated difference in response time for Table 3.5.1, column 1 at a politicization ratio of 1 is 9.25 days. Again, this difference is very near zero (between a 1.6 day reduction and a 2.7 day increase in response time) when politicization is zero.

These cases represent legislator requests both on behalf of a constituent and those more generally related to policy. Thus, while any individual case is minimally significant (except, of course, to the legislators and constituents involved), this systematic difference constitutes a substantial advantage for presidential co-partisans in the aggregate. It should also be noted that though a typical quarterly movement of the politicization ratio within an agency is more modest than  $0 \rightarrow 1$ , there are still cases of substantial changes in politicization in the dataset. In some cases, this variation is driven by delays in the appointment process. For example, the transition from 2008-2009 and subsequent delays in confirmation resulted in a full year of vacancies in politically appointed positions in the U.S. Agency for International Development—resulting in a politicization ratio of zero. As these positions were filled in 2010, the politicization ratio increased to 0.33, eventually rising as high as 0.41 during the Obama administration.<sup>31</sup> Other cases appear to be closer to layering—in that they are the result of an additional 2-3 non-career SES and schedule C appointees.

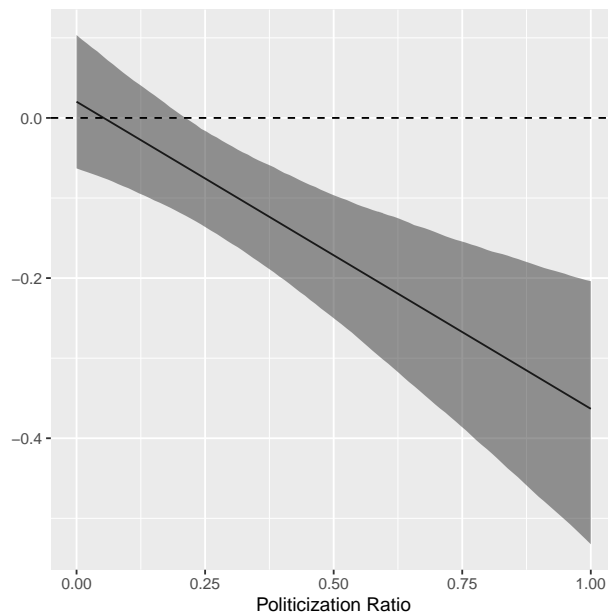
These findings are also robust to a variety of alternative specifications: an alternative dependent variable, alternative measure of politicization, and the inclusion of an additional agency (the Department of Energy, which was excluded from the primary analysis because of measurement

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<sup>31</sup>Of course, PAS variation does not account for the lion's share of change in the ratio. Changes in the number of career SES managers, schedule C, and non-career SES appointees with influence the politicization ratio.

issues generated by the format of its log). These results are reported in Appendix 3.13. Additionally, given concerns raised by scholars looking to improve studies that estimate multiplicative interaction effects (Brambor, Clark, and Golder 2006; Hainmueller, Mummolo, and Xu 2016), it is important to note that there is sufficient common support to compute the effect of politicization across parties. It should also be noted that, if anything, the linear effects presented in Table 3.5.1 and Figure 3.5.1 *underestimate* the interactive effect at low values of politicization. The binning estimator recommended by Hainmueller, Mummolo, and Xu (2016) suggests the interactive effect may be non-linear—with diminishing returns to politicization after a given threshold (Figure 3.12.2). Diagnostic results and alternative tests related to this interactive effect are reported in Appendix 3.12. Thus, the results presented in text and reported in the supplementary material strongly suggest that executive agencies tend to prioritize presidential co-partisans as the president politicizes their leadership—in keeping with the theory of bureaucratic responsiveness developed earlier.

**Figure 3.5.1** – Conditional Impact of President’s Party on Response Time



Estimates simulated from results in model 4.

### 3.5.2 Response Time and Performance

The results also support the basic intuition of the performance hypothesis. Despite the difference between co-partisan and opposing party legislators, politicization produces a *net negative* effect on agency responsiveness. These delays can be quite substantial. For the median request of an opposing party legislator, a politicization ratio of 1 is associated with a 25 day increase in response time, compared with the hypothetical absence of politicization. For presidential co-partisans—in keeping with the effect described in the previous section—this effect is dampened. For the results in column 4, presidential co-partisans requesting at a time in which an agency’s politicization ratio is 1 can expect to have their response delayed 8 days, compared to the counterfactual appointee-free agency. To return to the running example of USAID, Figure 3.11.2 provides descriptive verification of this effect. As USAID political appointees were confirmed in 2010, response times increased—a trend which is reflected in an uptick in daily agency workload.

These findings are broadly consistent with those of Lewis (2007) and Wood and Lewis (2015) who find empirical evidence that attempts to make agencies more responsive to elected officials negatively impact performance. The latter find that FOIA requests fulfilled by agencies with higher levels of politicization take longer to respond. The magnitude of their finding related to performance and politicization, however, is less than those presented in this study. One key distinction that may explain this difference is that agencies are legally obligated to respond to FOIA requests. Moreover, their responses have a statutorily prescribed time limit. Though that time limit is frequently broken or ignored, responsiveness in the area of congressional requests may be a function agencies’ comparatively higher level of discretion. First-hand accounts suggest, agencies are left to develop their own deadlines and workflow procedures for fulfilling congressional requests.

Again, these results are robust to alternative specifications of both the independent and dependent variable. In Appendix 3.13, Table 3.13.2, I report results which use the logged total number of political appointees as a proxy for responsiveness. Each model includes measures of agency staff—such that the divisor in the politicization ratio is already accounted for. For this alternative specification, a 25 percent increase in political appointees results in a 7 percent increase in expected response time. Thus, regardless of the measurement strategy chosen for politicization, the effect on responsiveness is consistently negative. This finding provides empirical support for the notion

that politicized leadership depresses responsiveness and performance in executive agencies.

### 3.5.3 Response Time and Legislator Power

The data provide strong support for the majority hypothesis—yet, mixed evidence of the committee chair hypothesis. More specifically, the estimates suggest that members of the majority party receive responses 3 days, on average, faster than minority party legislators.<sup>32</sup> Again, this effect is consistent across a variety of alternative specifications: both those reported in the main results in Table 3.5.1 and robustness checks in Appendix 3.13. In addition, the point estimate sets up an interesting contrast between the politicization finding discussed in Section 3.5.1. At low levels of politicization, majority party status holds a distinct advantage over presidential co-partisanship. However, as politicization increases, co-partisanship matches—and even exceeds—majority party status. This highlights a key contribution of these findings. The data suggest that presidents can alter the incentives of congressional liaisons to benefit co-partisans: even when they lack a majority, politicization can render the bureaucracy more responsive to their requests.

I find decidedly mixed evidence of committee chair prioritization. More specifically, after the inclusion of legislator fixed-effects (facilitating a comparison of legislators before and after gaining chair status), the effect of committee chair status is inconsistent: it could be as low as zero or as large as an 8 day reduction.<sup>33</sup> When relevant committee chairs are compared to rank-and-file legislators, on the other hand, the estimated effect is a 10 day reduction. This suggests two possibilities. First, committee chair status could be a proxy for relevant legislator knowledge or constituency interest that tends to result in lower response times. In this case, chair status in and of itself may not have an effect independent of those antecedent characteristics. Second, there could be insufficient turnover in committee positions to precisely estimate the effect of committee chair status. As noted earlier, this design relies on 35 within-majority turnovers in committee chair status for both the House and Senate. Though the data do not allow me to adjudicate between these possibilities, evaluation of committee chair hypothesis remains an important question for future research—particularly as analyses like that of Berry, Burden, and Howell (2010) and Berry

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<sup>32</sup>Or, alternatively, between a 1.6 and 4.4 day reduction based on a 95% confidence interval.

<sup>33</sup>As Rainey (2014) highlights, it is important to note that the lack of statistical significance does not demonstrate committee chair status has “no effect.”

and Fowler (2015) challenge canonical notions of committee power in Congress.

Finally, it is also worth noting that several other conditioning variables appear to have intuitive associations with response time. More specifically, casework tends to be completed 5 days earlier, on average—in keeping with fact that agencies typically develop streamlined protocols to handle these requests. Moreover, higher agency budgets are marginally associated with longer response times—a billion-dollar increase results in a half day increase in response time. The addition of staff is associated with lower response times. An additional thousand employees is associated with a one day reduction. Given their magnitude, these variables can be considered evidence of no-effect.

### 3.6 Discussion and Conclusions

This study examined the way bureaucratic agencies fulfill congressional requests for information. Past work has relied on comparatively rare events to investigate the bureaucracy’s place among American political institutions. Though they rarely make headlines, legislator information requests represent the lion’s share of interactions between Congress and executive agencies. Consequently, they are a key avenue for democratic representation in the administrative state. I have argued, however, that this system is not impartial. Instead, bureaucratic agencies strategically prioritize requests: their responsiveness is conditioned by the broader separation of powers structure in which they operate.

More specifically, though agencies react predictably to majority party legislators, their responsiveness is also influenced by the preferences of the President. The analysis revealed that agencies tend to prioritize requests from presidential co-partisans conditional on the level of politicization in a given agency—with more political appointees producing a sharper difference between co-partisans and opposition legislators. Empirically, I find that at certain levels of politicization, the co-partisan advantage can match or exceed that of majority party status. This point should not be understated. It provides a rare illustration of how presidential control influences the flow of information between Congress and the bureaucracy.

Importantly, however, I found that political managers have a net-negative impact on responsiveness. Regardless of party, additional political appointees result in longer response times. This supports a perspective on organizational structure, more broadly, that suggests the layering of

managerial positions can adversely impact basic agency functions. In this case, additional review results in a measurable delay in request fulfillment. In addition, this finding comports with existing research that has highlighted the adverse consequences of politicization (Huber and McCarty 2004; Krause, Lewis, and Douglas 2006; Lewis 2007; Gallo and Lewis 2012; Wood and Lewis 2015).

These requests also provide new avenues in the study bureaucratic structure. As Moe's (1989) seminal work highlighted, the organization of bureaucracies departs radically from technical efficiency because structural choices are made by interested political actors. In practice, the behavioral implications of this structure are difficult to analyze. Without a plausibly comparable function, variation among agencies cannot be leveraged for the purposes of addressing longstanding theoretical questions.<sup>34</sup> I found that one feature of bureaucratic structure—presidentially appointed personnel—has a measurable impact on agency responsiveness.

More broadly, examining agency correspondence presents a variety of other possibilities for future research. One clear way forward might be to determine whether the distribution of federal spending is mediated by congressional requests. Ultimately, prior work studies outcomes (spending) and a vector of legislator characteristics—rather than legislative behavior. Direct requests to agencies may be one means members achieve those outcomes. An additional possibility might be to use congressional correspondence to study how legislators represent their constituents. Yet another possibility would be to extend this analysis beyond Congress, since correspondence logs often contain contacts from governors and state legislators. Thus, shifting focus to this understudied behavior will continue to bear fruit.

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<sup>34</sup>See Wood and Lewis (2015) and Berry and Gerson (2015), who use FOIA responses and federal spending, respectively, as comparable units of behavior.

### 3.7 Appendix: Bureaucratic Responsiveness Model

I present a model of bureaucratic responsiveness in which an individual legislator makes a request to an executive branch official. The official then decides how to prioritize the response and their decision is subject to *ex post* review from the legislator and the agent’s superior—who both have the ability to sanction the agent. The outline and implications of the results are presented briefly to support the theoretical discussion in Section 3.2, which contains discussions and references of relevant existing theories and supporting work.

I define responsiveness,  $r$  as a function ( $f$ ) of the level of effort or priority an agent places on a request  $t \in \mathbb{R}^+$ , the value of information for the opposition party  $\gamma \in \mathbb{R}^+$ , and whether a legislator is politically aligned with the present administration  $a \in \{0, 1\}$ —where “1” indicates alignment. This implies, so long as  $\gamma > 0$ , that responses from the bureaucracy are more valuable for members of the opposition party. This is consistent with basic intuitions about legislative behavior. For instance, the value differential could come from the fact that opposition party legislators are less successful pursuing policy goals through formal means like hearings and lawmaking. Thus, the comparative utility of acquiring value by other means may be greater for members of the opposition. Moreover, the information and services acquired may be more useful precisely because they were performed by the opposite party. Formally,

$$r = f(t, \gamma, a) = 1 - e^{-(t+\gamma a)} \quad (3.1)$$

such that, without loss of generality,  $r$  is normalized between 0 and 1. The utility of the legislator  $L$  is

$$U_L = c(r + s_L[\omega(1 - r) - \tau_s] - \tau_c) \quad (3.2)$$

where  $c$  is the legislator’s binary choice of whether to contact the agency,  $s$  is the legislator’s binary choice to attempt to sanction the agent after the fact,  $\omega \in \Omega = \{0, 1\}$  is a random variable indicating whether the sanction is successful,  $\tau_s$  is the cost (or effort required) to initiate the sanction, and  $\tau_c$  is the cost of making a request. Let  $\omega = 1$  with probability  $p$ —a theoretical stand in for the institutional power of the legislator. There are two key assumptions in this function. First, Legislators prefer greater responsiveness on the part of the bureaucracy. Second, the successful

imposition of a sanction allows members to extract the information or services they would have received, were the Agent completely responsive. The utility of the the Agent  $A$  is

$$U_A = -t - s_L \omega \phi_L - s_M \phi_M \quad (3.3)$$

where  $\phi_L$  is the cost of legislative sanction to the Agent and  $\phi_M$  is the cost of sanction directed by a Manager. Importantly, this assumes Agents would prefer to exert less effort, be less responsive, and avoid any punishments—all else equal. Note, I make an argument for the generality of this assumption in Section 3.2. The supervisor comes in two types, either “neutral” ( $N$ ) or “political” ( $P$ ). Let the utility of the neutral Manager be

$$U_N = s_M[s_L - \tau_m] \quad (3.4)$$

and the utility of the political Manager be

$$U_P = a(s_M[1 - r + s_L - \tau_m]) + (1 - a)(s_M[s_L - \tau_m]) \quad (3.5)$$

in which,  $\tau_m$  is the cost of initiating a sanction on the part of the Manager. Importantly, these functions imply that by default, Managers care primarily about whether the action of the Agent results in a sanction (whether successful or not). If the Legislator decides to attempt a sanction, they are better off levying their own sanction. Critically, this *does not* mean that Managers only benefit from punishing subordinates. On the contrary, it implies that managers—aware of the incentives of their subordinates, punish them for engaging in levels of responsiveness *lower* than optimal, given the political environment. In effect, they value punishment of out-of-equilibrium behavior. The exception to this, of course, is the political Manager, who benefits from sanctioning the less responsive the Agent is to Legislators aligned with the administration. In other words, the model assumes that political managers benefit from identifying and punishing cases without an overt political bias towards presidential co-partisans.

The sequence of play follows: Nature determines the Manager’s type and whether a potential sanction initiated by the Legislator will be successful. The latter is known to  $L$ , but not to  $A$  (though  $A$  knows  $p$ ). The Manager’s type is common knowledge. The Legislator either makes a



request ( $c = 1$ ) or play ends and all players receive 0 payoff. If  $c = 1$ , then the Agent chooses a level of effort,  $t \in \mathbb{R}^+$ . The responsiveness of the request is revealed, and the Legislator (followed by the Manager) then decide whether or not to sanction.

### 3.7.1 Agent Sanctioning by Managers

Working backwards, it is immediately apparent that, neutral Managers sanction according to the following rule:

$$s_M^* = 1 \text{ iff } \tau_M < s_L, s_M^* = 0 \text{ otherwise.} \quad (3.6)$$

For political Managers, when  $a = 0$ , the same rule applies. However, when the Legislator is aligned  $a = 1$ , the Manager's decision rule is

$$s_M^* = 1 \text{ iff } \tau_M < 1 - r + s_L, s_M^* = 0 \text{ otherwise.} \quad (3.7)$$

Again, by construction, only political Managers reviewing the request of aligned Legislators take into account the responsiveness of the agent when deciding whether or not to sanction. Otherwise, the Manager only considers whether the Legislator has impose their own sanction. In this case, the Manager benefits by “piling on” punishment.

### 3.7.2 Agent Sanctioning by Legislators

Next, we find that Legislators sanction according to the following rule:

$$s_L^* = 1 \text{ iff } \tau_S < p(1 - r), s_L^* = 0 \text{ otherwise.} \quad (3.8)$$

This implies that more powerful legislators (e.g. those with high  $p$ ) have a higher threshold at which sanctioning is no longer worth the cost  $\tau_s$ . In addition, greater responsiveness (and greater bureaucratic effort) lowers this threshold. Naturally, these properties foreshadow several hypotheses tested empirically.

### 3.7.3 Mechanisms of Bureaucratic Responsiveness

Let  $t^*$  indicate the minimum level of effort the Agent must exert in order to avoid legislative sanction ( $s_L = 0$ ). Given the decision rule in the previous section,  $r$  must satisfy the following condition:

$$r = 1 - \frac{\tau_S}{p}. \quad (3.9)$$

Substituting  $f$  for  $r$  gives

$$1 - e^{-(t+\gamma a)} = 1 - \frac{\tau_S}{p}, \quad (3.10)$$

which reduces to  $t^* = -\ln(\frac{\tau_S}{p}) - \gamma a$ . This gives the following Agent decision rule: when the Manager is the neutral type, or the Manager is political and the Legislator is unaligned

$$t = t^* \text{ iff } \ln(\frac{\tau_S}{p}) + \gamma a \geq -p\phi_L - \phi_M, t = 0 \text{ otherwise.} \quad (3.11)$$

Let  $\hat{t}$  be the minimum level of effort the Agent must exert to avoid managerial sanction. Recall that  $r$  must equal  $1 - \tau_M$  for  $s_M^* = 0$ . Substituting  $r$  and reducing, this implies

$$\hat{t} = -\ln(\tau_M) - \gamma. \quad (3.12)$$

This produces the following condition:

$$t = \hat{t} \text{ iff } \ln(\tau_M) + \gamma \geq -p\phi_L - \phi_M, t = 0 \text{ otherwise.} \quad (3.13)$$

Given sufficiently high values of  $\phi_L$  and  $\phi_M$ , the hypotheses presented in Section 3.2 fall from  $t^*$ . Importantly, all else equal, bureaucratic effort and responsiveness increases as legislator power increases. As I argue in Section 3.2, a conventional understanding of institutional power in Congress implies that members of the majority party and committee chairs have the means and resources to exact punishment on agencies. Thus, this implication provides a logical justification of the **Majority Hypothesis** and the **Committee Chair Hypothesis**.

Turning to political management, the **Politicization Hypothesis** is a direct implication of a comparison of  $t^*$  and  $\hat{t}$ . More specifically, when  $a = 1$ , so long as  $\tau_M < \frac{\tau_S}{p}$ ,  $\hat{t}_P$  is strictly greater

than  $\hat{t}_N = t^*$ . In other words, political managers induce an agency bias in favor of presidential co-partisans. The key mechanism behind this effect is the fact that political managers care about agency responsiveness to co-partisans in a way that neutral managers do not. Whereas neutral managers want to incentivize Agent's to merely avoid legislative sanction, political Managers effectuate an agenda that aligns the Agent's priorities with presidential co-partisans.

### 3.7.4 Legislator Request Behavior

In addition, the model produces several implications regarding which legislators are more (or less) likely to make requests. Naturally, Legislators make requests so long as the cost of doing so ( $\tau_c$ ) is sufficiently low. Given a fixed value of  $\tau_c$  and  $t^*$ , the expected value of making a request increases as  $p$  increases. This implies that more powerful legislators will be more likely to make requests. In addition, it is important to know that because of  $f$ , even though Agencies exert more (or less) effort handling the requests of aligned (or opposed) legislators, the expected value of making a request is not always higher or lower for aligned legislators. In other words, all else equal, the model does not suggest that aligned or unaligned legislators will be more likely to make requests.

## 3.8 Appendix: Semi-structured Interviews with Agency Professionals

The main text contains references to interviews conducted with agency staff. The purpose of these interviews was to provide primary accounts of the process of request fulfillment (rather than “test” the theoretical argument). I contacted officials in liaison offices at every agency contained in the dataset, as well as others to provide additional context. Interviews were conducted via email and over the phone. Interviewees were asked a series of pre-prepared questions (which appear below), with latitude allotted for additional follow-up questions, interjections, and agency-specific questions (often informed by data).

### Interview questionnaire

1. Do the calls and letters come directly into your office, are they aggregated by other offices, or something else?

2. What is missed by the log - how much of this is informal?
3. How do you prioritize congressional requests?
4. About how many people work in that office?
5. How many of the requests would you say a typical caseworker handles per month?
6. Do you ever receive complaints from members of Congress about response times?
7. Are there certain times of year in which you get more or less requests?
8. Do you see any changes when there is a new chair/secretary/administrator?
9. Why would a request response be substantially delayed?
10. Do your responses have to go through an approval process? Can you describe that process?
11. Is your office headed by a political appointee? What role do they play a role in the process?
12. (agency specific questions)

### 3.9 Appendix: Correspondence Log Accuracy

Records varied in their completeness, format, and general quality. In some cases, the records themselves contained obvious typographical errors, which were corrected. These included various misspellings of the names of members of Congress, and case closure dates which were years prior to the date of first contact. In some cases, the record indicates that contact occurred on dates which do not exist (e.g. February 30th or November 31st). These non-dates were recoded to the equivalent day in the next month. For example, November 31st was recoded as December 1st. In effect, it was assumed that the individual keep the log simply forgot the month had ended.<sup>35</sup> In 119 cases, the agency recorded a response date that preceded the initial contact date. Since no systemic pattern in these errors was obvious, these observations have been excluded from the analysis.

Some records contained ambiguous legislator identifiers. To render as many observations as possible usable for analysis, correspondence dates and descriptions were used to identify legislators when possible. For example, though “McCarthy” does not uniquely identify a legislator in the

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<sup>35</sup>Note, there were 9 cases of recoding for first contact dates, and zero for case closure dates. Dropping these cases does not change any result presented in this paper.

110-113th Congresses, it was assumed that only Kevin McCarthy (R-CA) would make a query regarding public schools in Kern County, CA. In cases in which members were succeeded by sons (e.g. “Duncan L.” and “Duncan D.” Hunter), it was assumed that the request was made by the member in office on the date of the request. In very rare cases, requests were made by retired members of Congress—however, in each case, some note was usually made in the description of the case. Despite this protocol, in some cases, no outside information could be used to identify the member—these are not used in any of the analyses. Several correspondence logs contained contact with non-legislators. Using LegiStorm<sup>36</sup> and Inside Gov’s Congressional Staff Directory,<sup>37</sup> these observations were systematically searched for member staffers. In applicable cases, the observation was recoded to the member of Congress employing the staffer at the time of the request. Again, individuals who could not be identified are not used in any of the preceding analyses.

Figure 4.4.1 provides a sample of the data source: a page from the NSF’s congressional correspondence log. Note, the log includes a “need by” date, rather than an initial contact date. According to correspondence with the liaison office, this date is *automatically* set to two weeks after initial contact.

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<sup>36</sup><https://www.legistorm.com/>

<sup>37</sup><http://congressional-staff.insidegov.com/>

Figure 3.9.1 – NSF Correspondence Log

05/26/13 FOIA 15-120F  
Listing of selected records by operator: smacklin

Folder #	Status	Need by	Complete	Divisi	Location	Last Name	Folder type	Folder Subject
10000	COMPLETED	02/04/2008	02/05/2008	OLPA	CONG	Arcuri, Michael	Letter of Support	SUNY IT
10001	COMPLETED	02/04/2008	02/05/2008	OLPA	CONG	Feinstein, Dianne	Letter of Support	Letter of support of a proposal
10002	COMPLETED	12/21/2007	12/22/2007	OLPA	CONG	Doby, Christopher	Congressional Inquiry	Request for Information
10003	COMPLETED	01/24/2008	01/24/2008	OLPA	CONG	Gordon, Bart	No Reply Necessary	Thank you for invitation
10004	COMPLETED	01/28/2008	01/28/2008	OLPA	CONG	Ross, Mike	No Reply Necessary	Deputy Director, NSF
10005	COMPLETED	02/28/2008	01/28/2008	OLPA	CONG	Ross, Mike	No Reply Necessary	FYI
10006	COMPLETED	02/12/2008	02/12/2008	OLPA	CONG	Mikulski, Barbara	Letter of Support	Letter of support of a proposal Director, NSF
10007	COMPLETED	02/29/2008	01/29/2008	OLPA	CONG	McConnell, Mitch	Thank you Letter	FYI
10008	COMPLETED	01/29/2008	01/25/2008	OLPA	CONG	Senate, United	No Reply Necessary	FYI
10009	COMPLETED	02/12/2008	03/04/2008	OLPA	CONG	Kerry, John	Request for Information	Request for Information
10010	COMPLETED	03/14/2008	07/07/2008	OLPA	PUS	(b) (6)	Performance Rating Notify	Request for Information
10011	COMPLETED	02/07/2008	02/07/2008	OLPA	CONG	Anderson, Glenn	No Reply Necessary	FYI
10012	COMPLETED	03/24/2008	03/13/2008	OLPA	CONG	Inhofe, James	Detail Request	Request for Information
10013	COMPLETED	03/24/2008	03/27/2008	OLPA	CONG	Oliver, John	Detail Request	Request for information
10014	COMPLETED	02/25/2008	02/27/2008	OLPA	CONG	Davis, Arthur	Letter of Support	Director, NSF
10015	COMPLETED	02/15/2008	02/15/2008	OLPA	CONG	Inglis, Bob	No Reply Necessary	Deputy Director, NSF Thank You Letter
10016	COMPLETED	03/03/2008	02/28/2008	OLPA	CONG	Sestak, Joe	Letter of Support	Letter of support of a proposal
10017	COMPLETED	03/24/2008	04/17/2008	OLPA	CONG	Nelson, Bill	Letter of Support	Director, NSF
10018	COMPLETED	03/03/2008	03/10/2008	OLPA	CONG	Pickering, Chip	Letter of Support	Letter of support of a proposal
10019	COMPLETED	03/03/2008	03/06/2008	OLPA	CONG	Stevens, Ted	Letter sent to OPP	Request for Information
10020	COMPLETED	03/03/2008	03/06/2008	OLPA	CONG	Murkowski, Lisa	Letter sent to OPP	Request for Information
10021	COMPLETED	03/05/2008	02/28/2008	OLPA	CONG	Demint, Jim	Letter of Support	Letter of support for application
10022	COMPLETED	02/29/2008	02/28/2008	OLPA	CONG	Levin, Carl	Report to Congress	FISMA Report to Congress
10023	COMPLETED	03/08/2008	03/11/2008	OLPA	CONG	Gordon, Bart	Report to Congress	ACA report to Congress
10024	COMPLETED	03/10/2008	05/07/2008	OLPA	CONG	Coleman, Norm	Congressional Inquiry	Request for Information
10025	COMPLETED	03/10/2008	02/21/2008	OLPA	CONG	Inouye, Daniel	Report to Congress	ACA Sect. 7020
10026	COMPLETED	03/26/2008	02/26/2008	OLPA	CONG	Cooley, Thomas	Current Plan Letter	Forwarding a report
10027	COMPLETED	03/24/2008	06/04/2008	OLPA	CONG	Kuisper, Hans	Public Inquiry	Request for Information
10028	COMPLETED	02/27/2008	02/27/2008	OLPA	CONG	Baird, Honorable	Congressional Hearing	Prepare Testimony for Director
10029	COMPLETED	03/12/2008	02/25/2008	OLPA	CONG	Graham, Lindsey	Letter of support	Letter of support of a proposal
10030	COMPLETED	03/13/2008	05/14/2008	OLPA	CONG	Mollohan	Questions for the Record	Prepare responses to QFRs
10031	COMPLETED	03/13/2008	03/31/2008	OLPA	CONG	Voinovich, George	Letter of Support	Letter of support for application
10032	COMPLETED	03/01/2008	04/17/2008	OLPA	CONG	Frelinghuysen, Rodney	Questions for the Record	Prepare responses to QFRs
10033	COMPLETED	03/14/2008	04/21/2008	OLPA	CONG	Wolohan, Alan	Hearing transcript	Edit hearing transcript
10034	COMPLETED	03/14/2008	07/23/2008	OLPA	CONG	Vest, Charles	AD signature	Letter of invitation
10035	COMPLETED	03/17/2008	04/02/2008	OLPA	CONG	Cochran, Thad	Office Head signature	Letter of support of a proposal
10036	COMPLETED	03/18/2008	03/10/2008	OLPA	CONG	Brown, Henry	Division Dir. signature	Letter of support for application
10037	COMPLETED	03/18/2008	03/11/2008	OLPA	CONG	Cooley, Thomas	Transmittal letter	2007 Performance Highlights
10038	COMPLETED	03/19/2008	03/07/2008	OLPA	CONG	Arnold, Anthony	Request for Information	Response to Incoming letter
10039	COMPLETED	03/05/2008	03/05/2008	OLPA	CONG	Inouye, Daniel	Congressional Hearing	Director, NSF Letter of Invitation
10040	COMPLETED	03/24/2008	03/20/2008	OLPA	CONG	Specter, Arlen	Letter of Support	Letter of support for application
10041	COMPLETED	03/20/2008	03/13/2008	OLPA	CONG	Cooley, Thomas	Director, NSF signature	Reprogram Current Plan for E-Gov
10042	COMPLETED	03/21/2008	03/26/2008	OLPA	CONG	Brathwaite, Claude	Speaking Invitation	Director, NSF Letter of Invitation
10043	COMPLETED	03/19/2008	03/10/2008	OLPA	CONG	West, Geoffrey	Attendance Invitation	Director, NSF Letter of Invitation
10044	COMPLETED	03/20/2008	03/27/2008	OLPA	CONG	Coburn, Tom	Congressional Inquiry	Director, NSF Request for Information
10045	COMPLETED	03/21/2008	03/07/2008	OLPA	CONG	Lecourtier, Jacqueline	No Reply Necessary	Director, NSF FYI
10046	COMPLETED	03/10/2008	03/07/2008	OLPA	CONG	Collins, Susan	Congressional Inquiry	Director, NSF Request for Information
10047	COMPLETED	03/10/2008	03/07/2008	OLPA	CONG	Coleman, Norm	Congressional Inquiry	Director, NSF Request for Information
10048	COMPLETED	03/21/2008	07/23/2008	OLPA	CONG	Collins, Ron	Attendance Invitation	Director, NSF Letter of Invitation
10049	COMPLETED	03/24/2008	03/19/2008	OLPA	CONG	Horton, Eleanor	Attendance Invitation	Division Director Letter of Invitation
10050	COMPLETED	03/24/2008	03/20/2008	OLPA	CONG	Platts, Todd	Letter of Support	Division Director Letter of support for application
10051	COMPLETED	03/25/2008	03/27/2008	OLPA	CONG	Kennedy, Ted	Report to Congress	No Fear Act Report
10052	COMPLETED	04/16/2008	04/16/2008	OLPA	CONG	Macklin, Sheila	Letter of Support	Letter of support for application
10053	COMPLETED	03/25/2008	03/19/2008	OLPA	CONG	Voinovich, George	Division Dir. signature	Letter of support of a proposal

### 3.10 Appendix: Classification of Casework

Supervised text-analysis is ideally suited to the task of classifying observations as either “casework” or “non-casework.” To recap, I define casework as an inquiry made by a legislator on behalf of a particular constituent which pertains to services provided by the agency to that constituent. This classification task is critical, because casework and non-casework may have different baseline response times in expectation. Given its importance, procedure’s goal is to replicate hand-coding on a large scale.

In general, the procedure worked as follows. First, I hand-coded a random subset of observations. Seven learning algorithms were then “trained” using word frequencies from the case descriptions provided in the correspondence logs.<sup>38</sup> Each of resulting models then provide a prediction for un-coded observations using text in the log descriptions. The seven models then “vote” on whether the observation is or is not casework. Given two categories, a simple majority provides the consensus code—which is then used in analysis.

In sum, just over 2,000 hand-coded observations classified the complete dataset. Summary and validation statistics can be found in Table 3.10.1. Several agencies had sufficiently few observations that no automated procedure was necessary.<sup>39</sup> Overall, the procedure replicated hand-coding remarkably well. In most cases, the training set contained 100 observations. Though somewhat arbitrary, this decision follows Hopkins and King (2010), who find there are diminishing returns (in terms of accuracy) to classifying more than 500 observations. For this application, 100 is more than sufficient, because in most cases, the correspondence description is brief, and written in the kind of shorthand ideal for modeling. Key words—like “constituent”, “grant”, and “case”—appear frequently, and predict (with near perfection) whether the correspondence is casework-related. Following the recommendations of Grimmer and Stewart (2013), I performed  $V$ -fold cross-validation for each agency. In-keeping with expectations, the out-of-sample accuracy for each partition was high. The agencies for whom this accuracy is lowest (USAID, FTC, and NRC) use proper nouns in their descriptions more often than others.

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<sup>38</sup>Bagging, Boosting, GlmNet, MaxEnt, SLDA, SVM, decision-tree models were implemented using software developed by Jurka et. al 2015. Ensemble classification was chosen to improve accuracy (Jurafsky and Martin 2009).

<sup>39</sup>The MSPB indicated their correspondence log contained only casework. I classified these observations *ex ante*.

**Table 3.10.1** – Casework Classification Diagnostics

<i>Agency</i>	<i>Manual Coded</i>	<i>Consensus Coded</i>	<i>Missing</i>	<i>V-folds</i>	<i>Mean Out of Sample Accuracy</i>	<i>Proportion Casework</i>	<i>Mean Character Length</i>
MSPB	573	0	0			1	11
EEOC	100	5132	0	4	0.99	0.99	25.1
NLRB	132	0	51			0.98	9.3
CNCS	100	719	0	4	0.98	0.95	52.4
FLRA	73	0	0			0.9	58.9
AFRH	31	0	1			0.84	29.3
NSF	100	1144	0	4	0.99	0.5	23.8
FCC	100	5883	0	4	0.99	0.44	34.8
USAID	100	1017	0	4	0.97	0.43	153.5
VA	100	3103	0	4	0.99	0.4	60.6
FDIC	124	2353	4373	4	0.99	0.18	5.6
FTC	50	147	0	2	0.95	0.13	45.8
NRC	100	249	0	4	0.93	0.08	191.1
FED	100	1148	4			0.01	200.5
DOI	100	2250	0	4	0.99	90.2	
<i>Proportion casework calculated on non-missing descriptions; out of sample accuracy not sensitive to the number of folds chosen.</i>							

It is also important to note that the length and detail of the descriptions vary by agency. Table 3.10.1 presents the mean character length for each description by agency—which provides some indication of the level of detail in each log. Lower character lengths generally indicate more systematic coding. Though I used a general definition of casework to categorize the correspondence, the content of the individuals cases varies (predictably) by agency. Table 3.10.2 provides brief examples of typical casework found in the corresponding agency. Due to the sample of agencies, these generally fell into one of two categories: (1) grant support or (2) case status inquiries.

**Table 3.10.2** – What is Classified as Casework?

<i>Agency</i>	<i>Casework Examples</i>
MSPB	Name of constituent, case
EEOC	Charge, appeal, and complaint status inquiries
NLRB	Case numbers, unions, regions
CNCS	Support for grant applications, grant denial inquiries
FLRA	Constituent inquiries regarding FLRA decisions
AFRH	Admission to AFRH
NSF	Support for grant applications
FCC	Billing/service disputes, consumer complaints
USAID	Support for grant applications, employee grievances
VA	Pension benefits, delays, GI Bill claims, status of appeals
FDIC	FDIC-Qualified constituents, community bank forbearance
FED	Constituents encountering problems with loan modifications
FTC	Constituent mergers, FTC rule exemptions
NRC	Safety concerns regarding nuclear plants in district
DOI	Requesting waivers for collection bills, claim status inquiries



In sum, the above largely fulfilled the main promises of supervised machine-learning: drastically reducing the time required to classify observations while providing a replicable procedure which can be improved upon in future iterations.

### 3.11 Appendix: Descriptive Data Summaries

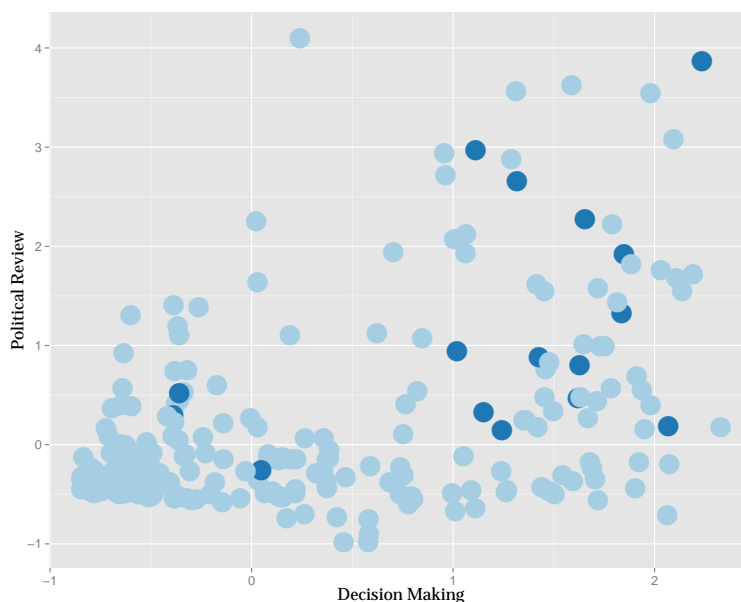
This appendix presents additional descriptive information about the dataset constructed for analysis. First, I present a more in-depth consideration of agency independence and the conditionality of the findings presented in the paper. As a reminder, the dataset is purely a function of data availability. That is, agencies are included based on their willingness to fulfill FOIA requests made by the researcher—as well as whether the fulfilled requests contained the necessary minimum information for analysis. In this instance, it appears that independent agencies process FOIA requests of this type more quickly, possibly because they have fewer offices and bureaus with which to coordinate.

Given that limitation, it is not surprising that the agency correspondence data differs in the two dimensions of independence Selin (2015) identifies—limitations on political appointments and review of decisions. As Figure 3.11.1 suggests, my sample is significantly more independent on both dimensions compared to the complete “population” of bureaucratic agencies.<sup>40</sup> Importantly, however, there is no reason to expect that the sample limits the ability to draw inferences about the more general predictions in Section 2. On balance, we might expect that the sample may be less responsive because it is less susceptible to both presidential and congressional sanction. The FDIC, for example, is not subject to the regular appropriations process—leaving them impervious to limitation riders (MacDonald 2010). If anything, institutional independence might bias *against* finding strategic prioritization of requests, since agency insulation suggests the strategic incentives laid out in Section 3.2 may be less salient.

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<sup>40</sup>The mean and distribution of each dimension is significantly greater in the agency sample according to K-S and Welch t-tests ( $p > 0.01$ ).

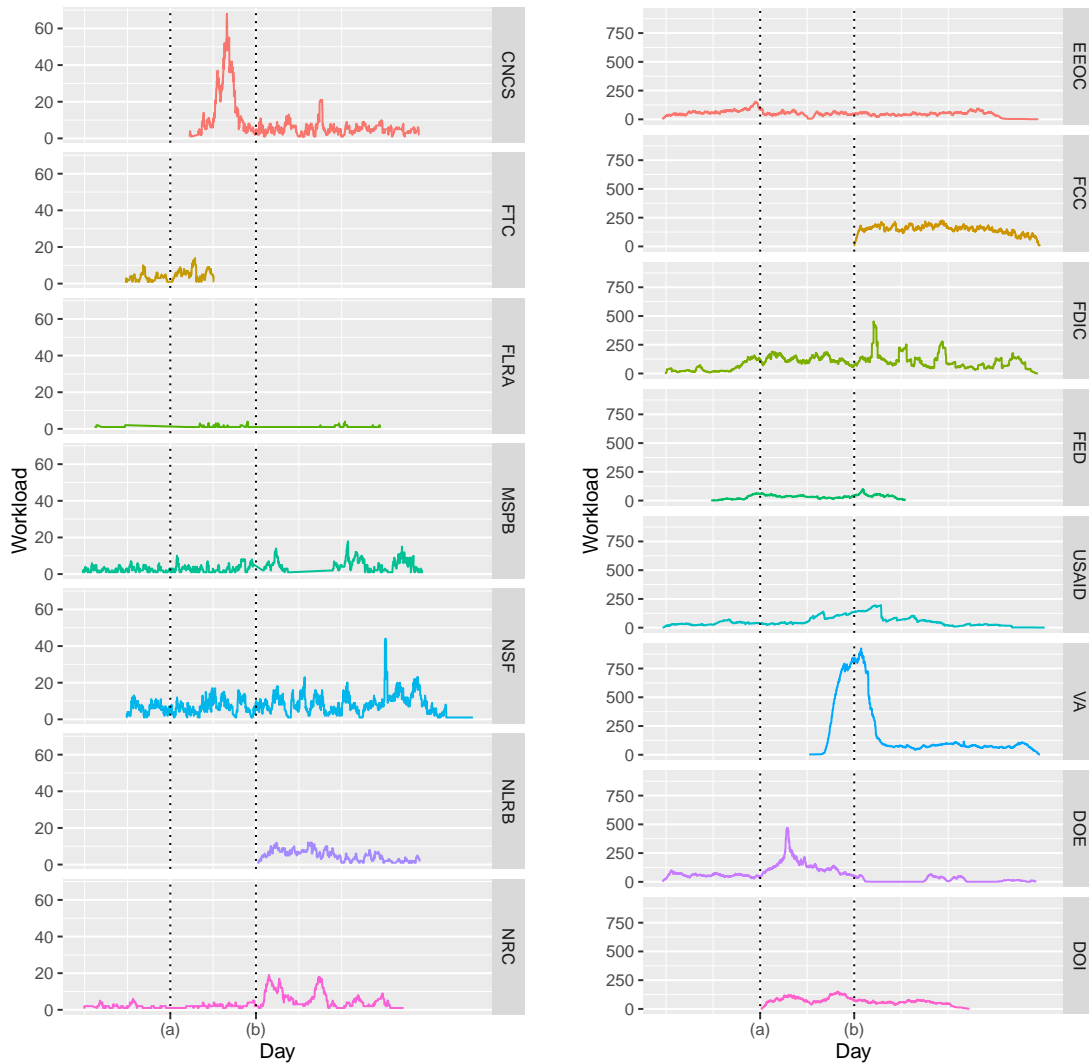
**Figure 3.11.1** – Independence of Agency Sample



Dark blue dots indicate inclusion in sample, light blue dots indicate the “general population” of agencies. All results control for agency independence either by using Selin’s (2015) latent dimensions or agency fixed-effects, where appropriate.

Figure 3.11.2 represents dynamic data on the daily workload of cases for each agency. I present the agencies in two panels: those with low and high workload—as reflected in the workload axis of each panel. As I argued in Section 3.4, it is vital that any analysis that uses response time include a measure of caseload because exogenous shocks and seasonality in request behavior can dramatically alter the workload of congressional liaisons. This can produce delays which are categorically different than the strategic delays I attempt to uncover. There are several examples of shocks and seasonality in the data. For instance, in March of 2011, the Fukushima Nuclear disaster in Japan resulted in a flood of inquiries to the NRC made by members of Congress. Each had a similar message: what is the NRC doing to prevent this from happening in the United States? In the workload time series of the NRC, this is reflected in the spikes following (b) breakpoint, which is an indicator for the start of the 112th Congress. The CNCS and DOE both spent substantial federal dollars as a part of the American Reinvestment and Recovery Act. Following passage, both saw a massive influx of requests—many of which, communicated spending preferences from members of Congress. In sum, Figure 3.11.2 demonstrates the need to account for agency workload and provides a picture of the business of governing on a day-to-day basis.

**Figure 3.11.2 – Agency Workload Over Time**



Workload is the number of cases a given agency had outstanding on any given day. (a) January 20, 2009 and (b) January 3, 2011. In the legislator fixed-effects models, these breakpoints constitute the variation driving the “presidential co-partisan” and “majority party” effects, respectively; lines appear for time series of correspondence log provided by each agency. Because of incomplete temporal coverage in some agencies, I also present alternative specifications with agency and legislator time-invariant controls.

Figure 3.11.3 demonstrates the necessity of the dependent variable transformation used in the primary analysis. More specifically, regardless of agency, the distribution of response time is highly skewed—with a handful of cases fulfilled (in some cases) years after initial contact. In fact, the skew is more extreme than the figure depicts, because I have truncated the distribution at 160 days in order to highlight differences between agencies. As a result, the figure also provides descriptive

evidence for the notion that unobserved factors specific to agencies must be accounted for through the fixed-effects approach employed in the primary empirical model. The EEOC correspondence manual, for example, prescribes a goal response time of 14 days—the distribution “peak” around which most observations are clustered. Similar peaks may be indicative of such prescriptions. Additionally, the thickness of the right tail of each distribution provides a confirmation of the basic point that variation in (1) request complexity and (2) agency capacity may drive substantial differences across agencies.

Finally, I include summary statistics for the main results (presented in Table 3.5.1) in Table 3.11.1 below.

**Table 3.11.1** – Summary Statistics for Table 3.5.1

Statistic	Mean	St. Dev.	Min	Max
Response Time (days)	50.596	80.217	0	1,571
Response Time (logged)	3.308	1.182	0.000	7.360
Agency Budget (in millions)	24,481.670	47,056.430	24	165,657
Staff	64,579.590	116,326.800	114	351,903
Workload	146.453	188.209	1	925
Casework	0.569	0.495	0	1
Committee Chair	0.026	0.158	0	1
Committee Ranking	0.015	0.123	0	1
Seniority	6.905	5.275	0	30
Majority Party	0.628	0.483	0	1
Presidential Co-Partisan	0.555	0.497	0	1
Politicization Ratio	0.246	0.153	0.000	1.111
Republican	0.428	0.495	0	1
Senator	0.514	0.500	0	1

**Figure 3.11.3** – Response Time by Agency

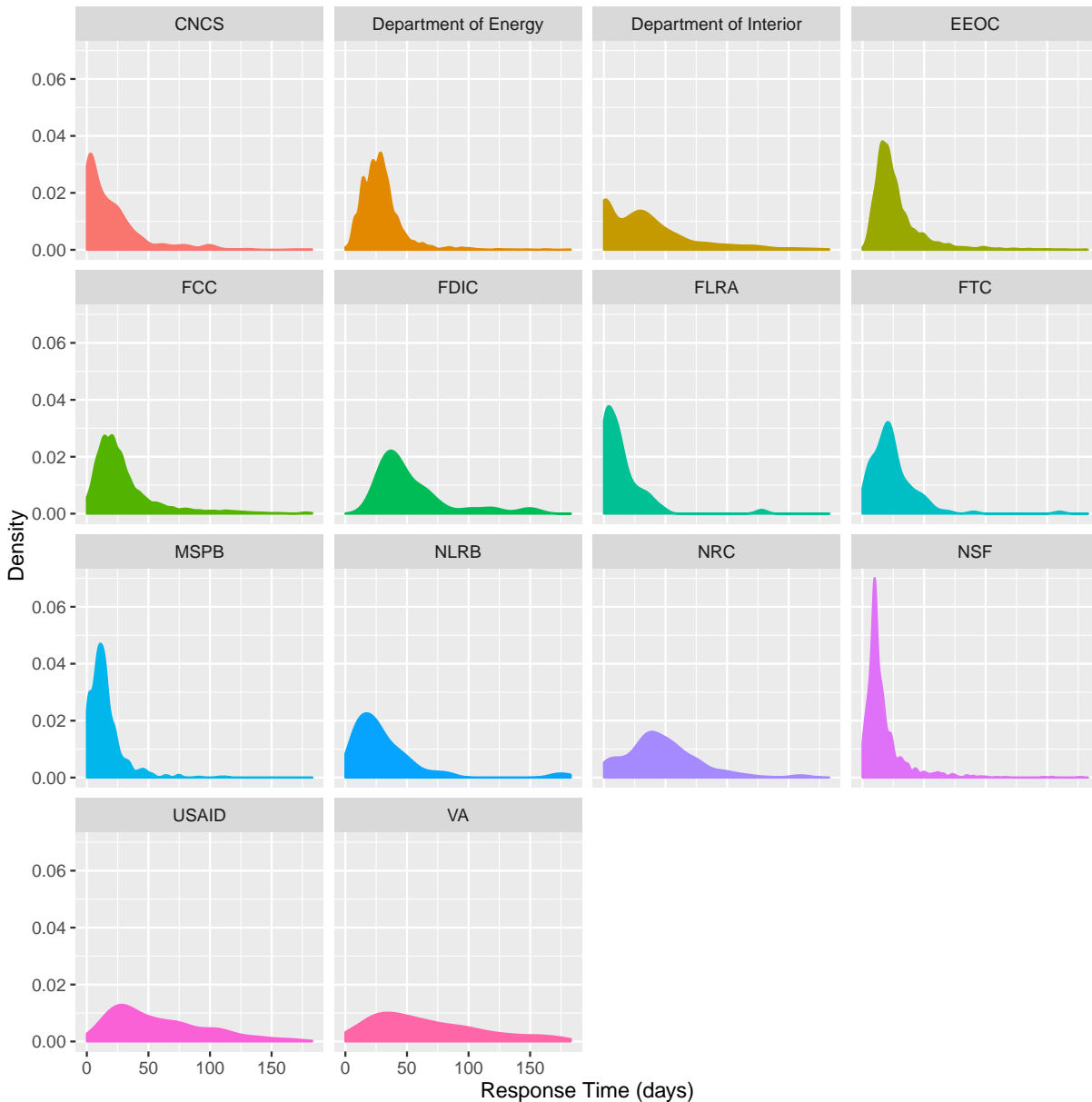


Figure depicts response times under 160 days. As discussed in Section 3.4, the distribution of response times is highly skewed. Thus, kernel density plots are only informative when limited to non-outliers.

## 3.12 Appendix: Interaction Diagnostics

Several teams of scholars have produced practical guides to researchers looking to estimate multiplicative interaction effects. The “dos and don’ts” recommended by Brambor, Clark, and Golder

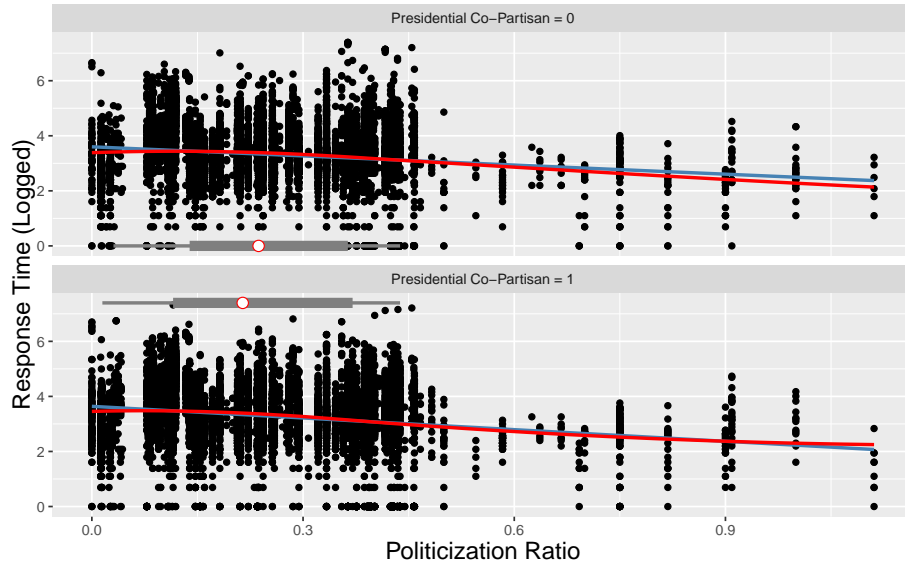
(2006) have become standard practice—and have been adhered to in the main body of this study. As recent work by Hainmueller, Mummolo, and Xu (2016) [HMX] demonstrates, however, following this standard practice does not always produce estimated effects that are plausible and reliable. More specifically, they identify several potential problems commonly present in past research: a lack of common support, severe interpolation, and non-linearity. To investigate these issues, I present and discuss several diagnostic plots.<sup>41</sup>

First, Figure 3.12.1 provides some initial indication that the interactive effect estimated in the main body of the paper does not suffer from the pitfalls identified by HMX. It plots the relationship between co-partisanship, politicization, and response time present in the “raw” data. Notice the linear (blue) and LOESS (red) lines overlap, suggesting the relationship is well approximated by a linear fit. Additionally, the box plots suggest that there is sufficient common support to estimate an effect. Second, I plot the binning estimator suggested by HMX, which groups the conditioning (politicization) variable into terciles (a) or quintiles (b), and estimates a separate coefficient for each bin. In both binning estimators (3 or 5 bins), we can reject the linearity assumption at  $p < 0.0001$  using the recommended Wald test. However, as the figure shows, while the estimate may not be linear, it *is* monotonically decreasing. The rejection of the linearity assumption appears to be the result of the linear fit’s underestimate of the slope at low values of politicization. This is most apparent in model (b), which separates politicization into 5 bins. Ultimately, the specification of an interactive effect appears appropriate, given all diagnostic measures—in addition to the theory laid out at the outset.

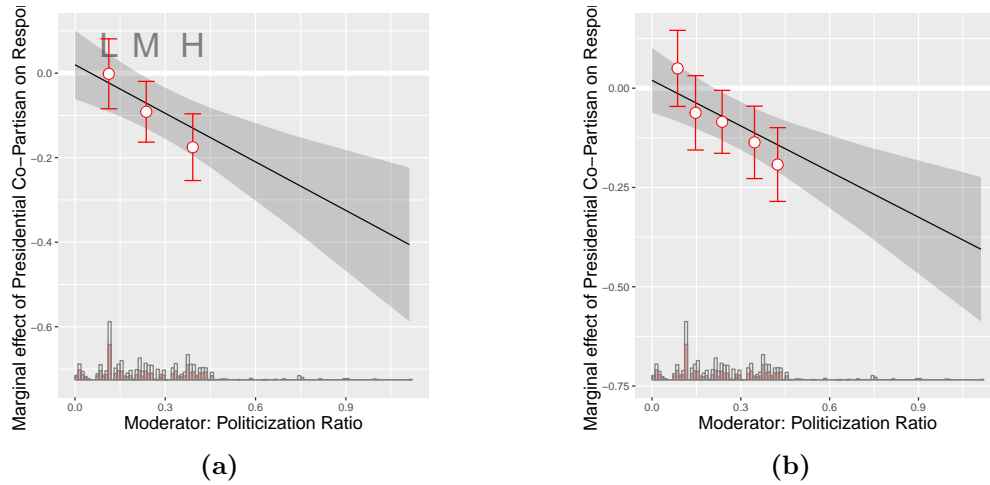
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<sup>41</sup>Each was produced using software available at: <http://web.stanford.edu/~jmummolo/example.html>.

**Figure 3.12.1** – Relationship in Raw Data



**Figure 3.12.2** – Binning Estimator of the Conditional Effect of President’s Party



### 3.13 Appendix: Additional Model Specifications

In Sections 3.3 and 3.4, I discussed several measurement and model specification decisions. Though I argue that the results presented in Table 3.5.1 represent the most appropriate model and estimates available, I report several alternative specifications in this section to demonstrate that the main results are not sensitive to those decisions. Each of the tables below report estimates that replicate the primary results with a change in variables or data used.

First, as indicated in Section 3.3, the Department of Energy correspondence log includes a “due” date, as opposed to a date of final closure. For this reason, it may not be strictly comparable to the other agencies included in the dataset. On the other hand, the due date is not static or automatically set, so it may represent the level of priority given to particular requests. For this reason, I have re-estimated the results including the Department’s log. I report these in Table 3.13.1. Overall, the magnitude of the interactive effect of politicization and co-partisanship slightly increases, whereas the conditional effect of politicization slightly decreases. In addition, in-keeping with the increase in sample size, the coefficients are generally more precisely estimated. Second, I re-estimate the results using the logged number of political appointees as an alternative measure of politicization in Table 3.13.2. Note, this increases the sample size to 19,700 because of the inclusion of the Corporation for National and Community Service (CNCS), which has zero career SES managers, and for whom, the politicization ratio is undefined. This slightly depresses the key interactive effect, but the main findings are not sensitive to this alternative specification. Finally, in Table 3.13.3, I report the results of a negative binomial regression with the untransformed number of days until response as a dependent variable. Again, the results discussed in Section 3.5 remain substantively unchanged.



**Table 3.13.1** – Robustness Check: Inclusion of Department of Energy

Variable	(1)	(2)
Majority Party	−0.09*** (0.02)	−0.11*** (0.02)
Presidential Co-Partisan	0.04 (0.03)	0.04 (0.03)
Politicization Ratio	0.55*** (0.10)	0.43*** (0.12)
Co-Paristan × Polit. Ratio	−0.31*** (0.09)	−0.36*** (0.09)
Agency Budget (in billions)	−0.001** (0.0006)	0.003*** (0.0006)
Staff (in thousands)	−0.02*** (0.001)	−0.02*** (0.001)
Workload (in hundreds)	−0.02*** (0.0001)	−0.02*** (0.0001)
Casework	−0.10*** (0.02)	−0.11*** (0.02)
Committee Chair	−0.12** (0.06)	−0.12** (0.06)
Committee Ranking	0.02 (0.07)	0.02 (0.07)
Seniority	−0.08*** (0.01)	−0.02 (0.02)
Constant	6.70*** (0.51)	5.17*** (0.60)
<i>N</i>	24,060	24,060
Adjusted R <sup>2</sup>	0.23	0.25
Agency Fixed Effects	✓	✓
Legislator Fixed Effects	✓	✓
Year Fixed Effects		✓
Dependent variable: logged number of days from initial contact date to final response; least squares estimates with standard errors in parentheses; fixed-effects omitted for readability; *p<0.05; **p<0.01; ***p<0.001		

**Table 3.13.2** – Robustness Check: Logged Number of Political Appointees

Variable	(1)	(2)
Majority Party	−0.08*** (0.03)	−0.11*** (0.03)
Presidential Co-Partisan	0.04 (0.05)	0.04 (0.05)
Logged Appointees	0.24*** (0.03)	0.27*** (0.03)
Co-Paristan × Logged Appointees	−0.05*** (0.02)	−0.05*** (0.02)
Agency Budget (in billions)	0.02*** (0.003)	0.02*** (0.003)
Staff (in thousands)	−0.04*** (0.002)	−0.03*** (0.003)
Workload (in hundreds)	−0.0004 (0.0001)	−0.0008 (0.0001)
Casework	−0.14*** (0.02)	−0.15*** (0.02)
Committee Chair	−0.13* (0.07)	−0.13* (0.07)
Committee Ranking	0.0000 (0.08)	−0.004 (0.08)
Seniority	−0.10*** (0.01)	−0.02 (0.02)
Constant	6.25*** (0.58)	4.17*** (0.72)
<i>N</i>	19,700	19,700
Adjusted R <sup>2</sup>	0.26	0.27
Agency Fixed Effects	✓	✓
Legislator Fixed Effects	✓	✓
Year Fixed Effects		✓
Dependent variable: logged number of days from initial contact date to final response; least squares estimates with standard errors in parentheses; fixed-effects omitted for readability; *p<0.05; **p<0.01; ***p<0.001		

**Table 3.13.3** – Robustness Check: Count Modelling

Variable	(1)	(2)
Majority Party	−0.06** (0.03)	−0.07*** (0.03)
Presidential Co-Partisan	−0.001 (0.04)	0.02 (0.04)
Politicization Ratio	0.68*** (0.10)	0.47*** (0.12)
Co-Paristan × Polit. Ratio	−0.27*** (0.09)	−0.32*** (0.09)
Agency Budget (in billions)	0.005** (0.002)	0.01*** (0.002)
Staff (in thousands)	−0.02*** (0.002)	−0.02*** (0.002)
Workload (in hundreds)	−0.02*** (0.01)	−0.02*** (0.01)
Casework	−0.36*** (0.02)	−0.36*** (0.02)
Committee Chair	0.07 (0.06)	0.07 (0.06)
Committee Ranking	0.10 (0.07)	0.08 (0.07)
Seniority	−0.09*** (0.01)	−0.02 (0.02)
Constant	6.83*** (0.50)	5.09*** (0.63)
<i>N</i>	18,949	18,949
Log Likelihood	−88,786.86	−88,540.07
$\theta$	1.29*** (0.01)	1.32*** (0.01)
AIC	179,183.70	178,704.10
Agency Fixed Effects	✓	✓
Legislator Fixed Effects	✓	✓
Year Fixed Effects		✓
Dependent variable: number of days from initial contact date to final response; negative binomial coefficients with standard errors in parentheses; fixed-effects omitted for readability; *p<0.05; **p<0.01; ***p<0.001		

# POLITICAL ALLOCATION OF FEDERAL SPENDING

## 4.1 Introduction

Numerous recent studies find evidence that the President’s partisan, electoral incentives influence the distribution of federal spending (McCarty 2000; Larcinese, Rizzo, and Testa 2006; Berry, Burden, and Howell 2010; Kriner and Reeves 2012; Hudak 2014; Kriner and Reeves 2015*a,b*; Dynes and Huber 2015; Christenson, Kriner, and Reeves 2016; Rogowski N.d.; Anderson and Potoski 2016). The key contribution of this work has been to challenge exclusive focus on Congress’ role in distributive politics (e.g. Arnold 1979; Bickers and Stein 2000) and to strongly imply that the President’s avenues of control in the executive branch appear to operate effectively. This leaves two largely open questions that remain to be studied. First, which of these avenues of presidential influence drives the observed effects? And second, what (if any) role does Congress play in determining those patterns?

The aim of this paper is to investigate both of these open questions. To do so, I present a detailed analysis of grant allocation by the National Science Foundation (NSF) and Department of Energy (DOE) from 2007-2014. This analysis has two features which distinguish it from previous research. First, focusing on spending in two agencies allows me to narrow the list of potential mechanisms for political influence. In particular, the NSF presents a “hard case” for political influence on the part of the President and Congress. It is an independent agency with few political appointees, and its award allocation process is both highly decentralized and conducted largely by field-specific experts. The DOE, on the other hand, has highly politicized management. This presents an opportunity to examine cases in which presidential influence should (and should not) operate, according to conventional understandings of the levers of executive branch control.

The analysis also includes legislator-level records of correspondence with the agency, gaining

purchase on one yet-unstudied potential mechanism of congressional influence. Each year, the NSF and DOE receive hundreds of letters from members of Congress—many expressing explicit support for constituent grant applications. Absent *ex ante* influence over geographic allocation, these informal requests represent a potential, *ex post* opportunity to influence agency decision-making. In this way, this paper reports initial evidence about whether congressional casework has any influence over bureaucratic decision-making.

My results yield empirical findings which are puzzling in the context of prior research. Contrary to expectations, I find evidence of political allocation in the NSF, but not the DOE. Moreover, the type of political allocation changes, depending upon the geographic unit analyzed. For House districts, I find that the NSF tends to distribute more grants to members of the majority party. Analyzing states, however, I find that additional co-partisans (and not majority party members) result in more grant spending. Moreover, I find that states with more grant support letters from *opposition* senators tend to receive more federal dollars from the NSF, on average. The results raise a number of important questions about recent work on distributive politics, which I turn to in the discussion.

## 4.2 Influencing Allocation

The empirical evidence for presidential influence over grant allocation appears overwhelming. Berry, Burden, and Howell (2010), for instance, find that co-partisan districts receive, on average \$23 million more in federal grants. Dynes and Huber (2015) refine this comparison, showing that district and presidential preference alignment is key. They find that “a district that is 30% more supportive of the president would receive about 3.8% (or \$94 million) more in funds each year” (180). In a state-level analysis of grant allocation, Hudak (2014) finds “swing” states in the electoral college tend to receive an increase of 7 percent—which often translates to hundreds of additional grants. Kriner and Reeves (2015*b*) find that counties within swing states receive, on average, \$17 million more in federal grant spending. Moreover, Christenson, Kriner, and Reeves (2016) find that states with more presidential co-partisan senators receive an additional \$35 in per capita grant spending. These findings (and others) are part of an emerging empirical consensus that federal largesse is distributed according to the partisan and electoral incentives of the sitting President.

One limitation of this research is that the mechanism that produces these outcomes is left largely unexplored. Most studies pool all “high variance” grant spending, regardless of agency and policy area. This is done in the pursuit of generalizable findings. However, the grant award procedures vary dramatically between (and, in some cases, within) agencies. For example, the National Institute of Food and Agriculture (NIFA) at the Department of Agriculture (USDA) is responsible for dispersing both competitive and non-competitive grants. Non-competitive sometimes (but not always) have specific “formula” and eligibility requirements, and are reviewed internally by bureaucrats at NIFA. Competitive are *both* reviewed internally, and by an agency-selected panel of experts outside NIFA. Moreover, the USDA has numerous political appointees—only a small handful of which, are approved with the advice and consent of the Senate. The NSF, on the other hand, disperses competitive grants with a single Senate-confirmed appointee as its head.

Institutional variation like this is typically subsumed by the aggregate total of federal grants in a given district. Evidence of an aggregate trend does not preclude agency variation. Political allocation of grants may be present in some agencies and programs but not others, effectively masking the procedures that enable presidential administrations to influence those outcomes. Absent a consideration of those procedures, researchers cannot make informed arguments about how these outcomes could be changed. Past research typically cites a list of possible mechanisms that have been the subject of studies on presidential control of the bureaucracy, but it is unclear which of these mechanisms is operative. It is also unclear how (or if) Congress has any role to play—or if the President influences agency behavior largely unimpeded. I review both of these mechanisms prior to providing an answer to these open questions.

#### **4.2.1 Presidential Influence**

The central contention of work on presidential particularism is that presidents have both the incentives and capacity to influence federal spending. Their motivating incentives are a function of re-election and the electoral college as well as the desire to strengthen their coalition in Congress. As a result, scholars have identified a variety of potential opportunities for presidents to act on those incentives. Broadly speaking, they can be categorized into mechanisms that operate during the drafting, enactment, and implementation of the budget.

As Berry, Burden, and Howell (2010) point out, prior work on distributive politics neglected

the fact that the President enjoys the theoretical role of proposer. Since the enactment of the Budget and Accounting Act of 1921 (P.L. 67-13), the President has been a statutorily mandated first-mover in budgetary politics. The centralization of agency appropriation requests in the Office of Management and Budget ensures the production of a document that reflects presidential preferences. Moreover, there are historical cases of presidents targeting states and districts (sometimes vindictively) for funding increases and decreases.<sup>1</sup> While theoretical studies highlight the power of the proposer, more recently, an analysis of budget proposals by Howell, Jackman, and Rogowski (2013) reveals this power is particularly pronounced during wartime. Thus, the President’s electoral and partisan incentives have ample opportunity to influence the *formulation* of the initial budget, which plays a substantial role in final enactment.

The President’s opportunity for influence extends into the appropriations process, as agency officials with expertise and first-hand knowledge of policy implementation testify in committee. Numerous studies have argued the information asymmetry between the branches allows the President to secure better policy outcomes (e.g. Moe and Howell 1999). In this case, legislators explicitly rely on executive branch officials for the information required to budget effectively. Moreover, Congress rarely invests in its own instrumentalities and staff resources—despite the fact that investments of this kind may mitigate this information asymmetry. This extends beyond committee hearings. Appropriations staffers have close working relationships with agency officials, negotiating precise budget levels through backchannels during the process of bill markup. Moreover, as Canes-Wrone (2006) shows, the President can also make public appeals to defend these policy priorities. In short, the President has substantial informal capacity to influence the distribution of spending at the enactment stage.

Existing work puts equal or greater emphasis on the President’s opportunities for influence at the implementation stage. Here, they draw on a variety of literatures within executive politics. The President is said to have centralized decision-making with the Executive Office of the President and the White House, which is often known as the “presidential branch” (Dickinson and Lebo 2007; Rudalevige 2002; Dickinson 1996). These direct agents are said to facilitate the re-programming and (in some cases) transferring of agency funds. Moreover, the strategic placement

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<sup>1</sup>For several rich examples, see Chapter 5 of Kriner and Reeves (2015*b*).

of presidential appointees helps facilitate faithful implementation of these priorities (Lewis 2008). Both centralization and politicization would be unnecessary, however, were it not for the substantial discretion provided to executive agencies in carrying out policy. Scholarship has long documented congressional incentives for delegation, and more recently, for investment in presidential capacity to control the bureaucracy (Epstein and O'Halloran 1999; Gailmard and Patty 2013). Thus, not only is there considerable empirical evidence of influence, there are a variety of potential avenues for that influence to be exercised.

#### 4.2.2 Congressional Influence

Though the research discussed in the previous section implies presidents have influence over spending, the degree to which this “bias” overshadows or cuts against congressional preferences is left in question (Kriner and Reeves 2015*b*). To be clear, presidential influence does not preclude congressional influence. Relatedly, it is not necessarily true that members passively permit the President to funnel federal dollars to their opposition—or that co-partisans can expect benefits by virtue of who they caucus with. Instead, I argue that the key mechanism by which members of Congress communicate their spending preferences to agencies is direct contact after enactment. Agency responsiveness to this communication, on the other hand, is primarily a function of presidential preferences and control. In this way, the effects uncovered by past research are critically mediated by legislator and agency behavior.

It is also important to note that though work on the President and the bureaucracy suggests substantial control, there is alternative evidence that leaves this primacy in doubt. In a recent survey of bureaucrats, for example, Lewis (2016) finds that most report members of Congress have more influence over agency spending *after enactment*. Moreover, a large body of scholarship shows that members of Congress routinely “police” agency decision-making in the context of formal oversight hearings (e.g. McGrath 2013; Kriner and Schwartz 2008). While this activity does not imply “congressional dominance” it does suggest that members of Congress have *ex post* influence over spending. The ability to subpoena bureaucrats gives Congress an important sanctioning capability that may hang over agency decision making regarding outlays.

The most important indication of possible *ex post* influence, however, is the fact that legislators routinely contact agencies about spending decisions during the implementation stage. This effort is



costly, in that it requires members of Congress to devote staff time and resources to communicate with agency liaison offices. To be sure, the mere fact that it is costly does not imply that it changes agency behavior. It may be the case, for instance, that the mere effort to contact agencies on behalf of constituents provides enough electoral benefit to be worth the cost. Moreover, all legislators may not have equal “standing” before agencies, since some hold committee positions and possess relevant expertise that may improve their ability to move spending outcomes toward their preferences.

This raises the question of what such contact accomplishes. I argue direct contact is a key mechanism by which members of Congress facilitate political “bias” in the allocation of federal spending. But this is not because letters from legislators force the hand of agencies or dramatically alter agency preferences. Instead, this direct contact gives agencies specific information about the preferences of individual members of Congress. Appropriations bills provide little in the way of information about the preferred geographic targeting of spending. Thus, absent this communication from Congress, agencies would have far less information about the demands of individual legislators. However, this communication is not sufficient to drive spending decisions. As the previous section acknowledged, presidents have spending preferences that may conflict with Congressional preferences—as well as the capacity to affect them. Thus, agencies must balance the known preferences of legislators with that of the president, in light of the relative ability of each to reward and punish them. Ultimately, this means that agency spending should be a function of legislative contact, presidential preferences, and bureaucratic structure. Absent the institutional features that render agencies more easily subject to presidential and congressional punishment, agencies should have little reason to facilitate bias in the allocation of federal dollars.

### **4.2.3 Structural Determinants of Particularism**

Given the above avenues for influence, I argue there are two basic features of bureaucratic decision-making related to grants that should determine whether agencies are more or less responsive to the preferences of elected institutions. The first is politicization—meaning the degree to which agency leadership is made up of presidentially appointed administrators. I label the second “insulation,” which refers the degree to which agency distributive actions are reviewable by non-experts prior to being finalized. Importantly, this usage is distinct from more general agency insulation research that investigates structural determinants of responsiveness (e.g. cabinet v. EOP placement). Here,

I confine myself to how agencies make grant-related decisions. I discuss specific examples in the following section, but it is worth describing this kind of insulation more generally. Much of the work reviewed above cites bureaucratic discretion as an essential precondition for political allocation. That is, agency officials must have the latitude to set eligibility requirements, deadlines, and ultimately, choose which applications to accept and deny. The most common means of limiting this discretion in competitive grants is to require consultation of experts. This often means application review is delegated to advisory committees or panels of volunteer experts. This kind of consultation imposes an implicit check on political allocation by reducing uncertainty about the “correct” (e.g. merit-based) award selection. Whereas officials who do not consult experts might rely on political cues to make award decisions, the provision of expertise makes the divide between political allocation and optimal allocation clear.

**Table 4.2.1** – Conditional Agency Particularism

		Politicization	
		Low	High
Insulation	Low	Congress	Responsive
	High	Unresponsive	President
Cells indicate the elected institution agencies are most responsive to.			

Table 4.2.1 summarizes my basic expectations, creating a typology of agencies largely indicative of conventional understandings about the conditions of agency responsiveness. When politicization and insulation are low, I expect agencies to be most responsive to congressional demands. Here, administrators have the discretion and incentive to allocate politically, but absent the primary means of presidential control, I expect them to prioritize Congress. On the contrary, when politicization and insulation is high, agencies should prioritize the president. Agencies in this quadrant must consider presidential preferences as a result of managerial control; but the lack of discretion limits the usefulness of congressional contact. When politicization and insulation is low, agencies should seek to satisfy the preferences of members of Congress and the President. This quadrant represents expectations consistent with existing research, which has found *both* prioritization of the majority party and presidential co-partisans. Finally, the table above defines where we should expect an

absence of influence—namely, when political management is absent and decisions are generally a function of expert review.

### 4.3 Case Selection

An ideal test of the expectations above would include (1) sufficient information on contact and grant allocation to examine both congressional and presidential influence and (2) sufficient variation in agency type to investigate whether political allocation is conditional on structure. While a broader test is worth pursuing, I confine my attention to two in-depth quantitative case studies of spending at the NSF and the DOE. This limitation is primarily a function of data availability. However, for reasons I detail below, I believe they provide an intriguing first-cut analysis. More specifically, each case allows me to examine one quadrant of Table 4.2.1. Each empirical analysis is designed to replicate and extend existing work on federal spending.

First, I present a detailed analysis of award allocation by the NSF. Prior to moving to discussing my empirical strategy, however, it is important to highlight the benefits of examining the NSF. The potential contribution is clear in the context of past work. If existing research has found general patterns of political allocation, then it is useful to identify a case in which, theoretically, that political allocation *should not* hold. The NSF provides a useful example of such a case. While uncovering “no effect” does not supply definitive evidence of the ideas in the previous section, it does suggest that those ideas warrant further study.

Returning to Table 4.2.1, the NSF represents an agency with low politicization and high insulation (lower left quadrant)—yielding relative non-responsiveness to presidential and congressional preferences. A brief overview of the award process at the NSF underscores the fact that the mechanisms of political control outlined in the previous section should not operate. The award allocation process is set up to tap the specific expertise of private individuals. Moreover, evaluation of their recommendation and the final funding decision are highly decentralized. This merit-based, “bottom-up” decision-making process is at odds with the instruments of political control. Final decisions are made at the division-level. Divisions and sub-divisions are based on fields of study defined externally by the structure of the academy. Program officers at the sub-division level conduct preliminary review of both solicited and unsolicited proposals. They acquire the advice of three

or more independent reviewers who provide recommendations on a confidential, voluntary basis. Program officers then make recommendations to division directors. The division director, program officer, and reviewers all tend to have scientific backgrounds. Few (if any) are “career bureaucrats.” None are political appointees.

This leaves little opportunity for geographic targeting of federal spending. Proposals to change the amount allocated to particular fields are frequent. Political scientists will be familiar with recent examples of these proposed reductions. However, because of the funding structure of the NSF, changes in spending level will reflect changes in policy priorities related to *field*, not geography. Thus, the opportunity for targeting is attenuated at the enactment stage. The implementation stage is equally (if not more) limited—given the process described above. Funding recommendations and final decisions are made independent of the political appointee that heads the NSF. Moreover, even if this appointee were aware and willing to facilitate presidential priorities, there is reason to doubt mid-level bureaucrats would comply. Division directors and program officers serve for fixed terms, and most have stable “outside options” for employment. In short, there is no reason to expect systematic political allocation of federal spending by the NSF.

To move beyond this proposed “null case” I also analyze grant distribution by the Department of Energy. It differs from the NSF in two respects. First, the Department of Energy has considerably more politicized management. Whereas the National Science Foundation is headed by two Senate-confirmed appointees, dozens of political appointees (both confirmed and not confirmed) manage offices within the DOE. The Office of Science is responsible for dispersing many competitive grants, is headed by a Senate-confirmed appointee and regularly employs Schedule C special assistants. In 2012, all managerial positions in the Offices of the Secretary, Deputy Secretary, and Under Secretary for Science were held by political appointees.<sup>2</sup> Second, the grant award process at the DOE is designed for top-down review. Applications undergo two rounds of review by non-expert managers prior to consultation of technical experts, whose recommendations are considered advisory. Program managers within the Office of Science then make funding recommendations, which must be approved by senior officials. Thus, in contrast to the NSF, I expect the Department

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<sup>2</sup>“Policy and Supporting Positions,” Committee on Oversight and Government Reform, U.S. House of Representatives. December 1, 2012. <https://www.gpo.gov/fdsys/>

of Energy to fall within the responsive (upper right) quadrant of Table 4.2.1—as politicization is high and insulation is low.

In summary, I expect that there will be no evidence of political allocation in the National Science Foundation. That is, familiar covariates (like majority party status and presidential partisanship) as well as my novel measure of congressional influence (direct contact) should have little impact on grant distribution because the agency is designed to make merit-based, neutral decisions. On the other hand, the Department of Energy should be politically permeable. Presidential co-partisan, majority status, and direct contact should influence their allocation decisions.

## 4.4 Data and Empirical Strategy

To evaluate the expectations above, I examine new action federal grants allocated by the National Science Foundation and the Department of Energy from 2007-2014. Previous analyses have relied on the Federal Assistance Award Data System (FAADS) and Consolidated Federal Funds Reports (CFFR) to track high-variance grant spending (e.g. Berry, Burden, and Howell 2010; Kriner and Reeves 2012). I use the source meant to replace these the FAADS/CFFR, [usaspending.gov](http://usaspending.gov) (USAS). The website is maintained by the Department of the Treasury. Agencies are required by law to submit spending information within 30 days of marking awards. Like previous data sources, USAS is not without limitations. Most importantly, the new database still contains reporting errors. For example, in some cases, awards are reported in a congressional district that does not exist (e.g. the Vermont 55th), and includes placeholder grant amounts of zero dollars. However, the fact that agencies are required to label awards by congressional district reduces the probability of researcher error in matching awards with relevant political-geographic units.

Moreover, using USAS sidesteps measurement problems associated with previous analyses of federal grants. The typical approach is to link political characteristics at time  $t$  with spending at time  $t+1$ . As Dynes and Huber (2015) note, it highlights the possibility of additional measurement error because “awards may be reported in one lump sum even if actual spending is spread over multiple years. Awards may also be from ongoing, multiyear appropriations authorized by statutes that were created several years earlier”(177). Since USAS categorizes actions as either new or continuing, avoiding this issue is as simple as subsetting to the former. To further restrict the

possibility of a lag between decisions and spending, I use the date each grant was obligated, rather than actually spent. This also negates the need to drop post-redistricting spending years for analyses of congressional districts. In total, I analyze \$22.2 billion in NSF and \$21.5 billion in Department of Energy grants. This represents a small fraction of the \$4 trillion in federal grants outlaid in the same period. However, as the previous sections detail, the aim of this study is to reveal agency-level variation in aggregate results reported by previous studies, which requires a more narrow focus.

The novel independent variable in this paper is direct contact from members of Congress to the NSF and DOE. Legislator correspondence records were obtained through Freedom of Information Act Request.<sup>3</sup> The Office of Legislative and Public Affairs at the NSF maintains a log for contact with members of Congress. For the DOE, the Office of Congressional and Intergovernmental Affairs maintains a similar log. Each log contains enough information to determine which legislators contacted the agency and what (generally) the contact was about. Descriptions of each request were used to identify letters that attempt to acquire new grant spending. Since each log contains thousands of contacts, I used supervised text analysis to automatically code the majority of contacts as either a grant support letter or not. Contact descriptions are terse and use consistent terms to refer to grant-related letters, so this automation introduces minimal error. I hand-coded a random sub-sample of each log. These “true” values were then used to predict the remaining observations via assemble classification. Four-fold cross validation of the hand-coded samples revealed an out-of-sample accuracy of 0.98.<sup>4</sup> The results revealed several hundred grant support letters during the period in question.

Initial descriptive evidence suggests the above empirical strategy presents a valid test of conditional particularism. There is suitable variation in the distribution of new grants over time. As Figures 4.4.1(a) and 4.4.2(a) indicate, a substantial portion of this variation is driven by the enactment of the American Recovery and Reinvestment Act (2009) also known as the “stimulus,” which contained provisions funding renewable energy research grants, as well as a more general increase in the NSF budget of \$3 billion. Release of these funds drew some controversy. In 2010,

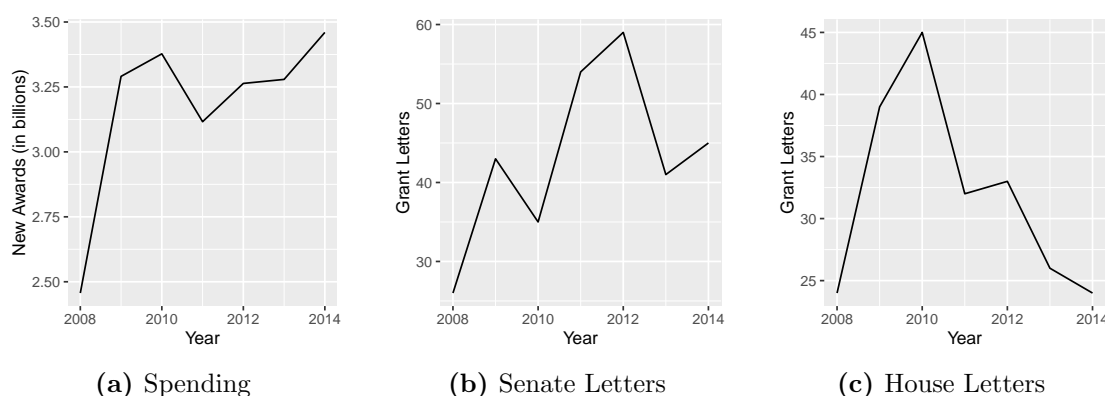
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<sup>3</sup>For the NSF: Case #15-14F. Request made October 14, 2014 and fulfilled June 11, 2015. For the DOE: Case #HQ-2015-00069-F, made October 13, 2014 and fulfilled November 13, 2014. Contents of reply are a matter of public record, and can be accessed via agency FOIA webpages. I reproduce a page from the DOE log in the Appendix.

<sup>4</sup>I relied on ensemble classification implemented in `RTextTools`.

for example, Republican Senators released a list of “wasteful” spending under the stimulus.<sup>5</sup> More recently, Sen. Orrin Hatch (R-UT) sent a letter demanding information about the disbursement of green energy grants under the Act.<sup>6</sup> In addition, the enactment of the stimulus accompanied the creation of several presidential advisory committees to monitor dispersal.<sup>7</sup> Thus, though this time series is limited compared to previous research, the introduction of spending associated with the stimulus—in addition to yearly agency budgets—provides a unique opportunity to investigate political allocation.

**Figure 4.4.1** – National Science Foundation Grants and Congressional Support Letters



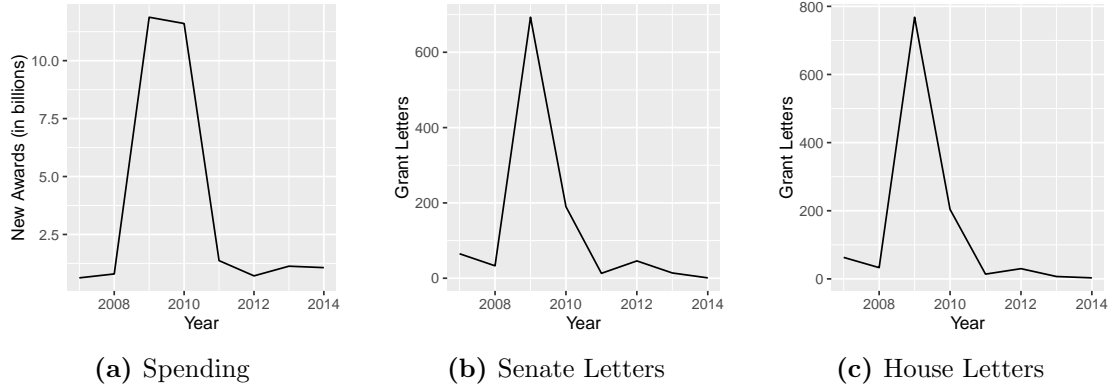
Figures 4.4.1 and 4.4.2 also provide initial evidence that congressional letters correspond with spending. More specifically, the spike in new energy-related grants coincided with hundreds of additional letters from members of Congress, with rough parity in the House and Senate. These trends also suggest that predicting new spending with political covariates from the same years is appropriate. There is little evidence of a year lag from congressional letter receipt to new spending, suggesting that subsetting to new spending overcomes mitigates measurement error present in past research.

<sup>5</sup>“GOP slams stimulus plan with list of 100 worst projects,” *CNN*, August 3, 2010; url: <http://edition.cnn.com/2010/POLITICS/08/03/senators.stimulus.spending.hfr/?hpt=Sbin#fbid=ArbgvoCEUuW>

<sup>6</sup>“Senior Senator Launches Inquiry on ‘Green Energy’ Grants,” *Wall Street Journal*, March 15, 2015; url: <http://www.wsj.com/articles/senior-senator-launches-inquiry-on-green-energy-grants-1458079073>

<sup>7</sup>Vice President Biden, for example, headed the President’s Economic Recovery Advisory Board.

**Figure 4.4.2** – Department of Energy Grants and Congressional Support Letters



To model grant spending, I adopt the approach of previous work that relies on pooled, cross-sectional regressions of the following form:

$$Y_{it} = \beta_0 + \beta_1 CoPartisan_{it} + \beta_2 Letters_{it} + \Psi ChamberPosition_{it} + \alpha_i + \delta_t + \varepsilon_{it} \quad (4.1)$$

where  $Y_{it}$  is spending,  $CoPartisan$  is the relevant measure of co-partisanship (which varies by chamber),  $Letters$  is the count of grant support letters discussed above, and  $ChamberPosition$  is a vector of covariates indicating the legislator's institutional status in their chamber. The effects of  $\beta_1$ ,  $\beta_2$ , and  $\Psi$  are identified through the inclusion of constant geographic unit ( $\alpha_i$ ) and year ( $\delta_t$ ) fixed effects—accounting for time-invariant unit characteristics that might influence the allocation of new grants (e.g. the presence of major research universities) and yearly fluctuations in available funds. For the House,  $i$  indexes the set of districts both before and after the 2012 redistricting. For the Senate,  $i$  is a state. Since there are non-trivial differences in appropriate design by chamber, each is discussed and analyzed separately below.

#### 4.4.1 Analyzing the House

Grants allocated at the district level by the NSF and DOE provide a more precise unit of analysis in which, to examine bureau decision-making. Moreover, analyzing grant spending within a single agency presents an additional complication: occasionally, districts receive zero funding.<sup>8</sup> Thus, I

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<sup>8</sup>There were 416 such cases. Some comparatively rural districts receive no funding. According to the Treasury Department, zero values may also be reported in error.



operationalize the dependent variable as the natural log of spending if the district received new grant funding and spending plus 1 if it did not. This retains the most information by normalizing all available observations and retains district years without funding.

In the House model, the key independent variables are an indicator for whether the district representative was a member of the President’s party, and a count of contacts by that representative to the agency in a given year. The remaining *ChamberPosition* variables are indicators for whether the district representative was in the majority, a Democrat, a member or chair of a relevant committee, or a party leader. For the National Science Foundation, relevant House committees were the Committee on Science, Space and Technology, Subcommittee on Research and Technology, and Appropriation Subcommittee on Commerce, Justice, Science and Related Agencies. For the Department of Energy, the relevant committees are the Committee on Energy and Commerce, Subcommittee on Energy and Power, and Appropriations Subcommittee on Energy and Water Development. The Speaker of the House, Majority/Minority Leader, and Majority/Minority Whips are included as indicators of party leadership.<sup>9</sup>

#### 4.4.2 Analyzing the Senate

State-level grants side-step many of the issues in the House analysis. The geographic unit is constant over the complete time series and all states receive funding each year. However, given that each unit is multi-member, all of the relevant covariates are the number of senators in each category for each state (following Christenson, Kriner, and Reeves 2016). Thus, the relevant covariates are the number of senators who are presidential co-partisans, majority party members, on (or chair of) the relevant committee. It is important to note that over the available time-series, there is no variation in partisan control of the Senate. This means that the effect of party cannot be identified independent of majority/minority status. I return to this in the discussion of the results in the following section.

For the National Science Foundation, relevant Senate committees were the Committee on Commerce, Science, and Transportation, Subcommittee on Science and Space, and Appropriation

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<sup>9</sup>Note, there is insufficient variation to draw conclusions about the effect of this variable—not surprisingly, including two indicators (majority and minority leadership) does not substantively change the results presented later.

Subcommittee on Commerce, Justice, Science and Related Agencies. For the Department of Energy, the relevant committees were the Committee on Energy and Natural Resources, Subcommittee on Energy, and Appropriations Subcommittee on Energy and Water Development. Accordingly, the contact variables are the total number of contacts by legislators. I parse these contacts by presidential co-partisan and opposition contacts.

## 4.5 Results

Overall, the results support the basic assertion made that the outset: that pooling all grant spending masks variation in political allocation at the agency level. Beyond this, however, the estimation results are puzzling in several respects. First, contrary to expectations, I find evidence of political allocation in the NSF but not the DOE. This runs counter to basic expectations about political control. Second, this evidence varies by geographic unit analyzed. Whereas majority party House districts tend to receive \$2.8 million more than the median district, states represented by presidential co-partisans can expect to receive \$52.2 million more than the median state.<sup>10</sup> In addition, I find evidence that an additional grant support letter from opposition legislators is associated with a 52% increase in spending within states. The magnitude of these effects—while intriguing—requires considerable skepticism, since each effect is considerably larger than those uncovered by past research. I defer discussion of this issue at the end of this section.

### 4.5.1 National Science Foundation: House

I present estimation results for NSF grant allocation the House in Table 4.5.1. Surprisingly, the results are consistent with a standard distributive politics model of congressional organization. That is, the coefficient for majority party is positive and significant across all model specifications. Moreover, this effect is quite large—as majority party members are estimated to receive double their minority counter-parts. What does this mean for science-related grants in the typical Congressional district? As Figure 4.5.1(a) indicates, the median district can expect to receive, on average, \$2.8 million more if their representative is a member of the majority party.

The data does not support the same conclusion for presidential co-partisans. The coefficient

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<sup>10</sup>I compute these values as  $\exp[\beta + \log(\text{median})] - \log(\text{median})$ .

switches signs, depending upon model specification. Moreover, while we cannot say that the effect is zero because of imprecision in the estimate, the data do preclude large effects comparable to those found with respect to the majority party (Rainey 2014). There is also some evidence that Democrats tend to receive more grant spending, on average—though this falls outside conventional levels of statistical significance. Finally, there is no evidence that grant support letters from House districts are associated with spending. Note, this holds even in without accounting for district- or year-specific unobservables—suggesting that grant support letters have little relationship with constituent demand or fluctuations in NSF spending. In column (4) and (5) of Table 4.5.1, I interact legislator contact with co-partisanship and majority party status. As these models suggest, the messenger does not drive this apparent lack of effect. Neither letters from co-partisans, nor majority party members (or others) have a precisely estimable influence on spending.

**Table 4.5.1** – National Science Foundation Grant Allocation in the House

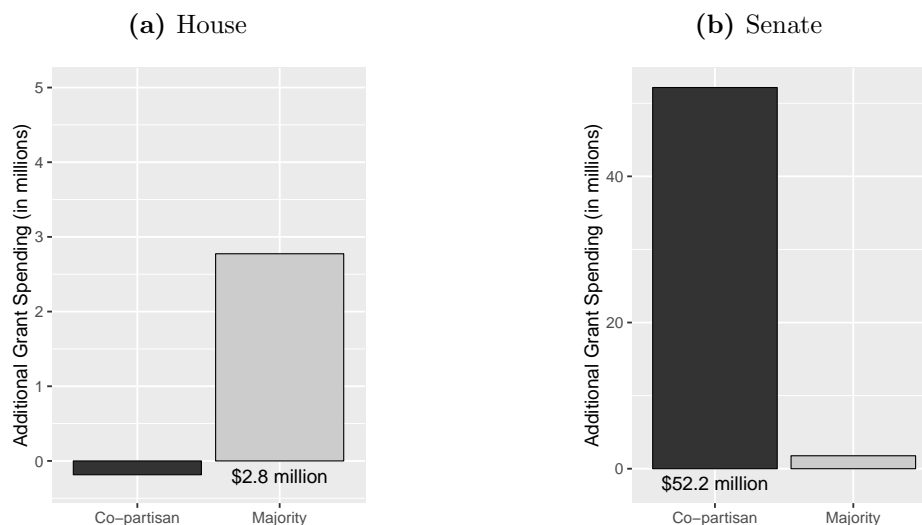
	(1)	(2)	(3)	(4)	(5)
Presidential Co-partisan	0.04 (0.41)	−0.07 (0.33)	−0.09 (0.31)	−0.13 (0.31)	−0.13 (0.31)
Grant Letters	0.23 (0.45)	−0.38 (0.40)	−0.28 (0.37)	−0.46 (0.80)	−0.51 (0.81)
Majority Party	1.10*** (0.30)	1.09*** (0.25)	0.97*** (0.23)	1.03*** (0.24)	1.00*** (0.24)
Democrat	2.73*** (0.37)	2.03*** (0.44)	0.80** (0.41)	0.78* (0.41)	0.77* (0.41)
Presidential Co-partisan × Grant Letters				0.93 (0.79)	0.97 (0.80)
Majority Party × Grant Letters				−0.85 (0.71)	−0.78 (0.71)
Science Chair					−2.57 (2.46)
Appropriations Chair					0.64 (2.90)
Subcommittee Chair					0.41 (2.32)
Science Committee					0.53 (0.59)
Science Appropriations					1.63* (0.96)
Science Subcommittee					0.01 (0.92)
Party Leadership					3.09 (2.30)
Constant	12.12*** (0.29)	13.18*** (2.20)	17.57*** (2.03)	17.62*** (2.03)	17.62*** (2.03)
District Fixed-Effects		✓	✓	✓	✓
Year Fixed-Effects			✓	✓	✓
N	3,045	3,045	3,045	3,045	3,045
Adjusted R <sup>2</sup>	0.04	0.40	0.50	0.50	0.50

*Least-squares estimates; standard errors in parentheses; dependent variable is the natural log of new grant actions by district & year; \* $p < 0.1$ ; \*\* $p < 0.05$ ; \*\*\* $p < 0.01$ .*

**Table 4.5.2** – National Science Foundation Grant Allocation in the Senate

	(1)	(2)	(3)	(4)	(5)
Presidential Co-partisan	1.08** (0.45)	1.55** (0.65)	0.71*** (0.24)	1.02*** (0.29)	0.92*** (0.30)
Majority Party	0.05 (0.39)	0.17 (0.47)	−0.02 (0.20)	0.06 (0.22)	0.05 (0.22)
Opposition Letters	0.68 (0.45)	0.77 (0.57)	0.44* (0.24)	0.52** (0.26)	0.53** (0.26)
Co-partisan Letters	−0.39 (0.28)	−0.83** (0.36)	0.11 (0.15)	−0.08 (0.17)	−0.06 (0.17)
Science Committee					−0.70 (0.64)
Party Leadership					−0.88 (3.31)
Science Chair					4.33 (2.66)
Subcommittee Chair					−3.61 (2.68)
Appropriations Chair					(omitted)
Science Subcommittee					0.17 (0.57)
Science Appropriations					0.15 (0.58)
Constant	19.74*** (0.84)	19.92*** (2.86)	28.11*** (0.60)	27.87*** (1.32)	28.17*** (1.32)
State Fixed-Effects		✓		✓	✓
Year Fixed-Effects			✓	✓	✓
<i>N</i>	350	350	350	350	350
Adjusted R <sup>2</sup>	0.01	−0.03	0.73	0.79	0.79
<i>Least-squares estimates; standard errors in parentheses; dependent variable is the natural log of new grant actions by state &amp; year; *p&lt;0.1; **p&lt;0.05; ***p&lt;0.01.</i>					

**Figure 4.5.1** – Political Allocation in the National Science Foundation



Bars represent the additional amount of new grant spending (in millions) the median geographic unit can expect to receive relative to those received by non-majority, non-copartisan districts for the House, and States with no majority party or co-partisan Senators and no grant support letters for the Senate. Estimates from full specification (column 5 of Tables 4.5.1 and 4.5.2).

#### 4.5.2 National Science Foundation: Senate

Estimation results for NSF grant allocation the Senate appear in Table 4.5.2.<sup>11</sup> Here, I find results that diverge considerably from those in the House. First and foremost, states represented by Senators who share a partisan affiliation with the President tend to receive more, on average, than those represented by the opposition. As in the previous results, the effects are large and substantively significant across all model specifications. Indeed, an additional co-partisan senator is estimated to result in a 93% increase in state NSF funding. Figure 4.5.1(b) graphs the substantive implication of this finding—showing the co-partisan bonus for a median state is an additional \$52.2 million in science grants.

These results also diverge from the House, in that senator grant support letters appear to have some influence on allocation. More specifically, additional letters from the *opposition* party are associated with a 53% increase in grant spending. For the median state, this means that grant

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<sup>11</sup>There is no variation over the time series for the relevant Senate Appropriation chair, so no estimate can be derived from the data.

support from the opposition is associated with \$26.2 million more in spending. I discuss effect size later, but it is important to note that grant support letters for the NSF were relatively rare. For example, there were only 35 such letters in 2010 (as Figure 4.4.1 shows). Thus, it is implausible to expect more than one or two additional letters from a single state.

There is, however, one important caveat to highlight before moving on to the Department of Energy. For all Senate results, there is no variation in majority party status that is independent of affiliation with the Democratic party. That is, for all Congresses in question, Democrats held the Senate. This means that the estimate of Majority Party subsumes both the effect of majority status and of having a Democratic senator. In this case, however, this does not mean that the results in Table 4.5.2 are simply the result of limited variation in these regressors. Recall that the House results indicated that the effect of majority party status and being a Democrat were both positive and significant. Thus, if the data supported similar Senate results, then over-identification should not result in a coefficient near zero.

### 4.5.3 Department of Energy: House

I report estimation results for the DOE grant allocation in Tables 4.5.3 and 4.5.4. As indicated earlier, they differ substantially from those in the NSF—but not in the direction of the expectations laid out in Section 4.3. That is, across all models, the effect of presidential co-partisan is small and statistically insignificant. In addition, though Table 4.5.3 seems to suggest there is a strong *negative* relationship between majority party status and grant distribution—these effects must be taken in context. Because of variation in DOE grant spending, the median district receives a mere \$660 thousand in grant spending, meaning that the effect (in terms of actual dollars) for a typical district is quite small. In effect, the estimate for majority party is a precisely estimated zero.

The effect of grant letters is consistently positive, but the full specification does not return a consistently estimated effect. The data do, however, confirm the basic relationship apparent in Figure 4.4.2. That is, absent accounting for year to year fluctuations, grant letters appear to have a strong association with spending. This implies a supply-related explanation for the congressional contact: as agency budgets expand, members of Congress right in to secure their fair share. There is, on the other hand, no hard evidence that these letters result in an increase in grants beyond what would have otherwise occurred.

**Table 4.5.3** – Department of Energy Grant Allocation in the House

	(1)	(2)	(3)	(4)	(5)
Presidential Co-partisan	0.34 (0.32)	0.32 (0.28)	−0.17 (0.25)	0.04 (0.28)	0.06 (0.28)
Grant Letters	1.10*** (0.11)	0.96*** (0.10)	−0.05 (0.11)	0.26 (0.23)	0.28 (0.23)
Majority Party	−0.60** (0.28)	−0.53* (0.29)	−0.83*** (0.26)	−0.65** (0.29)	−0.65** (0.29)
Democrat	1.38*** (0.28)	2.28*** (0.57)	0.79 (0.53)	0.76 (0.53)	0.80 (0.53)
Presidential Co-partisan × Grant Letters				−0.44 (0.45)	−0.45 (0.46)
Majority Party × Grant Letters				0.04 (0.46)	0.03 (0.46)
Energy Chair					−3.33 (2.53)
Appropriations Chair					6.56** (3.10)
Subcommittee Chair					1.36 (2.54)
Energy Committee					−0.34 (0.74)
Energy Appropriations					−1.24 (0.98)
Energy Subcommittee					0.64 (0.76)
Party Leadership					−2.07 (2.19)
Constant	9.04*** (0.26)	13.00*** (2.38)	11.25*** (2.14)	11.10*** (2.14)	11.06*** (2.14)
District Fixed-Effects		✓	✓	✓	✓
Year Fixed-Effects			✓	✓	✓
N	3,480	3,480	3,480	3,480	3,480
Adjusted R <sup>2</sup>	0.05	0.31	0.45	0.45	0.45
<i>Least-squares estimates; standard errors in parentheses; dependent variable is the natural log of new grant actions by district &amp; year; *p&lt;0.1; **p&lt;0.05; ***p&lt;0.01.</i>					



#### 4.5.4 Department of Energy: Senate

In contrast to NSF grant allocation, DOE grant results in House districts are largely consistent when examined statewide. That is, I find no evidence that having either presidential co-partisan or majority party (Democratic) senators is associated with higher grant spending within a state. In keeping with the House estimates, grant letter writing seems to be a function of secular fluctuations in spending—as both opposition and co-partisan letters are highly correlated with spending, absent year fixed-effects. Again, this is contrary to expectations, since the DOE—and its grant allocating offices—are staffed by political managers.

Finally, though the results for the DOE are largely null, it is important to discuss potential issues related to the size of effects. More specifically, at first glance, it is implausible that a several grant support letters or mere partisan affiliation could result in a doubling of grant spending within one’s district or state. Past work has found more marginal percent increases, as well as more marginal substantive increases in spending. This raises an important question: that is, whether the estimated effects are implausibly large. The central premise of this paper is that aggregate federal grant spending within a district subsumes agency-level variation in political allocation. If the estimates from past work are valid, this means that some agencies will distribute politically, while others will not. This does not preclude substantively large effects.

However, most of the relationships in the data are estimated with imprecision. Past research tends to examine several decades of grant spending (rather than 7 or 8 years), providing more variation and statistical power. In addition, because I look at agency spending in isolation, there is much more variation from district to district. This implies large increases in spending are not unrealistic. As Figures 4.4.1 and 4.4.2 show, the period in question saw dramatic increases in grant spending associated with the response to a recent recession. This suggests that large effects may be a function of period analyzed. Nonetheless, I believe the effects described above warrant healthy skepticism.

**Table 4.5.4** – Department of Energy Grant Allocation in the Senate

	(1)	(2)	(3)	(4)	(5)
Presidential Co-partisan	0.23* (0.13)	0.16 (0.12)	0.12 (0.12)	0.01 (0.10)	−0.02 (0.10)
Majority Party	0.14 (0.11)	0.16 (0.12)	0.06 (0.10)	0.09 (0.10)	0.09 (0.10)
Opposition Letters	0.19*** (0.04)	0.17*** (0.04)	0.07 (0.04)	−0.01 (0.03)	−0.01 (0.03)
Co-partisan Letters	0.13*** (0.02)	0.10*** (0.02)	0.05** (0.02)	−0.01 (0.02)	−0.01 (0.02)
Energy Chair					−0.69 (0.69)
Subcommittee Chair					0.01 (0.65)
Appropriations Chair					0.19 (0.73)
Energy Committee					0.73** (0.29)
Energy Subcommittee					−0.65** (0.28)
Energy Appropriations					−0.26 (0.25)
Party Leadership					1.17 (1.19)
Constant	15.74*** (0.23)	16.30*** (0.67)	15.26*** (0.32)	15.74*** (0.56)	15.75*** (0.56)
State Fixed-Effects		✓		✓	✓
Year Fixed-Effects			✓	✓	✓
<i>N</i>	400	400	400	400	400
Adjusted R <sup>2</sup>	0.16	0.38	0.31	0.61	0.61
<i>Least-squares estimates; standard errors in parentheses; dependent variable is the natural log of new grant actions by state &amp; year; *<math>p &lt; 0.1</math>; **<math>p &lt; 0.05</math>; ***<math>p &lt; 0.01</math>.</i>					

## 4.6 Discussion

The notion that presidential influence over the grant allocation process may be more limited clashes with much of the previous work already mentioned. This work tends to present its findings as evidence of unconditional presidential influence, based on the idea that researchers have acquired data on all funding across a substantial time series. This is not necessarily the case. The observed effects may be driven by a subset of spending subsumed in the aggregate spending totals—a possibility left unexplored by previous work. The findings above, though puzzling in several respects, do support a basic point. There is agency-level variation in grant spending to be explained.

I provided one possible explanation. Personnel and procedures within executive agencies determine the relative influence of Congress and the President. This argument is not new, and is well supported by prior research. However, my data do not support this argument. In fact, they seem to point in the opposite direction. The agency that should be independent seems to distribute grants politically, the agency that should be permeable seems to distribute grants neutrally. These results should be considered in light of the caveats laid out in previous sections, but they also raise a number of questions for future study.

First, the findings buck the conventional understanding of the way the National Science Foundation allocates grants. The process is designed to remove political considerations. The President does not have loyal appointees operating within the agency. Funding decisions are made by panels of experts specific to academic field. The funding process itself is highly decentralized, such that the long-term interests of the agency necessarily escape the expert panels making funding decisions. In short, the NSF has neither the incentive, nor the structural capacity to act strategically. Yet I find evidence of precisely that. This much was implicitly suggested by Berry, Burden, and Howell (2010), who cite the NSF as an opportunity for *ex post* presidential influence: “consider the National Science Foundation’s (NSF) doctoral dissertation grants. Though Congress decides how much the NSF can spend, bureaucrats within the agency decide where the money goes” (786). Given this initial evidence and the importance of the NSF for social science research, a study of a lengthy time series of NSF grant spending seems warranted.

In addition, the data suggest that patterns in political allocation may vary by the geographic unit analyzed. Whereas House majority party members tend to receive more NSF grants, states

with more co-partisan senators tend to receive more. Most existing studies focus on the sometimes adversarial relationship between Congress and the President. No prior work on distributive politics suggests that incentives for political allocation diverge *by chamber*. As more work analyzes the distribution of spending by state and takes into account senate partisanship, this notion should be validated. Ultimately, these results may point to well-known institutions the House and Senate that produce differences in the power of political parties.

## 4.7 Appendix: Department of Energy Correspondence Log

Figure 4.7.1 – Congressional Correspondence in the Department of Energy

U.S. Department of Energy			
The Electronic Document Online Correspondence and Collaboration System (eDOCS)			
Folder List Report			
<hr/>			
3. Title:	Letter to Secretary Ernest Moniz from Senator Robert Casey (D-PA)		
Subject:	Writes in support of inclusion of at least \$10 million for the Penn State Consortium for Building Energy Innovation (formerly the Energy Efficient Buildings Hub) in the FY 2015 budget		
Control:	EXEC-2014-001226		
Assigned To:	EE / David Danielson	Created Date:	02/21/2014
Signature Level:	EE	Correspondence Date:	02/18/2014
Addressee Office:	Ernest Moniz	Received Date:	02/21/2014
Action Requested:	Prepare Response	Completed Date:	03/18/2014
Priority:	CAP2	Due Date:	03/14/2014
Point of Contact:	Watson, Sylvia	Status:	completed
Program Contact:		Source:	CC
<hr/>			
4. Title:	Letter to Secretary Ernest Moniz from Representative Lynn Westmoreland (R-GA)		
Subject:	Writes in opposition to the Department's rulemaking that would establish new energy efficiency standards for commercial ice makers with capacities between 60 and 2,500 pounds per 24-hour period; request answers to listed questions by April 15, 2015		
Control:	EXEC-2014-002302		
Assigned To:	EE / David Danielson	Created Date:	04/09/2014
Signature Level:	EE	Correspondence Date:	04/01/2014
Addressee Office:	Ernest Moniz	Received Date:	04/09/2014
Action Requested:	Prepare Response	Completed Date:	04/28/2014
Priority:	CAP2	Due Date:	04/24/2014
Point of Contact:	Watson, Sylvia	Status:	completed
Program Contact:		Source:	CC
<hr/>			
5. Title:	Letter to EE/Daniel Danielson from Senators Mark Pryor and Michael Enzi		
Subject:	Encouraging DOE to conduct the motor system market assessment called for in S.2002; requests DOE's support by backing the development of this new assessment		
Control:	EXEC-2014-002430		
Assigned To:	EE / David Danielson	Created Date:	04/10/2014
Signature Level:	EE	Correspondence Date:	04/08/2014
Addressee Office:	EE	Received Date:	04/10/2014
Action Requested:	Prepare Response	Completed Date:	05/23/2014
Priority:	CAP2	Due Date:	05/01/2014
Point of Contact:	Mackall, Brenda	Status:	completed
Program Contact:		Source:	CC
<hr/>			
Report run at: 7/15/2014 11:54:54AM		Page: 8 of 48	

Excerpt taken from 2014 log. First entry provides an example of a grant support contact. The other two inquiries constitute policy-related contacts not counted as grant support.

## CONCLUSION

In 1989, James Q. Wilson wrote that “[g]overnment agencies are not billiard balls driven hither and yon by the impact of forces and interests. When bureaucrats are free to choose a course of action their choices will reflect the full array of incentives operating on them” (88). In this dissertation, I sought to contribute to a long tradition of work that attempts to take this basic point seriously. I investigated the influence of multiple principals as bureaucrats carried out presidential policies, reviewed daily information requests and distributed federal grants. In so doing, I have provided important snapshots of the role the unelected play in the American political system, and presented a number of concrete contributions to scholarship.

The first essay answers the question raised by its title (“Delegation or Unilateral Action?”) with a simple response: *delegation*. To this point, the unilateral action paradigm of presidential policymaking has generated valuable empirical research on the presidency. However, I argued that its central premise—that presidential directives unproblematically shift status quos from point *a* to point *b*—misses fundamental agency problems in the executive branch. I produced a theory of policymaking that incorporates those agency problems. I took stock of what could be gained by doing so. Several apparent features of presidents’ attempts to act alone fall directly from the model. Most directives are not self-executing, and many provide bureaucrats with discretion to make policy. Some orders are never implemented. Congress, even in the absence of lawmaking, seems to play a direct role in the calculations of bureaucrats implementing presidential commands. These features could be readily seen, but had yet to be incorporated into theory.

The model generated several implications. The most important of these is the fundamental point that even in the absence of observed punishment or interference, policies handed down by the president and implemented by bureaucrats often bear the mark of congressional preferences. Beyond that, I found that disagreement between the branches should, theoretically, result in increased non-

compliance, as bureaucrats opt-out of policymaking to avoid punishment from elected institutions. Finally, I arrived at a counter-intuitive implication of agency insulation. That is, non-compliance generates uncertainty about policy outcomes that prevents the president from determining the precise circumstances when insulated agencies will select policies that make her worse off. Because delegation is inherently less costly, this means that the president is better off delegating to insulated agencies more often than to uninsulated.

The second essay opens a new line of empirical inquiry into an understudied aspect of governance in the United States. Studies of bureaucratic responsiveness typically focus on statutory delegation of policymaking, congressional investigations of the executive branch, or the distribution of federal spending. Each of these areas is important in its own right, but I argued there is much to be gained by looking at day-to-day interactions between Congress and executive agencies. Beyond the fact that this kind of contact is ubiquitous, these cases have concrete implications for members of Congress looking to represent the interests of constituents—both directly through casework, and indirectly through the gathering of relevant information. In light of this importance, I dedicated substantial energy to constructing a unique dataset of congressional requests.

I used this dataset to demonstrate the larger power structure that agencies operate within. I came away with several key empirical findings. The first of these was that, on average, members of the majority party tend to have their responses returned more quickly. However, I also found that presidents have the opportunity to overcome this pro-majority bias. The introduction of political appointees generates a favorable bias towards presidential co-partisans—in some cases, exceeding that of majority status. This illustrates the basic point made at the outset: agencies serve multiple principals, and their responsiveness is conditioned by each principal's relevant capacity to reward and sanction. Finally, I found that politicization has a striking secondary impact. Despite the co-partisan bias, I find that appointees have a net-negative impact on responsiveness. As politicization increases, agencies are less responsive—though even less responsive to the opposition party. Ultimately, political appointees adds managerial layers to the approval process, generating substantial delay.

The final essay entered a large and growing literature on the distribution of federal spending. In recent years, this research has moved toward a scholarly consensus that federal grants, as well as other important areas of policy like trade and military base closings, reflect the electoral and

partisan incentives of the sitting president. I did not challenge the validity of these findings. Instead, I argued that this work had paid insufficient attention to identifying the mechanism by which bureaucratic responsiveness was achieved. I argued that the aggregate findings mask substantial inter-agency variation in political distribution of grants and that this variation could be explained by conventional understandings of bureaucratic structure. To investigate these assertions, I conducted two quantitative case studies of grant distribution in the National Science Foundation and the Department of Energy.

The results are both counter-intuitive and intriguing. Everything about the grant awarding process at the NSF suggests that political allocation should be absent. However, I found that House districts represented by the majority party, and states represented by presidential co-partisan senators, both tend to receive more science grants, on average. These differences are not marginal. In each case, millions in research grants are on the line. On the contrary, everything about the DOE grant process suggests that it would be the ideal place to find political allocation. Yet I find no evidence of that kind of distribution. Neither members of the majority party, nor those from the president's party, tend to receive more than rank and file members. These findings raise important questions about the conditionality of what others have called "presidential particularism" and the mechanisms of political control.

These essays, however, are not a stopping point. Dissertations are sometimes called mere "throat clearing" exercises. Indeed, in some cases, the findings generate more questions than answers. Moreover, the analyses presented require assumptions that may not hold—and thus, each carries its own weakness. I close this dissertation by considering those weaknesses and outlining ways forward.

Though the first essay presented a formal theory of presidential delegation, the theory itself has limitations. Importantly, I did not take into account the full scope of the lawmaking process or the possibility of judicial veto. This implies that despite engaging with Howell's (2003) unilateral action model conceptually, I did not challenge it on its own terms. Unilateral action theory asks a different question about *when* presidents will act alone. But my model focused on implementation after that decision has been made. The implications of my model should have downstream effects on the propensity of presidents to take a unilateral route. But I left those effects largely unexplored. In addition, I grounded the first essay in empirical phenomena that seemed to be left unexplored



by existing theory. Investigations, congressional threats, and bureaucratic non-compliance are all observable. While the theory organizes these events, I do not know whether it does a good job of approximating observational data.

I believe the limitations above call for a book-length treatment of presidential power. If the basic point of the essay is correct, then the unilateral action paradigm requires revision that cannot be accomplished through articles. What is needed is a concise treatment of agency problems in the executive branch that influence the president's capacity to influence policy. A project of this kind would be grounded by a theoretical extension of the first essay. But it would go beyond that, demonstrating the utility of that theory through a series of empirical studies. The first would determine whether procedural limitations and grants of authority in presidential directives reflect the considerations outlined by the model. The second would investigate non-compliance in the executive branch. Past work has done so by analyzing rule promulgations. A better way forward is to collect the set of directives that require all executive agencies to implement the same policies—investigating variation in compliance across the same order. Finally, the model could be brought to bear on the frequency of unilateral action in order to directly engage with prior research.

The second essay presented a serious data collection effort in its own right, but ultimately, it provides a mere snapshot of what occurs daily in Washington. I looked at a handful of agencies over a very recent time series. Much more information exists. Though the first and second essays both use correspondence logs, I have obtained many more that were not (due to time constraints) able to be used. Many outstanding Freedom of Information Act Requests remain. Other logs are publicly available. Still others have been sent to the National Archives and Records Administration. There remains no centralized record management system, and despite a few recent studies that utilize this information (including my own), this remains a largely untapped source of information.

As the conclusion of this essay suggested, I believe that this kind of data has the potential to illuminate many other existing areas of research. I will not review those here. However, it is worth considering a more general public good that can be created with this information. Today, scholars, journalists, and constituents have easy access to information about the behavior of members of Congress. They can view campaign finance records and bill sponsorship as well as aggregate metrics like ideal points and legislative effectiveness scores. Making agency correspondence readily available would provide a similar public value. Ultimately, this will require collaboration with

other researchers dedicated to similar pursuits. Moreover, I believe generation of this public good is worthy of public funding.

Of each of the essays discussed, the third, titled “Political Allocation of Federal Spending,” presents the most challenges. It inherits the same limitations as the second essay, given its relatively short time series. I analyzed two cases, despite the fact that my expectations outlined four quadrants of different empirical implications. Moreover, though finding additional cases that fit into those quadrants would be a logical way forward, the results of the study challenge the utility of that typology. This leaves several possible ways forward. The first is to develop a more precise theory of presidential influence on spending decisions. Prior work has largely relied on a collection of expectations informed by past research. However, this work fails to provide a parsimonious framework that answers questions about the allocation process. The second is to provide more empirical case studies of agency spending. I have provided two that account for only a small fraction of total grant spending. Standard caveats related to generalizability apply and limit the conclusions I can draw from this last essay.

With these limitations in mind, it is important to take a broader perspective on the content and value of this project. Prior to this dissertation, scholars had leveled critique after critique at the unilateral action paradigm without offering an alternative model to push the enterprise forward. Congressional correspondence logs remained largely unanalyzed, and it could be assumed that agencies processed requests on a first-in, first-out basis. Presidential particularism was presented as a general trend which seemed to cover all areas of grant spending. This dissertation advanced research in each of those areas by building on the central premise discussed at the outset. Accounting for the power of unelected officials in each of these areas provided a richer explanation of policymaking and governance in American politics.

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