

SANDIA REPORT

SAND2009-1649
Unlimited Release
Printed March 26, 2009

Working at Congress: A Sandian's Experience

Matthew Allen

Prepared by
Sandia National Laboratories
Albuquerque, New Mexico 87185 and Livermore, California 94550

Sandia is a multiprogram laboratory operated by Sandia Corporation,
a Lockheed Martin Company, for the United States Department of Energy's
National Nuclear Security Administration under Contract DE-AC04-94-AL85000.

Approved for public release; further dissemination unlimited.



Sandia National Laboratories

Issued by Sandia National Laboratories, operated for the United States Department of Energy by Sandia Corporation.

NOTICE: This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government, nor any agency thereof, nor any of their employees, nor any of their contractors, subcontractors, or their employees, make any warranty, express or implied, or assume any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represent that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise, does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government, any agency thereof, or any of their contractors or subcontractors. The views and opinions expressed herein do not necessarily state or reflect those of the United States Government, any agency thereof, or any of their contractors.

Printed in the United States of America. This report has been reproduced directly from the best available copy.

Available to DOE and DOE contractors from
U.S. Department of Energy
Office of Scientific and Technical Information
P.O. Box 62
Oak Ridge, TN 37831

Telephone: (865) 576-8401
Facsimile: (865) 576-5728
E-Mail: reports@adonis.osti.gov
Online ordering: <http://www.osti.gov/bridge>

Available to the public from
U.S. Department of Commerce
National Technical Information Service
5285 Port Royal Rd
Springfield, VA 22161

Telephone: (800) 553-6847
Facsimile: (703) 605-6900
E-Mail: orders@ntis.fedworld.gov
Online ordering: <http://www.ntis.gov/help/ordermethods.asp?loc=7-4-0#online>



SANDIA REPORT

SAND2009-1649
Unlimited Release
Printed: March 26, 2009

Working at Congress

A Sandian's Experience

Matthew Allen*

Abstract

During the 110th Congress (calendar years 2007 and 2008), Matthew Allen, a Sandian nuclear scientist, served as a Congressional Fellow on the Committee on Homeland Security in the House of Representatives. This report is an informative account of the role staffers play in assisting the members of Congress in their oversight and legislative duties. It is also a personal account of Matthew Allen's experience as a committee staffer in the House of Representatives.

*mallen@sandia.gov

Preface

In June 2006, Sandia National Laboratories received a phone call from Dr. Diane Berry of the Committee on Homeland Security at the House of Representatives; she was looking for a nuclear expert. The committee's nuclear fellow was moving on to a position at the Department on Energy, and Dr. Berry was requesting assistance from five national laboratories in filling the resulting vacancy.

Once the request made its way to Sandia's homeland security program, I was put forward as the Sandia's candidate for the position. After a hasty interview in Washington, Dr. Berry offered me the job, and Congressman Peter King, then Chairman of the Committee on Homeland Security, sent an official request to the lab. From that point, it took my center director (to whom I am very grateful) four months to secure the necessary funding to send me. The American Society for Mechanical Engineers (ASME) kindly provided me a fellowship, which served as a bureaucratic buffer between Sandia and the Congress (for administrative reasons, it is much easier for Congress to accept an ASME fellow than as a Sandia detailee).

I arrived in Washington in February 2007 as an ASME Congressional Fellow at the Committee on Homeland Security. At that time, I had little knowledge of the workings of Congress and no knowledge of what staffers actually do. Because I arrived in February rather than the previous September, I missed out on the training programs offered to Congressional Fellows by the American Association for the Advancement of Science. Because my arrival also coincided with the start of the 110th Congress—an historic occasion marked by the Democrats' return to power after 14 years in the minority, as well as the election of the first female Speaker of the House—my first few weeks were incredibly busy. I had to do a lot of very fast-paced on-the-job learning about the duties of staffers in the House, as well as my specific function on the committee.

From the beginning, I was very surprised to find—quite unlike the national laboratory system—very little emphasis on training at the Congress. In the entire time I worked at the committee, I was only required to attend two training seminars: one on ethics and the other on how to operate an emergency escape hood. All other educational seminars (of which I took quite a few) were entirely optional. Although volumes of books have been written about the Congress, I found locating the useful ones to be very difficult. The book, *So You're a New Staffer: Here's What You Need to Know*, would have been very helpful, but, to my knowledge, it does not exist.

This report is intended to remove some of the mystery about working at the Congress, and illuminate the role of staff in the legislative process. I hope that it proves useful for laboratory administrators who may be asked to provide experts to the Congress, Sandians interested in serving at the Congress, and anyone who shows up on the Hill with no idea of what his or her job entails.

What follows is a personal reflection of my time as a staffer in the House of Representatives during the 110th Congress. This report is not a tutorial on how the House operates, nor is it a detailed description of the legislative process.¹ It is meant to be an informative and interesting telling of the role staffers play in the legislative process and the personal experience of a Sandian working on Capitol Hill.

Working at the Congress was one of the most memorable and rewarding experiences of my career, and I am truly grateful to my management team at Sandia—Jim Lund, Jill Hrubby, and Karl Braithwaite—for their support and encouragement, and to Dr. Diane Berry of the Committee on Homeland Security for giving me the opportunity of a lifetime.

¹For a tutorial on the legislative process, see *How Our Laws Are Made* by Johnson [1].

Contents

Abstract	3
Preface	5
Contents	7
Executive Summary	9
1 Rise of the Staff	15
2 What Staffers Do	23
2.1 Two Types of Staff	23
2.2 A Typical Day On the Hill	26
2.3 Staffers Have Help	29
3 Legislation and Oversight	33
3.1 Briefings	35
3.2 Hearings	38
3.3 Markups and Legislation	39
4 Interacting With Congress	49
4.1 Learning from the Pros	49
4.2 When You Visit Congress	50
4.3 When Congress Visits You	53
4.4 Sending Sandians to Congress	54
5 The Road Ahead	57
5.1 The 111 th Congress	57
5.2 Congressional Oversight of Homeland Security	59

5.3 The Executive Branch and Homeland Security	62
A Congressional Jurisdiction and Homeland Security	67
B HR 5531	73
Bibliography	81

Executive Summary

For its first century, Congress employed very few professional staffers. In fact, the number of members of Congress was usually larger than the number of staff. Each committee had one clerk, and personal assistants to the members were rare. The practice of having a small number of staff continued into the first half of the twentieth century. By the 1960s, however, demands on the members' time and the overall Congressional workload dramatically increased. This led to consequent increases in both the size and the responsibilities of congressional staff.

In 1960, a total of 6,866 staffers worked in the House and Senate. By 2000, there were more than 17,000 staffers working at the Congress [2]. A dramatically increased workload, the modern ease of travel, and television access to all proceedings of the Congress have led to an increase in the members' reliance on professional staff. Today, members of Congress rely almost entirely on their staffs to handle their schedules, respond to constituents, prepare official statements, and draft legislation.

When talking about Congressional staff, it is important to understand that there are two types of staff—those that work in members' personal offices and those that work for the committees of Congress. Because I sat with a committee, this report focuses primarily on the role of committee staffers in the legislative process. Unlike personal office staffers, committee staffers tend to have very little interaction with constituents. They are considered the policy wonks responsible for drafting legislation and conducting oversight specific to a committee's jurisdiction.

In the 110th Congress, the Committee on Homeland Security was allotted 58 staff: 40 Democratic and 18 Republican. This gave the party in power more than twice the number of staff. The Republican staff (where I sat) had office space on the first floor of the Ford House Office Building. The Democrat offices were around the corner. Although we did not share

office space, briefings were often held in a bi-partisan fashion in whichever office was more convenient. The Committee on Homeland Security had six subcommittees. As the so-called “nuclear fellow” I worked mainly on the Subcommittee on Emerging Threats, Cybersecurity, and Science & Technology.

Our committee staff was responsible for preparing background information on homeland security hearings and legislation, and for preparing scripted statements for members at homeland security events. A staffer provides background information to a member, in the form of a briefing memo, prior to any committee meeting, such as a hearing or markup. At both hearings and markups, the chairman and the ranking member of the minority party give opening statements, which are prepared by the staff. If the meeting is a hearing, the staff also prepares a list of questions for the members to ask the witnesses. At markups, the staff prepares a script detailing procedure and the appropriate procedural remarks for the consideration of bills and amendments.

There are several organizations within the legislative branch that staffers rely upon heavily. The three organizations I relied upon most were the Congressional Research Service, the Government Accountability Office, and the Office of Legislative Counsel. Each of these organizations provides a service that is indispensable to members of Congress and their staffs.

Prior to 1995, the Congress also had an organization specifically for science and technology support—the Office of Technology Assessment (OTA). Unfortunately, in the late 1990s, the budget for OTA was zeroed out, and the office was closed. The support agencies of Congress and the fate of OTA are discussed more in Section 2.3.

The Congress has two primary roles in the federal government: legislation and oversight. The former is defined explicitly by the Constitution, while the latter is more implicit based on Congress’ right to make laws, raise and appropriate money, consent to executive nominations, and instruct federal agencies. From the staffers’ perspective, drafting legislation and conducting oversight can be summed up by a description of briefings, hearings, and markups.

Briefings, which are essentially meetings between staff and anyone that is not staff, serve a variety of purposes. They can be held at the request of the staff as an official but non-public form of oversight, or to gather information on possible legislation. In addition to legislation and oversight, briefings are often held at the request of constituents or issue stakeholders

who would like Congress's help in some way.

Unlike briefings, a hearing is a public way of conducting oversight. Every two-year term, Congressional committees and subcommittees hold thousands of hearings. Although all hearings are public, very few of them receive national attention. Hearings can be held—at either the subcommittee or full committee level—for a multitude of reasons, including gathering background information or building political support for a proposed piece of legislation; publicizing the role of a committee chairman or staking out committee jurisdiction; publicly questioning the actions of a federal official or agency; or raising the visibility of an issue. Often, hearings are used as very public demonstrations of Congress's oversight role, with committee members demanding accountability of executive-branch agencies.

Markups are committee meetings held to “markup” legislation. At markups, committees consider bills, amend bills, and report bills to the whole House. Once a bill has been reported out of committee, it is ready for action by the House. This is the first official action for a bill after its introduction. Although committees act on bills, they have no constitutional authority to change bills. Committees do nothing but recommend changes and other actions to the House. Bills can only be amended and passed by a vote on the floor of the House. Markups and the legislation process are discussed in more detail in Section 3.3.

This report also gives recommendations for interacting with Congress. Working with Congress can be a rewarding and beneficial experience for everyone involved. However, best practices for doing so effectively are not intuitive. Much can be learned from professional science advocates.

When it comes to advocating science and technology issues to the federal government, the American Association for the Advancement of Science (AAAS) is the most experienced organization in the country. Founded in 1848, AAAS has been serving the scientific community for more than a century. The AAAS-published book, *Working With Congress: A Practical Guide for Scientists and Engineers*, by William G. Wells, Jr. [3], is an essential resource for scientists and engineers seeking to maximize benefit from interactions with the Congress. The AAAS also maintains online resources that anyone can access to get a better understanding of interacting with the federal government.

Interacting with Congress is something program directors should do as often as possible. Do not wait until you need something to reach out to members of Congress and their staffs. Letting staffers know you are avail-

able to help them—especially in their members’ personal issue areas—could result in the ideal situation of being asked to come speak with a member.

When you do meet with Congress to request a specific action, remember to be clear and concise. The best lobbyists that met with our committee often brought a one-page summary of why they requested the meeting and a bulleted list of how we could help. Letting staffers know exactly what you need and exactly how they can help will greatly increase the potential of your meeting having a useful outcome. The AAAS’s “Cardinal Rules” for interacting with Congress are shown on page 51—there is no need to re-invent the wheel. Before meeting with Congress, it would be well worth your time to see if the rules AAAS recommends can be useful to you.

When Congress visits you, the cardinal rules still apply, but I would add a few things that are specific to Sandia. The one rule that is most difficult for scientists and engineers to follow is Rule 13: “Remember that members and staff are mostly generalists.” Technical details and specifics should only be presented when more detail is requested. Of course, if asked, you should be able to drill down as far into the details as your visitors would like.

In addition to keeping discussion general, something that Sandia should be particularly careful of with Congressional visits is not to keep members and staff separated from their electronics for more than a couple of hours. Tours of restricted areas are quite common at the lab, and those areas require electronics, like the ever-present blackberry and cell phone, to be locked up. It may sound like a trivial point, but from the staffer’s perspective access to information is a necessity. Staffers exist in a never ending stream of information and communication. Being disconnected from the outside world is not something staffers enjoy.

This report also discusses in some detail why Sandia should continue sending people to Congress. There are three factors that determine why Sandia sends people to the Congress: (1) our commitment to national service and science in the national interest, (2) the benefit the lab receives in having an employee that can translate the political landscape into opportunities for the lab, and (3) personal enrichment and professional development the employee will gain—making him or her a more well-rounded Sandian.

Once Sandia has made the decision to send someone to Congress, the appropriate person must be selected. In addition to qualifications such as experience and technical skill level, I recommend considering such factors as youth and political point of view in selecting the proper candidate. Those issues are discussed in more depth in Section 4.4.

The final chapter of this report examines the future of the Congress and what lies ahead for the Committee on Homeland Security. Several changes in the leadership of key congressional committees may create new challenges for the committee as they try to consolidate oversight of homeland security.

The final chapter also takes a look at the executive branch, posing several questions the next administration will have to answer regarding its role in homeland security. At the top of the list of questions will be the fate of the Homeland Security Council (HSC) and the Office of the WMD Coordinator in the White House. On the one hand, the HSC—stood up by the Bush administration—may be dissolved in the Obama administration. On the other hand, the WMD Coordinator—established by an act of Congress but left vacant by the Bush administration—could become a functioning office in the Obama administration.

In addition to the reorganization of the Executive Office of the President, the Department of Homeland Security (DHS) may also experience some shuffling within its org-chart. As of this writing, Arizona Governor Janet Napolitano has been tapped to lead DHS, but we do not yet know who will serve under her. One of the first questions she will have to answer is whether FEMA should be kept inside DHS or returned to an independent agency. Many people have also wondered about the fate of the Domestic Nuclear Detection Office.

The next several months will be an exciting time at DHS. Of all federal agencies, DHS will have the most challenging and most watched transition into the Obama administration. The department has never been through a presidential transition, and, with over 200,000 employees, DHS is not just one of the youngest federal agencies, but also one of the largest. The people who end up on President Obama's homeland security team, whoever they are, will have their work cut out for them on a long list of national security and politically sensitive issues.

Chapter 1

Rise of the Staff

The first session of the House of Representatives began on April 1st (April Fool’s Day) of 1789. Over the past two-hundred years, the House has changed considerably—most notably from a small collection of wealthy white men to a truly diverse and more inclusive representation of the population.

Among the most dramatic changes since the inception of the House of Representatives is the increase in the number of staff working at the House and the members’ growing reliance on staff for almost all aspects of their work. These changes have not happened gradually, but rather have occurred dramatically over the last half-century. In fact, for the first hundred years or so, the number of members was considerably higher than the number of permanent staff.

In 1860, the House had 237 members. Each committee had at least one clerk that was hired for the duration of a session and each Congressman was allowed one clerk at a salary of \$100 per month [4]. By 1891, the number of committee clerks had grown to 142—62 for the House and 80 for the Senate. The clerks’ primary duties were keeping records and counting votes; many senators and representatives handled their own correspondence [5].

The practice of having a small number of staff continued into the first half of the twentieth century. Beginning in the 1960s, however, demands on the members’ time and the overall Congressional workload dramatically increased. This led to consequent increases in both the size and responsibilities of the staff. In 1960, a total of 6,866 staffers worked in the House and Senate. By 2000, there were more than 17,000 staffers working at the Congress [2].

The graph in Figure 1.1 shows the dramatic increase in staffing levels that began in the mid-20th century. As shown in the graph, staffing levels in the House reached a peak in the 1980s and have declined slightly to the present day. The dramatic decrease in House committee staff levels around 1995 is due to funding reductions established by the Gingrich Republicans who won control of the House in 1994.

In his book, *The House*, Robert Remini attributes the rise in staffing levels to the increased Congressional workload up to the present day:

Since much of the workload necessarily shifted to members of the staff, their number increased tremendously during the last quarter of the twentieth century. A congressman in 1960 had a budget of \$20,000 for staff salaries. By the middle of the 1990's it was \$515,760. Today there are 17,800 paid staffers and an additional 7,000 unpaid interns and fellows. The staff often writes the legislation that goes before the full House for approval. It is not uncommon for members to vote on bills they have not read or studied or know much about [4, p. 500].

Today, members of Congress rely almost entirely on staff to handle schedules, respond to constituents, prepare official statements, and draft legislation.

What caused this increase in reliance on the staff? From the staffer's perspective, there are three contributing factors: the increase in Congress' workload, the modern ease of travel via a robust commercial airline industry, and television access to Congressional proceedings.

The dominant cause in members of Congress becoming more reliant on staff is the increase in scope, complexity, and sheer volume of Congress' workload.

In the years preceding World War II, the size of the federal government began an unprecedented expansion. With the growth of the executive branch and the agencies it controlled, Congress was forced to expand or see its role in government diminish. In the latter half of the 20th century, Congress exerted its power over the federal government through an increased emphasis on oversight. The Legislative Reorganization Act of 1946 and the Legislative Reorganization Act of 1970¹ mandated enhanced congressional oversight, including additional committee and support agency

¹P.L. 91-510, 84 Stat. 1140; Legislative Reorganization Act of 1970.

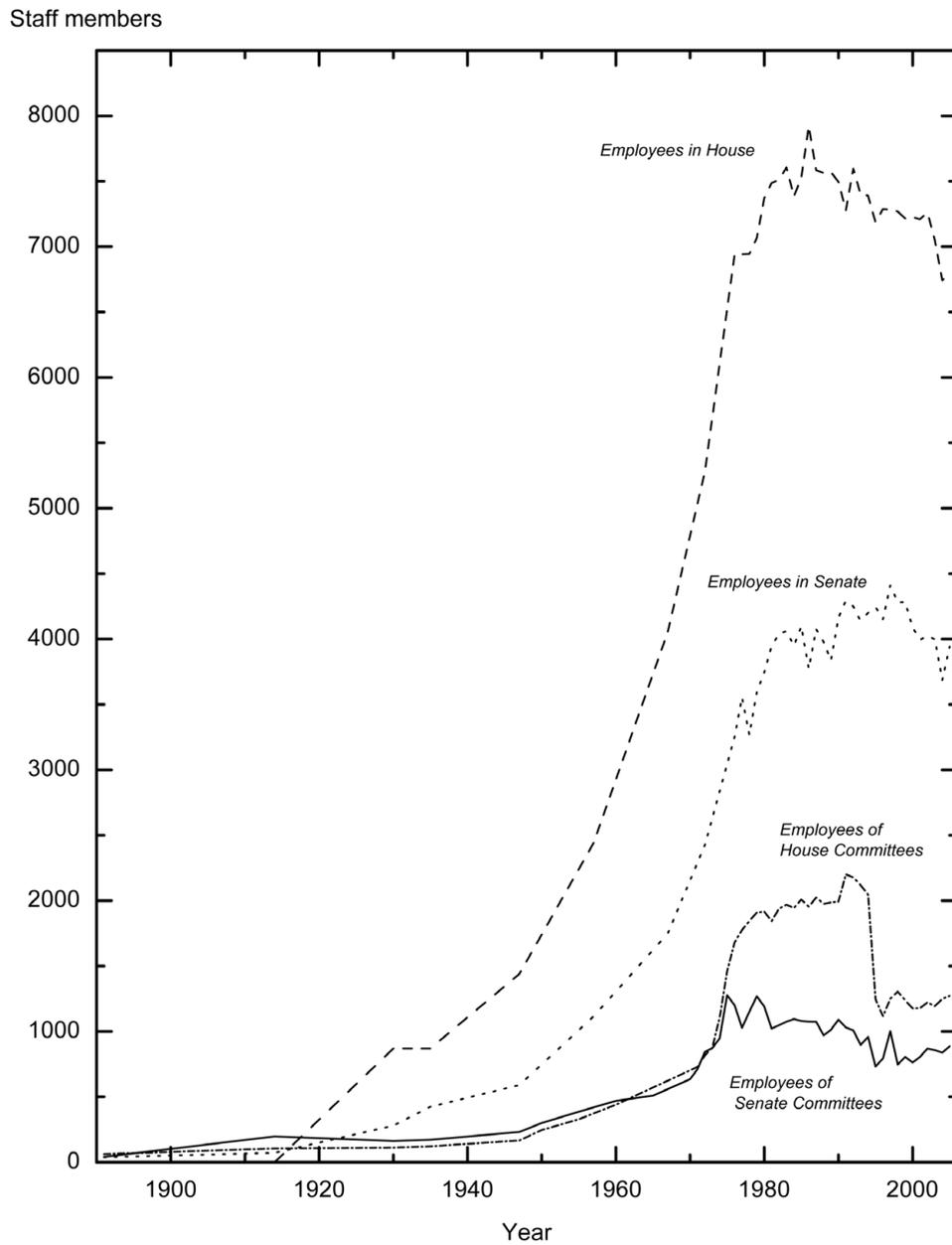


Figure 1.1: Staffing levels of Congressional offices and committees. (SOURCE: *Vital Statistics on Congress 2008*, Ornsteing, Mann, and Malbin [6].)

staff. The Congressional Budget Act of 1974² established the Congressional Budget Office (CBO) and the Senate and House Committees on the Budget, which allowed Congress to take a more active role in shaping the federal budget.

On top of the increased oversight of the federal government, Congress' role also became more pervasive than it had been. Today, Congress deals with issues that were once left to states and localities—issues that were previously considered outside the purview of the federal government. This broadening of scope has led to a dramatic increase in the amount of work members of Congress are required to perform on a two-year cycle. On average, about 8,000 bills and resolutions are introduced in the span of a two-year Congress. Although only about 500 of these bills are ever enacted into law, each bill requires work both before and after it is introduced [5].

Almost all forms of work that can be quantified, such as number of congressional hearings, days in session, and introduced bills, have markedly increased in the past several decades. Although the number of enacted public laws has decreased, this cannot be considered representative of a decreasing workload. In recent years, Congress has adopted a trend toward the “mega-bill”—particularly in appropriations packages. Therefore, although the number of enacted laws has gone down, the number of pages-per-public law enacted has dramatically increased, as shown in Figure 1.2.

In describing the increase in the Congressional workload, the authors of *Congress and Its Members* write:

For most of its history Congress was a part-time institution. Well into the twentieth century Congress remained in session for only nine of every twenty-four months, the members spending the rest of their time at home attending to private business. In recent decades legislative business has kept the House and Senate almost perpetually in session—punctuated by constituency work periods. During the average two-year Congress the Senate is in session nearly three hundred eight-hour days; the more efficient House gets by on somewhat less time. The average senator or representative works an eleven-hour day when Congress is in session [5, p. 29].

²P.L. 93-344, 88 Stat. 297; Congressional Budget and Impoundment Control Act of 1974.

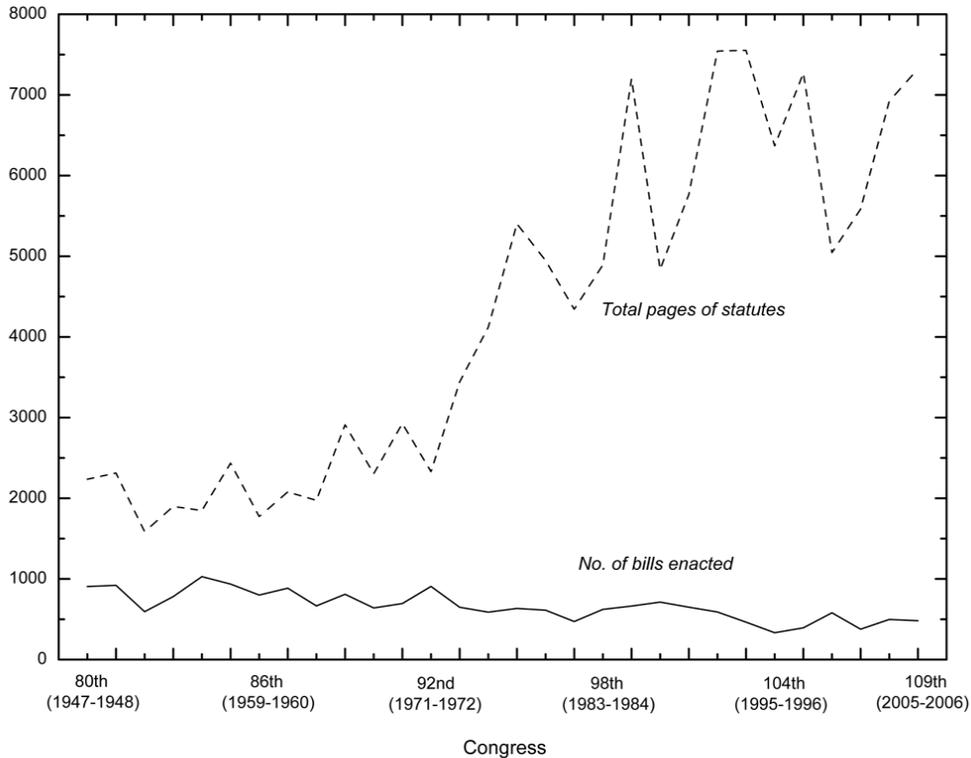


Figure 1.2: Number of public laws enacted and the number of pages of enacted public laws. (SOURCE: *Vital Statistics on Congress 2008*, Ornsteing, Mann, and Malbin [6].)

To any present day members or their staffs, the idea that Congress was ever a “part-time institution” is laughable.

In addition to the amount of legislation, complexity of legislation has also increased. This has created a need for policy experts in highly technical fields. Although Congressional staffs are still dominated by lawyers, other professionals, such as economists, scientists, doctors, and policy experts, are common on the staffs of Congressional committees and member offices.

Another contributing factor in the rise of the staff is the development of efficient commercial air travel. When asked about the Congressional work week, Congressman John Murtha remembered, “We used to work from noon Mondays until three o’clock on Fridays” [4]. Those days are long

gone. Nowadays Congress is rarely in session on Mondays and Fridays, and members flee the capital at the first opportunity. Less time spent in Washington increases the member's time back home for activities like campaigning, fund-raising, and constituent case work.

Efficient and affordable air travel allows members—including those from states like Hawaii and Alaska—to shuttle back and forth between Washington, D.C. and their home districts. Even Nancy Pelosi, the current Speaker of the House, travels back and forth from D.C. to San Francisco every week. This is one of the reasons Democrats' promise to implement a five day work week when they swept to power in November of 2006 was very short-lived. By May of 2007 the House had returned to the now standard Tuesday-to-Thursday workweek.³

At first glance it may not seem like a contraction in the Congressional work week would necessarily empower the staff. However, less time spent in Washington reduces the amount of time members can spend considering legislation and planning for hearings. This results in the staff—who remain in Washington even during recess—being given a large amount of responsibility in researching, proposing, and drafting legislation. It also gives senior staff wide authority to make decisions in a member's absence.

The importance of staff also increased with the spread of television in the latter half of the 20th century. Americans get the majority of their news from television. This fact, coupled with a round-the-clock news cycle and television access to all proceedings of the House, means that any comment a Congressman makes is immediately accessible to all voters and potentially vulnerable to attack from all rivals.

In the 19th century, the floor of the House was a forum for the great debates that shaped the nation we live in today. When television was brought into the floor of the House, the age of the great debates ended. In his book, *The House*, Robert Remini describes how television changed the debates on the floor:

Television first came into the House on March 19, 1979, and Representative Albert Gore, Jr., of Tennessee was the first Congressman to speak before the cameras. He assured his viewers

³It has also been suggested that racing back to the home districts has decreased camaraderie amongst the members and led to a more partisan environment. Where once members socialized with one another outside the work environment, now they only interact in their committees or on the House floor, where interaction is often adversarial.

and his colleagues seated around him that this new medium would “change this institution” and “revitalize representative democracy.”

But there was a downside. “Once television was in place,” explained Charles Johnson, the House parliamentarian from 1994 to 2004, “members were less willing to take on their opponents and to potentially be embarrassed, preferring, instead, to have prescribed speeches and then sit down. And that’s virtually all you see now.” Today, rarely, if ever, does a speech on the House floor change a single vote. Members are more likely to direct their remarks at an unseen television audience, not their colleagues [4, p. 461].

Because Congresspeople have such large workloads and so little free time, those “prescribed speeches” Charles Johnson was referring to are all written by the staff. Prepared remarks used to be necessary only for scheduled press conferences, but the list of events that require prepared remarks has grown to include speeches given on the floor of the House, opening statements at committee meetings, questions to ask witnesses at hearings, and talking points on an enormous range of issues. In theory, when time allows, members look over their speeches in advance of the actual event. In practice, however, a member only has time for a cursory read of his or her remarks moments before stepping up to a microphone. A member must put faith in his or her staff’s ability to prepare speeches and talking points that reflect the member’s personal views and are well suited to the event.

In addition to what has already been mentioned, other new developments, such as the Internet (which means news never dies) and the increased access to the members via cell phones and blackberries, place further demands on every member’s time.

Anything that reduces the members’ time necessarily empowers the staff. Given staff youth, this power can sometimes lead staff to be arrogant. Most staffers are humble, thankful for their jobs, and understand that no one elected them. On occasion, however, a staffer may confuse the importance of his or her position with a sense of self-importance. Arrogance on the part of the staff can often surface in the form of less-than-respectful interactions with political appointees and employees of the executive-branch agencies.

In a rather jaded account of his time on the Hill, John Jackley describes how power can corrupt young staffers. Referring to anyone who works on the Hill as a “Hill rat,” he writes:

Hill rats are a special breed, all right. Where else can \$18,000-a-year legislative assistants in their early twenties make life miserable for civil servants at the peak of their careers, some of them confirmed by the United States Senate?⁴

Where else can young press secretaries twist Cabinet secretaries in knots, or gleefully and shamelessly spearhead rumor campaigns against the highest officials in the land? [7, p. 7]

Although the demands on the members’ time will most likely keep increasing (further empowering the staff), this should not be a cause for concern. At the end of the day, only the elected members of Congress can hold hearings, only the elected members can introduce legislation, and—most important—only the elected members can vote. While the staff may have authority to inform and advise the members on policy and legislative issues, only the members can be held accountable by the people for making decisions. Any staffer trying to push an opinion that is inconsistent with the views of his or her boss will be quickly dismissed. Every staffer knows this and is cognizant of the most important rule of working on the Hill: The member must get elected. This is especially important in the House, where members run for election every two years. This ensures that all the work done by staffers in preparation for a member’s consideration must be consistent with the views of the people who elected that Representative.

In the next several sections we will see in greater detail the actual work done by the staff on behalf of the elected members.

⁴Jackley’s citation of “\$18,000-a-year legislative assistants” was appropriate for 1992, the year his book was published. Today (2008), the starting salary for a first year staffer is anywhere between \$30,000–\$40,000.

Chapter 2

What Staffers Do

In this chapter, we will take a closer look at the types of staffers that work on the Hill, a typical day in the life of a staffer, and describe the organizations and offices that exist to assist members of Congress and their staffs.

2.1 Two Types of Staff

When talking about Congressional staff, it is important to understand that there are two types of staff: those who work in members' personal offices and those who work for the committees of Congress.

In the House, each member is entitled to a member representational account (MRA) of \$1.2 million annually; this pays the salaries of no more than 18 full-time and four part-time employees. A representative is also entitled to an annual “allowance” for travel, telecommunications, district office rental, office equipment, stationery, computer services, and mail. House members have an average of 15 full-time staffers [5, p. 145].¹ A member's staff can be distributed between the member's district offices and DC office however the member wishes. Staffers in members' home districts spend almost all of their time on correspondence and constituent case work, while DC office staff have a range of duties.

¹Senators have no limit on the number of staff they can hire. A Senator's personal staff can range in size from 13 to 71, but the average Senate office employs about 34 people. A Senator's staff budget depends on the size of the population of the state he or she represents—California Senators get more money for staff than do Senators from Montana.

A typical personal office has several people who concentrate on constituent correspondence (e.g., mail and email), several people who concentrate on constituent case work, and at least one staffer whose full-time job is scheduling the member's time (it is very important to be nice to the scheduler!). There is always at least one person who makes sure the member votes—and votes correctly—when votes are occurring on the floor of the House. This person is often one of the legislative assistants (LA) who draft legislation and keep tabs on all other bills that the Member will be required to vote on. The LAs also serve as liaisons to the member's committees—they often come to weekly committee meetings and develop close relationships with committee staff.

Managing the LAs is the legislative director (LD). The LD sets the overall legislative strategy for the office. Above the LD is the Chief of Staff, who is responsible for the overall administration of the member's office. Typically, the LD and Chief of Staff are the most senior members of the Congressperson's staff.

Regardless of title or years of experience, all personal office staffers spend a large amount of time interacting with constituents, and certain constituents require a lot more work than others. Occasionally they get meeting requests from people they are just not capable of helping. At one congressional hearing, a personal-office staffer was sitting next to me behind the members when I heard him groan while looking at his blackberry.

“Something wrong?” I asked.

“Take a look at my two o'clock,” he said, handing his blackberry to me. The meeting description read:

```
Constituent believes he was wrongfully detained and
questioned by the CIA because he is a citizen of the
planet Venus.
```

Honestly, one must ask, who scheduled such a meeting? That was just one of the many occasions during my time on the Hill that I was thankful to be on a committee staff rather than working in a personal office.

Committee staffers tend to have much less interaction with constituents than do personal office staffers. Committee staffers are considered the policy wonks responsible for drafting legislation and conducting oversight specific to the committee's jurisdiction.

The size of committee staff is different for each committee, depending on how much money the House or Senate has granted the committee in

the annual Legislative Appropriations bill. In most cases, the majority and minority each hire a set of staff, with the exceptions being the Intelligence and Ethics committees, each of which has a unified staff. In the House, committees have an average of 68 staff, while in the Senate the average is 46 [2].

In the 110th Congress, the Committee on Homeland Security was allotted 58 staff: 40 Democrat and 18 Republican. This gives the party in power more than twice the number of staff. The Republican staff (where I sat) had office space on the first floor of the Ford House Office Building. The Democrat offices were around the corner. Although we did not share office space, briefings were often held in a bi-partisan fashion in whichever office was more convenient. The Committee on Homeland Security had six subcommittees. As the so-called “nuclear fellow,” I worked mainly on the Subcommittee on Emerging Threats, Cybersecurity, and Science & Technology.

People are often surprised at how young Hill staff can be. A combination of low pay, grueling work hours, and a very low success rate all ensure that those willing to work on the Hill are somewhat young. Also, two years experience on the Hill makes a person very attractive to federal agencies and private industry (after sixteen months in my position, three of my coworkers on the subcommittee left to accept positions at the Department of Homeland Security, making me the subcommittee’s most senior staffer).

Staffers being lured away by law firms and lobbyists also contributes to a high turnover rate, which in turn contributes to the transient nature of personal aides and committee staffs. In their book, *Congress and Its Members*, Davidson et al. write “Senate and House aides have served an average of less than four years in their posts,” [5, p. 146] and, “Over 60% of House [committee] staff have two or less years of experience in their current position” [5, p. 225].

For the Committee on Homeland Security, the staff was especially young. Unlike other committees (such as Foreign Affairs, Agriculture, or Energy & Commerce), the Committee on Homeland Security was only five years old when I started there in 2007. Therefore, people with more than five years of experience in homeland security simply did not exist. Of the 18 people on the Republican staff, the average age was approximately 30—only three people were over 40 years old. One of our best staffers, on either side of the aisle, was only 26. He started at the committee as an intern right out of college, was there at the creation of the committee, and four years later

was senior staff. (Incidentally, he was one of the best staffers on either side of the aisle.) On average, though, most people were 30 years old, plus or minus two years.

For me, the age of the staff was an interesting difference from Sandia. Being in my early 30s, I am often considered among the younger staff at the lab. On the committee, however, I was considered one of the older staff. Several of our interns could not resist the urge to address me as Dr. Allen.

Another contributing factor to keeping down the average age of the staff is the conscious desire to hire young people. After I had been at the committee for several months, I asked my boss why she hired me and was a bit taken aback when she replied, “You were the youngest.”

“The other labs sent me gray-haired scientists,” she said, “and while they were certainly knowledgeable in their fields, I just couldn’t see any of them being happy doing the type of grunt work we have to do.”

In that respect she was absolutely right. Staffers do a lot of hard work for very little praise. An established scientist with decades of experience is probably not going to be happy coming in on the weekend and putting together a hearing binder for a Congressman who may not even show up to the hearing. The youth of the staff is an important point—one I will return to in Section 4.4.

2.2 A Typical Day On the Hill

In theory, when the House is in session, the work day officially starts at 9 AM and ends at 6 PM. In practice, however, most people try to get to work before 9 and there is no limit to how late people stay. I tried to get to my desk between 8 and 9; that way, I could go through my email and go over the morning news before the day actually started. Reading the news (and continuously knowing what is in the news) is a big part of a staffer’s job.

Every morning, when I got to my desk, the first thing I would do (often even before checking my email) was consume the news. Via the Internet, I read the top stories from the New York Times, the Washington Post, and One Nuclear Place.² A copy of CQDaily was delivered to my desk everyday, which detailed the happenings on the Hill for that day. I also received homeland security news clips from four different news services several times a day, right to my email inbox. Fellow staffers would also send me news

²<http://www.1nuclearplace.com/>

articles if they thought they were important to my mission area. I quickly learned that the email shorthand “ICYMI” stood for “In Case You Missed It...”

The committee existed in a constant stream of information, with a television on every desk and a blackberry on every hip. The closed-circuit television system within the House allowed us to watch every committee meeting occurring on the House side of the Congress. One might liken the office to the workspace of a major newspaper, with phones ringing, blackberries buzzing, and twenty televisions watching different channels—some viewing hearings or debates on the floor of the House, others viewing CNN or MSNBC, and someone watching FOX News (a particular favorite on the Republican side of the committee).

After the morning’s news had been consumed, work would begin on preparing for the day’s briefings, hearings, and markups. Details of what is meant by hearings, briefings, and markups are given in greater depth in Section 3. Here, the reader need only understand what goes into preparing for such things.

While the personal offices are in charge of keeping the members’ schedules and making sure they get to where they need to be on time, the committee staff is responsible for preparing background information on homeland security hearings and legislation, and for preparing scripted statements for members at homeland security events. Background information is provided to members in the form of briefing memos prior to committee meetings. At both hearings and markups, the chairman and the ranking member of the minority party give opening statements, which are prepared by the staff. If the meeting is a hearing, the staff also prepares a list of questions for the members to ask the witnesses. For markups, the staff prepares a script detailing procedure and the appropriate procedural remarks for the consideration of bills and amendments.

Remarks are prepared as far ahead of time as possible so they can be shared with staff in the personal offices. The personal staffers then “run the traps” to see if anything in the remarks could lead to politically difficult situations for their bosses. For example, before one hearing of the Science and Technology subcommittee, a personal office staffer told me to remove a comment regarding international cooperation on science and technology from the Congressman’s opening statement.

“Matt,” he said, “you’ve got to take that sentence out. Our constituents have been calling us all week because the President visited [both] Canada

and Mexico in the last three days. People are worried there's a plot to make North America all one nation with one currency."

The possibility of writing something that could be construed as the Congressman endorsing a one-nation, one-currency North America was obviously not something I had considered. Just goes to show the very different ways personal staff and committee staff view the world.³

When Congress is in session, daily activities can be interrupted at any time to answer real-time requests from the members. Because I sat on the "science" subcommittee, my subcommittee coworkers and I were used as science advisers on a range of issues—even those outside of homeland security. One afternoon in 2007, when the Energy and Water appropriations bill was on the floor of the House, I got a phone call from the office of our committee's ranking member. The Udall amendment was up for a vote later that day and the members needed information. "It has something to do with the national labs, so I called you," the staffer said. "We need your recommendation by 5 PM." I hung up the phone and scrambled to contact Congressman Udall's office, the National Nuclear Security Agency, and the my Congressional liaison at Los Alamos National Lab. I condensed all of the pertinent information down to a one-page memo with a voting recommendation and sent it off to my members on the Committee on Homeland Security. The total turn-around time was four hours.

When Congress is not in session, typical days on the Hill are very different. The atmosphere in the office is much more relaxed. Long recesses, such as the month-long August recess, allow enough time for staff to travel as part of Congress' oversight function. Staffers look forward to recess—a time when they are not needed for real-time staffing of the members—as an opportunity to get caught up on other work. While staffers do take advantage of the down-time provided by recess to rest, the predominant activities during recess are oversight and the drafting of legislation. When members get back from recess, they inevitably find stacks of meeting requests and legislative proposals from their staffs waiting for them. The longer the recess, the higher the stacks.

For more about the details of Congress' legislative and oversight functions, see Chapter 3.

³The Congressman in this anecdote was from Texas. According to his staff, the member's constituents often called with concerns over the establishment of the Amero, the "proposed" common currency for North America.

2.3 Staffers Have Help

At this point, you may be worried that young staffers with little or no training in history, law, or government policy are responsible for conducting oversight and drafting legislation. Truthfully, there is little reason to worry. Most staffers are very bright, and they have a lot of help. There are several organizations within the legislative branch that staffers rely on heavily. The three organizations I relied on most were the Congressional Research Service (CRS), the Government Accountability Office (GAO), and the Office of Legislative Counsel (Leg-counsel). Each of these organizations provides a service that is indispensable to members of Congress and their staffs.

One of the most valuable assets to members of Congress and their staffs is the CRS. As a department of the Library of Congress, CRS works exclusively as a nonpartisan analytical, research, and reference arm for Congress. As they state on their website, “CRS serves the Congress throughout the legislative process by providing comprehensive and reliable legislative research, analysis, and information services that are timely, objective, nonpartisan, and confidential, thereby contributing to an informed national legislature.” CRS aids staff by preparing academic background reports on almost any issue relevant to the work of Congress. During my time at the committee, I followed a self-imposed rule of reading at least one CRS report a week. This report’s bibliography is testament to my reliance on CRS reports in writing this paper.

One of the most appreciated functions of CRS is their training of new staff. Although some staffers may arrive on the Hill with knowledge of how laws are made, very few (if any) start with an understanding of how Congress actually works. Given the fast pace of work on the Hill and the high turnover rate of staff, committees and personal offices have little or no time to train new employees. Fortunately, CRS offers classes on a wide range of topics. These classes range from the basics of how a bill becomes a law to the highly detailed rules of parliamentary procedure of the House, and everything in-between. Classes are offered multiple times a year (sometimes multiple times a month), and staffers can request one-on-one tutoring in any issue area from CRS professionals. More information on the Congressional Research Service can be found on their public website at <http://www.loc.gov> and in the article by Brudnick [8].

Congress’s oversight duties are aided by the GAO. The GAO is known as “the investigative arm of Congress.” One GAO employee called his orga-

nization the “eyes and ears of the Federal Government.” In their capacity as government investigators, they are charged with essentially grading government programs on effectiveness in meeting their goals and appropriate spending of taxpayer dollars. On occasion, the GAO has been criticized for being overly zealous and sensationalist in their conclusions, and accused of only giving out grades of ‘D’s and ‘F’s instead of ‘A’s and ‘B’s—even when one of the latter is clearly warranted. The GAO is sometimes used as a political tool by members of Congress who wish to take issue with specific government programs. This is particularly true when the Executive branch and the Legislative branch of government are controlled by different political parties. More information on the Government Accountability Office can be found on their website at <http://www.gao.gov/> and in the article by Kaiser [9].

Another supporting office for staffers is the Office of Leg-counsel.⁴ The function of Leg-counsel is to assist, on an impartial and confidential basis, committees and members of the House of Representatives, when requested, in drafting proposed legislation. Leg-counsel reworks legislation sent to them (most commonly in the form of Microsoft® Word documents) in a manner appropriate for introduction to the House. This involves applying consistent typesetting to bills and providing general legal guidance in the drafting of legislation.

The Office of Leg-counsel consists of approximately 40 attorneys and a support staff of about 15 individuals, and is headed by the Legislative Counsel of the House, Mr. Pope Barrow. At an introductory seminar, Mr. Barrow told staffers his office prepared 25,906 “final drafts” and 77,262 total drafts in calendar year 2007. He also said there are approximately 200 requests pending against the office at any given time. Although the members and committees are not required to use Leg-counsel, most legislation in the House is worked on by Leg-counsel attorneys. More information on the Office of the Legislative Counsel can be found on their website at <http://www.house.gov/legcoun/index.shtml> and in the article by Glassman [10].

In addition to the agencies listed above, the Congressional Budget Office (CBO) was established in 1974 to assist members of Congress and their staffs in producing cost estimates of executive branch programs. Working on an authorizing committee, I did not have much interaction with

⁴The Senate has a similar, but separate, Office of Legislative Counsel.

CBO. I imagine that members and staffers on the appropriations committees rely far more heavily on information from CBO. More information on the Congressional Budget Office can be found on their website at <http://www.cbo.gov/>.

One area in which the staff does not always get the help they need is science and technology assessment. Most staffers have backgrounds in political science, international relations, and law. While knowledge in these fields is essential for drafting good legislation, it is not sufficient for the hyper-technical age we live in. In his book, *Physics for Future Presidents*, Prof. Richard Muller writes, “Laws of countries can be changed, but laws of physics are pretty much set” [11, p. 66].

On more than one occasion, I have struggled to convince people that not even Congress can change the laws of physics. For example, certain types of radiation are difficult to detect, and mandating technology improvements for Homeland Security radiation detectors simply cannot change that. Every Congressional committee—not just the Science and Technology Committee—can benefit from qualified expertise in science and technology.

Prior to 1995, this science advisory role was filled by the Office of Technology Assessment (OTA). A grass roots effort to archive the work of the OTA and highlight its usefulness to the nation has been started by the Federation of American Scientists. The effort’s webpage describes the unique role OTA played in the legislative branch:

The Office of Technology Assessment occupied a unique role among the Congressional information agencies. Unlike the General Accounting Office, which is primarily concerned with evaluation of ongoing programs, and the Congressional Research Service, which provides rapid information on legislative topics, OTA provided a deeper, more comprehensive, and more technical level of analysis. Through eleven Congressional sessions, OTA became a key resource for Congressional members and staff confronting technological issues in crafting public policy. Its existence brought a healthy balance to the analytical resources available to the executive and legislative branches of government [12].

In 1995, funding for the agency was zeroed and the organization ceased to exist. This lack of independent assessment of science and technology issues can make staffers reliant on the executive agencies or other organizations

for scientific expertise. Unfortunately, these agencies may not have the necessary expertise for all issue areas, or the ability to properly convey assessment in a way members of Congress and staffers find useful.⁵

This is why science fellowship programs—such as those sponsored by the American Association for the Advancement of Science ([AAAS](#)) and the American Society for Mechanical Engineers ([ASME](#))—are so critical to Congress.

⁵An excellent interview with Congressman Rush Holt (D-NJ)—a plasma physicist and OTA’s biggest supporter on the Hill—in which he discusses the real need for such an organization in the Congress today, can be found on the OTA Archive [website](#).

Chapter 3

Legislation and Oversight: A More In-Depth Look at the Role of the Staff

The Congress has two primary roles in the federal government: legislation and oversight. The former is defined explicitly by the Constitution, and the latter is implied by Congress's rights to make laws, raise and appropriate money, consent to executive nominations, and instruct federal agencies.

The first article of the Constitution clearly states that all lawmaking power will lay with the legislature:

“All Legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives,”¹

Although the president's authority to issue executive orders has been considered by some to be a backdoor to legislating from the oval office, the Congress maintains the only constitutional authority to pass laws.

Not specified in the Constitution is the role Congress plays in oversight of the federal government—specifically over the executive-branch agencies. Instead, the role of Congress in government oversight is mandated by public laws and statute. As described in Section 1, Congress began putting more of an emphasis on oversight in the latter half of the 20th century. The Legislative Reorganization Act of 1946 reduced the number of committees and

¹Article I, Sec. 1, United States Constitution.

subcommittees in the House and Senate in an effort to make the Congress more efficient. The same act also instructed House and Senate committees to exercise “continuous watchfulness” over the programs and agencies under Congressional jurisdiction [5, p. 352]. The Legislative Reorganization Act of 1970 reinforced the oversight mission by increasing the size of staff and support agencies within the legislative branch to assist in conducting oversight.

Each committee’s jurisdiction—both legislative and oversight—determines its prerogative to report bills to the House or Senate and hold investigatory hearings. Navigating the jurisdictional landscape is particularly difficult in the House, where bills can be referred to multiple committees. For a very good (if slightly out of date) tutorial on Congressional jurisdiction, see *Turf Wars* by King [13].

The Committee on Homeland Security is more hindered by jurisdictional challenges than any other committee. The subcommittee I sat on, Emerging Threats, Cybersecurity, Science and Technology, had primary oversight responsibility for the ostensibly “science”-related agencies within the Department of Homeland Security (DHS). This included—but was not limited to—the Domestic Nuclear Detection Office, the Science and Technology Directorate, the Office of Health Affairs, and the Office of Cybersecurity and Communications. Despite our explicit authority over DHS and its component agencies, we battled continuously over that jurisdiction with other committees, such as the Committee on Science and Technology and the Committee on Energy & Commerce.

Our subcommittee also exerted oversight authority on organizations outside of the DHS, where scientific or technical aspects of homeland security applied. This included such organizations as the Department of Health and Human Services (because of their role in the prevention of bioterrorism, pandemic influenza, and other public health-related aspects of homeland security) and the Department of Energy (because of their role in preventing nuclear terrorism). Although our committee had no legislative jurisdiction over agencies outside of DHS—therefore we could not pass laws affecting such departments—our oversight authority allowed us to solicit information, briefings, and, if necessary, summon federal officials to appear before the committee at public hearings. For a more in-depth look at the origin of the Committee on Homeland Security and the jurisdictional challenges created during the process of establishing that committee, see Appendix A.

In the next several sections, the role of the staff is described in greater

detail, with an emphasis on how staffers support the work of Congress and its members as they perform their duties of legislation and oversight. From the staffer's perspective, drafting legislation and conducting oversight can be summed up with a description of briefings, hearings, and markups.

3.1 Briefings

A large part of any staffer's week is spent in briefings. A typical day can include a number of briefings on topics that are not even remotely related to one another. These briefings, which are essentially meetings between staff and anyone who is not staff, serve a variety of purposes. They can be held at the request of the staff as an official, but non-public, form of oversight, or to gather information on possible legislation. The former typically involves the staff meeting with government officials—in my case almost always employees of DHS—or people from the CRS and the GAO. The latter, briefings held to gather background information on possible legislation, often include stakeholders from private industry, academics, or other specialists in the fields related to the legislation.

Some briefings are held at the request of constituents or issue stakeholders who would like Congress's help in some way. On the committee staff, these meetings are often with private-industry vendors or lobbyists retained by the vendors. When a vendor requests a meeting, the reason is typically either because the vendor wants the federal government to purchase a product or the vendor has an existing contract with the federal government and feel the government is not living up to its end of the bargain. In my two years with the Subcommittee on Emerging Threats, Cybersecurity, Science and Technology, I think we met with every manufacturer of radiation detection technology and every producer of bioterrorism pharmaceuticals in the United States. To my knowledge, we never turned down any request for a meeting.

Some lobbyists are much better at interacting with Congress than others (this is a point I will return in discussing strategies for interacting with Congress in Chapter 4). Small companies, which are generally new to the world of federal contracts, are not as good at lobbying as larger companies with more experience. This can be demonstrated by looking at the behavior of two companies, one small and one large, each of which delivered a letter to our committee.

The small company—and I use the word “company” loosely—which specialized in cargo security, was really nothing more than a man with an idea. The man felt the government was not doing enough to secure cargo containers and decided to design a system he felt was aptly suited for the job. After not getting any response from the Coast Guard or the Department of Homeland Security, he decided to take his idea directly to the Congress. At the end of one of our subcommittee hearings, he walked up to the dais, where the members were seated, and handed Congressman Michael McCaul a one-page letter outlining his solution to cargo security. A redacted version of the letter is shown in Figure 3.1. This is possibly the worst way of bringing an idea to the attention of the members. The congressman took one look at the letter, thanked the man for his concern, and handed the letter to me with a short comment: “Deal with this.” I promptly dealt with it by filing the letter at the bottom of the largest stack of papers on my desk.

On the other hand are the larger, more experienced companies. Pharmaceutical companies tend to have the best lobbyists. Every pharmaceutical company we met with walked into our office with a clearly defined need and a simple solution that required very little work on the part of the staff. Most frequently, these companies wanted the members of our committee to sign letters they had prepared for particular government agencies. For example, some were concerned that the Department of Health and Human Services (HHS) was not doing enough to meet its statutory requirement of stockpiling medical countermeasures. Our members were often more than happy to sign onto a letter requiring HHS to abide by the law and procure countermeasures for the National Strategic Stockpile. Another set of lobbyists was seeking a change in a government contract for some reason, and had a letter to that effect already prepared. Signing letters requires little work on the part of the staff, and lobbyists know that the sending of letters is a large part of how Congress conducts oversight. How to get the most out of a briefing with staff is an issue that will be discussed in Chapter 4.

On occasion, briefings are important enough to be held at the member level, which is just “staff speak” for saying that the members of our committee will be in attendance and they will be doing the talking. Member-level briefings require a background memo for the members that describes the topic, the presenters, and issues for the committee or the Congress. Member-level briefings (usually) do not require prepared statements or talking points. Prepared statements, talking points, and much more are

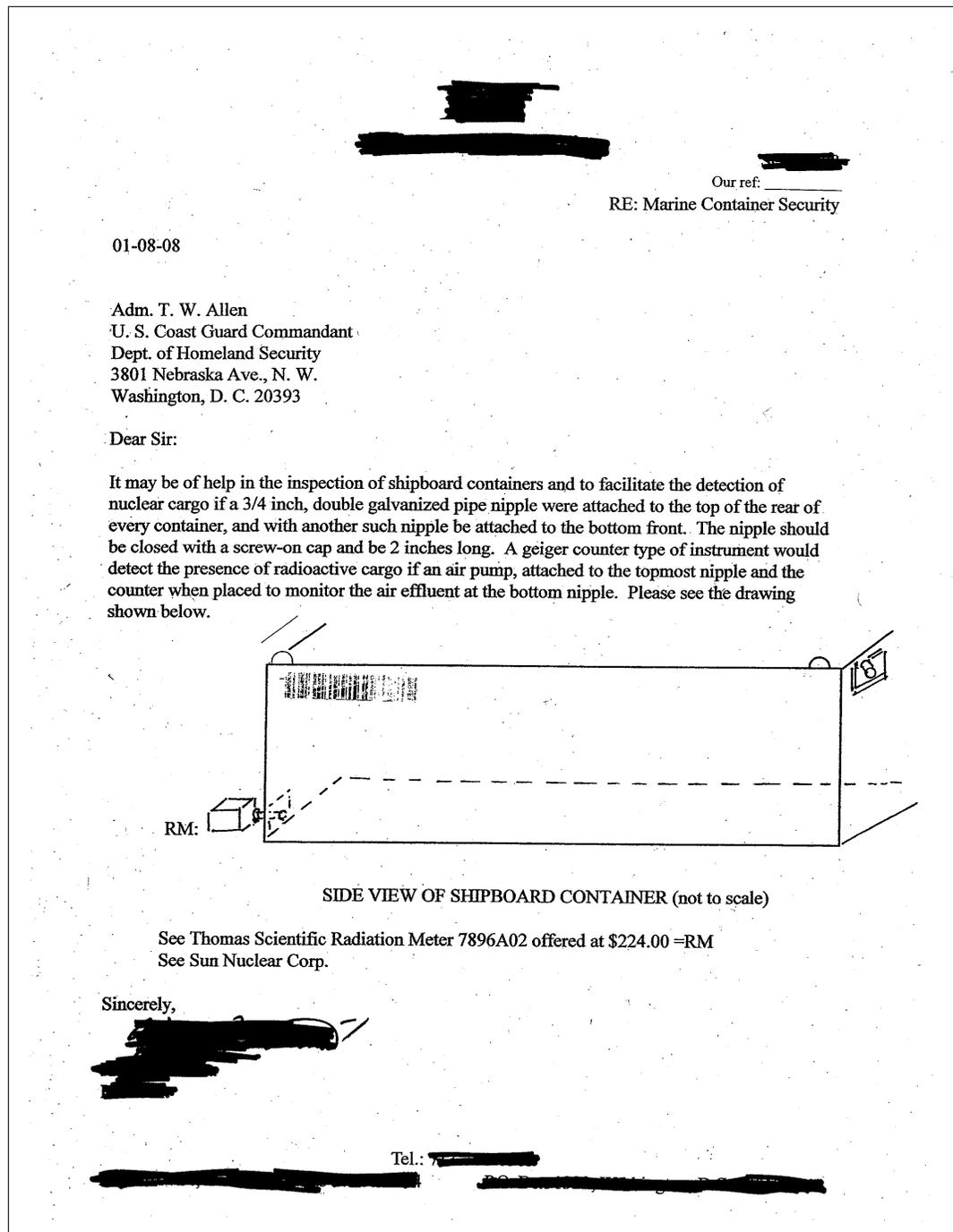


Figure 3.1: Letter from concerned constituent. Hand-delivered to Congressman McCaul at a subcommittee hearing.

required if the topic of the briefing turns into the theme of a Congressional hearing.

3.2 Hearings

Every two-year term, Congressional committees and subcommittees hold thousands of hearings. Although all hearings are public, very few of them ever receive national attention. Hearings can be held—at either the subcommittee or full committee level—for a multitude of reasons:

- To gather background information or build political support for a proposed piece of legislation;
- To publicize the role of a committee chairman or stake out committee jurisdiction;
- To publicly question the actions of a federal official or agency; or
- To raise the visibility of an issue.

More often than not, hearings are used as very public demonstrations of Congress's oversight role, giving Congress an opportunity to demand accountability of executive-branch agencies. Although a hearing does not result in anything substantive—other than the occasional Congressional request for information from witnesses—they are held with the intention of affecting policy.

For committee staff, hearings require a great deal of work. Staff often recommend to the committee or subcommittee chairman a hearing topic that reflects the chairman's interests and policy agenda. Once the chairman has decided which hearings will be held, it is up to the staff to schedule the hearing and contact appropriate witnesses.

Selecting witnesses and making sure they can be in Washington on the proper day is one of the most important steps in setting up a productive hearing. The Committee on Homeland Security had an unofficial rule that the minority was allowed one witness on every panel. This witness has to be vetted by the staff to ensure his or her prepared statements are consistent with the views of our members. On the Subcommittee for Emerging Threats, Cybersecurity, Science and Technology, our ranking Republican member was Michael McCaul (R-TX), so we often tried to get witnesses

from Texas A&M University (which was close to his district) or elsewhere in Texas. At the full committee level, Peter King (R-NY) was the ranking member, so we often tried to get witnesses from New York City or Long Island.

Once witnesses have been established, the hearing binders are prepared. These binders (blessedly assembled by interns when possible) contain all the necessary content the members need at the hearing, conveniently separated by tabbed dividers. The first section of the binder contains the ranking member's opening statement—often typed in ultra-large font to make it easier to read. The next section of the binder contains suggested questions for members to ask the witnesses. Both the opening statement and the suggested questions are prepared in cooperation with staffers from the personal office of the ranking member. After the questions for members, the binder contains the hearing memo, which includes statements for the record from each of the witnesses and short biographies of the witnesses.

The hearing memo is a roughly five-page summary of the hearing topic and the committee's position on the topic. Writing the hearing memo is one of the more time-consuming parts of preparing the binders, and I have often wondered how many of our members actually read it. When preparing any memo for the members, staffers are wise to remember the most important rule of interacting with Congress: Concision is the soul of communication. I was on the job for several months before this lesson finally sank in. I shudder when I remember that the first memo I prepared for Mr. McCaul actually contained equations. I think Diane Berry, the woman who hired me onto the committee, and my staff lead at the time, went through several red pens making edits to that first memo.

After all prepared remarks have been read, each member gets five minutes to question the witnesses. At the end of the hearing, staff has ten days to submit questions for the record (QFR), which are questions the witnesses are asked to provide more detail on. QFRs are generally asked if something new came up in the hearing or if a witness did not have time for a sufficient answer during the question period.

3.3 Markups and Legislation

The most rewarding experience for any committee staffer is to see legislation he or she drafted enacted into public law. Unfortunately for most staffers—

Enacted Public Laws	Number of Introduced Bills		Bills Enacted Into Public Law
453	House	7340	6.2%
	Senate	3741	12%

Table 3.1: Number of public laws enacted and the number of bills introduced in both chambers of the 110th Congress.

especially those serving in the minority—this is not a common occurrence. Table 3.1 compares the number of public laws enacted during the 110th Congress and the number of bills introduced in both chambers. As we can see from the table, only 12% of bills introduced in the Senate were enacted into public law. In the House, where members are both more numerous and more prolific, only about 6% of bills were enacted into public law. That is not a very high success rate for authoring legislation.²

The next several sections take a closer look at the legislative role of Congress and the role of the staff in drafting bills and shepherding them through the legislative process. What follows is not an in-depth discussion of how laws are made, but my personal experience in seeing a bill go from a blank page to a legislative act passed by the House of Representatives. For a detailed discussion of the processes involved in how a bill becomes a law, see *How Our Laws Are Made* by Johnson [1].

Policy, Politics, and Procedure

In school, most students learn that legislation begins in one of the two chambers of Congress, and, if agreed upon by both chambers, is submitted to the President of the United States for his signature or veto. When I arrived on the Hill, I quickly learned there is far more to the legislative process than what was taught in my high school civics class. As mentioned

²Dividing the number of enacted public laws by the number of introduced bills is a common way of calculating the percent of bills that actually make it through the legislative process. That said, Congress’s move toward the mega-bill, as shown in Figure 1.2 on page 19, implies that multiple bills could be rolled into one mega-bill and then enacted into one public law. This makes it much more difficult to calculate the real “success rate.”

in Section 2.3, experts from CRS are on hand to teach staffers the legislative process. Judy Schneider, a living legend within CRS and the halls of Congress, always starts her lesson to new staffers by telling them that passing legislation requires mastery of three things: policy, politics, and procedure.

In my time on the Hill, policy was the only one of the three of which I ever felt I had a clear understanding. My education and the time I spent at Sandia in the radiation detection group were excellent preparation for my role as the “nuclear fellow” on the committee. Unlike others on the staff (as well as some of the federal employees at DHS), I had a clear understanding of the challenges facing the Department in preventing nuclear terrorism and detecting the illicit transport of radiological material. That is where my expertise ended. When I showed up, I had a very limited knowledge of the politics on Capitol Hill and zero knowledge of parliamentary procedure of the House.

During my time, I tried my best to stay out of the politics of the committee work, but that only lasted about a week. Given the partisan nature of the current Congress, staying non-political within the walls of the House was just not possible—a point I will return to in Section 4.4, when I recommend things Sandia should consider when selecting who goes to Congress.

The one area in which I had no prior experience, and the area that was the most exciting to learn, was the parliamentary procedure of the House of Representatives. The rules of procedure are at the heart of every action of the House, but few people outside the chamber understand how important procedure can be. Political victories can be won on procedural grounds, regardless of the quality of the policy under debate. John Dingell (D-MI), the so-called “Dean” of the House, due to his 54 years as a Representative, has famously stated,

If you let me write the procedure, and I let you write the substance, I’ll [beat] you every time [14, p. 12].

In my first several months with the committee, the procedural language I encountered was somewhat overwhelming. It was so far removed from what I considered to be standard English it might as well have been a foreign language.

One of the biggest accomplishments of our committee began with a procedural statement that went right over my head. On July 9, 2007,

Senate Majority Leader Harry Reid, made the following statement on the Floor of the Senate:

Mr. President, I ask unanimous consent that the Homeland Security and Governmental Affairs Committee be discharged from further consideration of H.R. 1 and that the Senate then proceed to its consideration; that all after the enacting clause be stricken, and the text of S. 4, as passed the Senate on March 13, 2007, be inserted in lieu thereof; that the bill be read the third time, passed, and the motion to reconsider be laid on the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate. (Sen. Harry Reid, *Congressional Record*, July 9, 2007)

Reid's statement immediately sent our committee into a flurry of activity, while I was left wondering what in the world he had said. When I grabbed one of the old-timers on our staff—an old-timer being someone who had been on the Hill for more than five years—and asked for a translation of this cryptic statement, he explained that the Senate had just decided to conference with the House on H.R. 1, the “Implementing Recommendations of the 9/11 Commission Act of 2007.” Conference between the chambers occurs when the House and Senate disagree on a bill. At conference, the final text for the bill is hammered out and the bill is prepared for submission to the President. This was a seminal moment for us because H.R. 1 was the only bill the Committee on Homeland Security passed in the 110th Congress.

Although my knowledge of procedure did improve greatly during my time at the committee, the end result was nothing close to expert knowledge. Procedure, like the law, is based partly on fixed statute and partly on precedent. Therefore, it is always evolving. One could spend a lifetime studying parliamentary procedure of the House without exhausting the near-infinite list of procedural possibilities.

The Life of H.R. 5531

A description of the staff's involvement in the legislative process is best told through a personal experience. What follows is a short tale of a bill

I drafted for Congressman Peter King (R-NY), the ranking member of our committee.

When preparing a bill, multiple questions arise along the way. The first necessary question to answer is: What is the need for the legislation?

As the “nuclear fellow” on the committee, I spent a large part of my time interacting with the Domestic Nuclear Detection Office (DNDO) at DHS. At the time, DNDO’s most high-profile project (that had the attention of the Congress) was a research program to develop spectroscopic radiation portal monitors. The Advanced Spectroscopic Portal (ASP) monitor, a radiation detector that could detect as well as identify radioactive material, held the promise of increasing national security while reducing nuisance alarms at our nation’s ports-of-entry. Without delving too deeply into the history of the ASP program, I will say the program had issues. Questions had been raised about the capabilities and cost of the new detectors, and about the integrity of DNDO’s testing and evaluation practices.

The program was the subject of multiple GAO audits, external reports, and several Congressional hearings—both in our committee and others. It was also the subject of no fewer than six articles in the *Washington Post* during the two-year span of the 110th Congress.³

Although Congress had been extremely critical of DNDO’s progress and performance on the ASP program, the only statutory direction the agency had been given was a few sentences in appropriations bills. Given Congress’s interest (despite limited engagement) in the ASP program, and that committees other than our own were trying to exert influence over this definitively homeland security program, authorizing legislation from our committee was needed. I prepared a memo that pitched the idea of a bill to our committee leadership, showing that legislation would guide the Department’s actions and firmly stake out our committee’s jurisdiction over the program. Our staff director gave me the okay to go forward and draft a bill for Mr. King’s consideration.

Getting the go-ahead starts the policy aspect of drafting legislation. This involves meeting with department officials—with whom our staff generally had a very good relationship—to prepare legislation that achieves the intended goals. This interaction is a critical part of drafting a good

³Articles regarding the ASP (all written by Robert O’Harrow Jr.) appeared in the *Washington Post* on Friday, July 20, 2007; Tuesday, November 20, 2007; Wednesday, March 5, 2008; Saturday, June 28, 2008; Thursday, September 4, 2008; and Thursday, October 30, 2008.

bill. Legislation drafted in a vacuum is typically overly political and fails to achieve any positive policy outcome.

After a first draft of the base language is worked out, the language goes to Leg-counsel for recommendations and to be prepared in standard typesetting. What you get back from Leg-counsel is the bill language in standard format with bracketed comments pointing out legal inconsistencies or the need for more specific language. These bracketed comments need to be addressed before proceeding to the next step.

After all issues have been resolved with Leg-counsel, the “Discussion Draft” (as it is called at this point) goes to the parliamentarian’s office (parls) for an opinion as to which committees the bill would be referred—a process known as “running the parls.” The parliamentarian’s office is not obligated to answer questions from staff on legislation before it is introduced, but they are generally very helpful. By giving guidance upfront, parls can reduce the expected number of angry calls from committees.

Drafting a bill to ensure the proper committee referral is one of the most important parts of preparing legislation. Committees are generally loath to move any bills they did not originate themselves. Therefore, if the bill is not referred to your committee, chances are it is not going to go anywhere. If the bill gets referred to your committee as well as other committees (a situation only possible in the House), chances are it is not going to go anywhere. On the Committee on Homeland Security we always made sure to use the appropriate buzz words (e.g., “terrorism” and “homeland security”) to trigger referrals to our committee while avoiding words that would trigger referrals to other committees.

In the case of the ASP bill, what I got back from the parls was the best possible response: “I’ve shown this to my colleagues, and the consensus is that this would be referred to the Committee on Homeland Security only.” The fact that our committee would get sole referral meant introducing the bill would be a political win for our committee even if the bill did not become law. Referrals by the parliamentarian are precedent-setting. Therefore, after introducing the ASP bill and getting a sole referral, any bills introduced at a later date pertaining to the ASP program would be referred to our committee.⁴

After getting feedback from DNDO, Leg-counsel, and the parls, the ASP

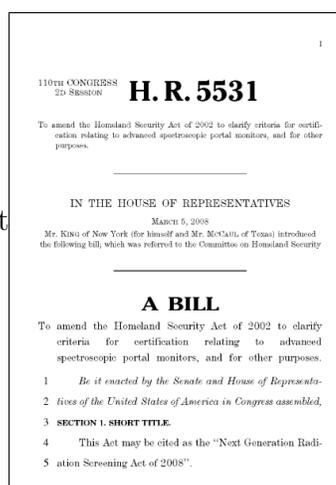
⁴Introducing bills just to get the referral is a jurisdiction-expansion tactic used heavily by some committees of Congress.

bill was ready to go to the Congressman. When the Congressman gave his okay to introduce the bill, we moved on to the politics part of the process. This involves taking the language to my Democrat counterpart and the personal offices of the other members of our committee to build political support for the bill. For reasons my counterpart saw as overly political (but in truth were just a nature of happenstance and timing), we introduced the bill with little fanfare at 8 PM the night before our subcommittee held a hearing on the ASP program.

The bill now had the formal title of H.R. 5531, the “Next Generation Radiation Screening Act of 2008.”⁵ Once the bill is introduced, the process moves more into the politics-and-procedure aspect of legislation.

For several months, the bill sat pending against our committee with no action. Then, in July of 2008, the Democrat majority made a deal to move multiple bills with our committee leadership. In exchange for Republicans supporting Democratic bills, the Democrats agreed to support several bills introduced by Republican members—H.R. 5531 was moving forward.

A full committee markup of nine bills was set for June 26, 2008. This meant several of the bills were completely skipping the step of subcommittee markup, and H.R. 5531 was one of them. Binders were prepared for each bill, including the bill text, a section-by-section bill description, and talking points for the members. On the morning of the 26th, however, the majority was worried about keeping its members in their seats for the time required to markup nine individual bills. If a sufficient number of members are not at the markup, the minority has the right to raise a point of order that a quorum is not present, which would prevent the committee from reporting any bills. After conferring with our leadership, the majority made the decision to pass all bills “enblock” at the same time by voice vote. Lumping the bills together into one vote reduced the duration of the markup from the expected five hours to just 25 minutes—a triumph of procedure.



⁵H.R. stands for House Resolution. The first page of the bill, as introduced, is shown at the right. The complete text of bills can be found on the Library of Congress website, [THOMAS](http://thomas.loc.gov).

Once the bill passed out of committee, the next step was preparing the committee report. Committee reports, as one CRS analyst explained, “contain more detailed guidance to departments and agencies than is provided in the accompanying bill—typically referred to as ‘report language’ ” [15]. A bill’s accompanying report is meant to clarify Congressional intent—especially in the case of disagreement with the executive branch. In the appropriations committees, report language often specifies spending amounts at the program level. Although report language does not have statutory force—which means departments and agencies are not legally bound by report language declarations—it is taken seriously by agencies that must justify annual budget requests to Congress.

In the case of H.R. 5531, certain people at the Department of Energy (DOE) contacted the Energy & Commerce Committee to try to get language beneficial to DOE inserted into the bill’s report language. Specifically, they had Energy & Commerce try to include language that would require DHS to seek DOE “concurrence” on any decision relating to the ASP.⁶ In the end, our majority staffers firmly stood their ground and did not cede any jurisdiction to Energy & Commerce. The report was published as originally drafted by our committee.

Once bills have been reported out of committee they are ready for action by the House. This is the only official action for a bill since its introduction. Although committees act on bills, they have no constitutional authority to change bills. Committees do nothing but recommend changes and other actions to the House. Bills can only be amended and passed on the floor of the House.

Action on the floor of the House can be a confusing and cumbersome process. Fortunately, the bills our committee reported were considered non-controversial and therefore qualified for expeditious action under suspension of the rules.⁷

Although this relaxes the process, it still requires a lot of work by the staff; in our case, we had to put binders together for all nine bills and

⁶Terms like “concurrence” and “unanimous consent” are the most powerful of all procedural terms.

⁷“Suspension of the rules” is a procedure that the House of Representatives often uses on the floor to act expeditiously on relatively noncontroversial legislation. This procedure is governed primarily by clause 1 of House Rule XV. When a bill or some other matter is considered “under suspension,” floor debate is limited, all floor amendments are prohibited, and a two-thirds vote is required for final passage.



Figure 3.2: C-SPAN coverage of floor action on H.R. 5531, the “Next Generation Radiation Screening Act of 2008.” Our committee staff director properly scolded me for snickering at Congressman Bilirakis’ pronunciation of Advanced Spectroscopic Portal monitor program.

find a committee member who would agree to be in town on a Monday and would be willing to speak on the floor in favor of our bills. Luckily, Congressman Gus Bilirakis (R-FL) agreed to be there and speak on behalf of all of our bills—most of which he had no prior knowledge of. Floor action was scheduled for July 30, 2008, and all nine bills were passed in the House by voice vote. Figure 3.2 is a C-SPAN snapshot of me sitting behind Cong. Bilirakis during the passage of H.R. 5531.

The Day after H.R. 5531 was passed by the House, it was received in the Senate and referred to the Committee on Homeland Security and Governmental Affairs. Ideally, the Senate would have immediately taken up the bills we sent them, acted on them, and begun the process of conferencing over disagreements. In reality, the Senate takes up precious few bills sent on by the House. On the rare occasions when they do act on one of the House bills, the process is often very slow and drawn out—just as the framers of our government intended.

Chapter 4

Interacting With Congress

Working with Congress can be a rewarding and beneficial experience for everyone involved. However, best practices for effectively interacting with such a unique organization are not intuitive. This chapter discusses getting the most out of interacting with Congress, and offers a few pointers specifically for those of us who work at Sandia.

4.1 Learning from the Pros

When it comes to advocating science and technology issues to the federal government, the American Association for the Advancement of Science (AAAS) is the most experienced organization in the country. Founded in 1848, AAAS has been serving the scientific community for more than a century. The AAAS-published book, *Working With Congress: A Practical Guide for Scientists and Engineers*, by William G. Wells, Jr. [3], is an essential resource for scientists and engineers seeking to benefit from interactions with the Congress. The AAAS also maintains online resources that anyone can access to get a better understanding of interacting with the federal government.¹

In addition to providing general information about the Congress, the Wells book describes how to identify the proper members and committees of Congress in science and technology issue areas. In our hyper-technological age, science issues are far more pervasive than just matters under consid-

¹For more information, see the AAAS webpage on working with Congress (<http://www.aaas.org/spp/cstc/wwc/default.htm>).

eration by the Science and Technology Committee. In the 110th Congress, AAAS identified no fewer than 11 of 24 (46%) House committees and 9 of 21 (43%) Senate Committees dealing with science and technology issues or responsible for funding science and technology agencies.²

Because the Wells book is very well written, I will not reproduce its content here—with one exception: the AAAS list of 17 cardinal rules for working with Congress is shown in Table 4.1. This list accurately conveys the fundamentals of interacting with members of Congress and their staffs. An in-depth discussion of these rules can be found in Wells [3] and online at the AAAS [website](#).

The next several sections give a bit more guidance on interacting with Congress—both when you visit the Congress and when Congress visits you—based on my experience, and provide a few recommendations to maximize the benefit of such interactions. This chapter concludes with a short discussion on why Sandia should continue to send employees to Congress, and the factors the lab should consider in selecting the best candidates for the Hill.

4.2 When You Visit Congress

Once you have identified the appropriate members and committees with which to meet, you should begin the process of engaging the staff. Meeting with the members is great—developing personal relationships goes a long way on the Hill—but the members are extremely busy and probably will not have much time to give you. For example, when DHS Undersecretary for Management Elaine Duke came to meet with Congressman McCaul regarding the ASP program, he gave her about eight minutes of his time. She and her staff then spent the next 90 minutes meeting with only me.

It is important to be on time. Members and staff are very busy. During busy days, they may only have 10 minutes to meet with you. It is also important to be flexible with your time. It is not uncommon to show up on the Hill for a meeting with a member or that member's staff and find the meeting has been canceled with little or no notice. Members try to be accommodating, but the issue of the day may require all of a member's time and not allow any time for other meetings. When this happens, the staff may still be available to meet with you. If that is the case, you should take

²AAAS webpage: <http://www.aaas.org/spp/cstc/wwc/cngcmte.htm>.

-
1. Convey That You Understand Something about Congress.
 2. Demonstrate Your Grasp of the Fundamentals of the Congressional Decision-making System.
 3. Don't Seek Support of Science as an Entitlement.
 4. Don't Convey Negative Attitudes about Politics and Politicians.
 5. Perform Good Intelligence Gathering in Advance.
 6. Always Use a Systematic Checklist.
 7. Do Your Homework on the Issue or Problem.
 8. Timing Is Vital.
 9. Understand Congressional Limitations.
 10. Make It Easy for Those in Congress to Help You.
 11. Keep the "Bottom Line" in Mind.
 12. Use Time—Yours and Theirs—Effectively.
 13. Remember that Members and Staff Are Mostly Generalists.
 14. Don't Patronize Either Members or Staff.
 15. Don't Underestimate the Role of Staff in Congress.
 16. Consider and Offer Appropriate Follow-up.
 17. Remember That the Great Majority of Members and Staff Are Intelligent, Hardworking, and Dedicated to Public Service.
-

Table 4.1: AAAS 17 Cardinal Rules for Working with Congress (adapted from William G. Wells, Jr. [3]).

advantage of that opportunity to lay the ground work for the next meeting with the member.

Do not wait until you need something to reach out to the members and their staffs. Letting the staff know you are available to help them—especially in their members’ personal issue areas—could result in the ideal situation of them asking you to come speak with a member of Congress. For example, Sandia has recently done a very good job of introducing the staff of the Committee on Homeland Security to its work in border security. Although this has not resulted in any immediate benefit to the Labs, it could prove beneficial for the country and for the Labs should border security become an issue in the next administration.

When you do need something from Congress, be direct (yet polite) and, most important, concise. Staffers should never leave a meeting wondering what the point of the meeting was. Beating around the bush or trying to hint at what you mean is nothing but a waste of staffers’ time. The best lobbyists that met with our committee often brought one-page summaries of why they requested the meeting and bulleted lists detailing how we could help. These lists might contain such requests as:

- Support for a bill moving through the legislative process
- Letter from a member to a federal agency asking the director of that agency to
 - Issue a request for proposal
 - Fulfill contract obligations
 - Issue ruling or regulation
- Increase funding to a particular federal agency.

In the case of a letter to a federal agency, many lobbyists offered to draft letters for us. Again: staffers are very busy, and reducing the amount of work they need to do to accommodate your request will greatly improve the odds of action on your behalf.

Most important, when you meet with Congress, you must know the details of your organization inside and out. Every staffer knows how to ask questions about budgets, timelines, and organization charts. You have to know budget numbers forwards and backwards. Congress controls the purse strings of the federal government and, one way or another, everything

comes down to the budget and the appropriations process. After a short time on the Hill, focusing on the budget becomes an uncontrollable urge. Occasionally at briefings, I would ask the budget of this or that program just to see a room full of staffers jot down the said dollar figure.

In addition to the budget, staffers like asking questions about timelines. Any time a project misses a deadline, the Congress (rightfully) wants to know why. As a researcher, I generally think timelines should be based on events rather than dates. The Congress, however, prefers timelines based on dates because it simplifies oversight by linking programs to the annual funding cycle. Programs that have open-ended completion dates become difficult to keep track of in appropriations measures—it all comes back to the budget.

4.3 When Congress Visits You

Congressional delegations (a.k.a. co-dels) come in two flavors: (1) member-level delegations that include staff and (2) staff-only delegations (a.k.a. staff-dels). Member-level co-dels are typically big-picture, while staff-dels are typically to conduct oversight of particular programs or projects.

When Congress visits you, the cardinal rules still apply, but I would add a few things specific to us at Sandia. The one rule that is most difficult for scientists and engineers to follow is Rule 13: “Remember that members and staff are mostly generalists.” Technical details and specifics should only be presented when more detail is requested. Of course, if asked, you should be able to drill down as far into the details as your visitors would like.

Something that Sandia should be particularly careful of with Congressional visits is not to keep members and staff separated from their electronics for more than a couple of hours. Tours of restricted areas are quite common at the lab, and those areas require electronics, like the ever-present blackberry and cell phone, to be locked up. It may sound like a trivial point, but from the staffer’s perspective access to information is a necessity. As mentioned in Chapter 2, staffers exist in a never-ending stream of information and communication. Being disconnected from the outside world is not something staffers enjoy.

4.4 Sending Sandians to Congress

Why does Sandia send people to the Congress? While Sandia—like the other national laboratories—has a long history of sending personnel to support the federal agencies in the executive branch, it is not immediately apparent why we would send people to work on the Hill. After all, we are prevented by law from doing anything that could be construed as lobbying.

There are three factors that determine why Sandia sends people to the Congress: First and foremost is our commitment to national service and science in the national interest. In my case, the Committee on Homeland Security made a request to the Labs for a nuclear fellow, and I was the answer to that request. Incidentally, that is how all Sandians end up on the Hill—Congress makes a request, and, if possible, the lab accommodates that request.

Second to answering a request from Congress, is the benefit Sandia receives from having an employee that can translate the political landscape into opportunities for the Labs. Washington can be a confusing place for people who have never worked inside the beltway. Washington can be confusing even to people who spend their entire careers inside the beltway. Sandia benefits from having employees with direct, personal experience in the political decision-making process.

The third factor in sending a Sandian to Congress is the personal enrichment and professional development the employee will gain—making him or her a more well-rounded Sandian upon his or her return.

Once Sandia has made the decision to send someone to Congress, the appropriate person must be selected. What follows is a discussion of the factors I feel should be considered in selecting the appropriate candidate for a tour of duty on the Hill.

Youth Can Be a Plus

While a scientist with decades of experience at Sandia may have a greater expertise in a subject area and have a more extensive list of contacts in the relevant field, experience is not necessarily the best attribute in a Congressional staffer. On the Hill, a 50% answer given in a timely manner is better than a 100% answer given even one minute late. For the most part, a scientist on staff may be a subject matter expert in one field, and yet be expected to have a general knowledge of every branch of science. Working

on the Committee on Homeland Security, I was expected to understand all aspects of science relevant to homeland security. My first year on the staff, I learned more about tuberculosis than any nuclear scientist needs to know. A science staffer has to be able to say, “I don’t know, but I’ll find out,” and then be able to find the proper answer in about an hour. An energetic generalist is much more appropriate for Congress than the world’s best expert in any field.

Sending a candidate who is advanced in years may also hurt the chances of that person getting hired onto the staff. As discussed on page 26, the person doing the hiring for the committee may intentionally want to hire someone young.³ Most staffer work is not glamorous. By its very nature, the work Congress performs involves long hours, very little praise, and a low success rate. The stereotypical gray-haired scientist may not appreciate (or be expected to appreciate) coming in on the weekend to put together hearing binders for Congressmen who may not even show up to hearings. The person Sandia sends must be someone who can work very hard and very quickly, while sitting at a cubicle, possibly taking direction from someone in his or her 20s.

Politics Matters

Second to age is political affiliation. When I started on the Hill, I actually thought that as the noble scientist I could be a technical resource and act in an entirely apolitical manner. How naïve I was.

My efforts to be apolitical lasted until our first staff meeting in February of 2007. This was close to the beginning of the 110th Congress, just after the Democrats had won the 2006 elections and gained control of both the Senate and the House. Our chief counsel at the time opened the meeting by saying, “I just want to remind everyone that in the last Congress (when we were in the majority) our job was to set policy for the nation. Now we’re in the minority, and our job as part of the opposition is to put our members in very good positions and put their members in very difficult positions.” The look on my face must have revealed my surprise at such a directly political statement, as our deputy chief counsel looked over to me said, “Welcome to Washington.”

³Congress is one of the few public organizations in the country that is not subject to anti-discrimination laws in its hiring practices.

At no time did the committee ask me about my political affiliation or who I had voted for in any election. I was asked if I could “work in support of the Republican members of the committee.” I think the committee would have been fine with hiring an apolitical technical expert.

I make the point of saying politics matters for the benefit of the potential staffer. Given the very partisan nature of the Congress today, a staffer’s experience will naturally be more rewarding if his or her personal politics are well-aligned with the office or committee for which he or she works. This is particularly true with respect to whatever party is in the minority. The role of the opposition can be described as “delay, obstruct, and obfuscate.” The job of the opposition is not to set national policy but to regain control of the Congress. Unless one has appreciation for the greater goal, seeing bills you work on obstructed for political reasons can diminish the rewarding experience of working at the Congress.

Potomac Fever

There is the possibility that once exposed to Washington, D.C., a staffer could grow accustomed (or even addicted) to working in the high-paced environment of the nation’s capital. This is the so-called Potomac fever, to which young people seem to be particularly susceptible. According to the American Physical Society—a large supporter of the AAAS fellows program—only a third of their Congressional fellows return to their prior posts. A 2006 article in *Physics Today* describing APS fellows stated, “Over the years, roughly a third of Congressional fellows have stayed in policy, a third have returned to academia, and a third have struck out in new directions” [16].

Although there is a risk that once sent to Washington, a Sandian may not return, this should in no way contribute to a candidate’s selection decision. If Sandia sends someone to Washington and he or she decides to stay, then Sandia loses an employee, but Washington gains a scientist—and the federal government is potentially improved. More knowledgeable scientists in government is a benefit for Sandia and the nation.

Having Sandia scientists work with the Congress is rewarding for the Congress, the scientists, and Sandia. I hope that Sandia makes every effort to accommodate all Congressional requests in the future.

Chapter 5

The Road Ahead

Typically, the final chapter of a report is written in the form of a conclusion. However, rather than reproducing the Executive Summary, this chapter takes a look at the road ahead. In this way, the report concludes by examining the future of the Congress and what lies ahead for the Committee on Homeland Security. It also takes a look at the executive branch and poses several questions the next administration will have to answer regarding its role in homeland security.

5.1 The 111th Congress

The 111th Congress begins a new chapter in Sandia's relationship with Capitol Hill. New Mexico's longest serving senator, Pietro Domenici—known as St. Pete to the people of New Mexico—stepped down in 2008 after serving 36 years in the Senate. Sandia and the other national laboratories had no greater champion in the Congress than Senator Domenici. It will take years for his successors to accumulate the prestige and influence he held as chairman and ranking member of powerful committees in the Senate.

In the House, Ellen Tausher, the Congresswoman who represents the district of Sandia's California site, is the only returning member of Congress from a district in which Sandia has a presence. All three Representatives to the House from New Mexico will be freshmen in the 111th Congress. It is somewhat comforting to know that New Mexico's entire delegation to the Congress—Senators Jeff Bingaman and Tom Udall and Congressmen Martin Heinrich, Harry Teague, and Ben Ray Lujan—are all Democrats, and

therefore members of the party that will control the Congress in the foreseeable future. I also find it comforting that Mr. Lujan will be sitting on the Committee on Homeland Security.

The leadership of the House Committee on Homeland Security will remain the same as in the 110th Congress. Homeland security legislation in the next Congress will, however, be impacted by the survival of Joe Lieberman in the Senate, and the downfall of John Dingell (D-MI) in the House. Joe Lieberman (I-CT), the chairman of the Senate Homeland Security and Government Affairs Committee in the 110th Congress, will continue to caucus with the Democrat majority and retain his chairmanship in the 111th Congress. This was a surprise to many who thought the Democrat majority was sure to strip him of his control of the committee, given his support of Republican presidential candidate John McCain in the 2008 presidential election. Although the Senate has expressed a feeling of reconciliation toward Senator Lieberman, there are still members of the House who resist working cooperatively with him—which could make it very difficult to enact homeland security legislation.

Another surprise change in leadership was the ousting of Energy and Commerce Committee Chairman John Dingell by Democrat rival Henry Waxman. John Dingell is currently the longest serving member of Congress in office—with 54 years of service—and is known as the Dean of the U.S. House of Representatives. He is the second-longest serving Representative ever (the longest serving member of Congress was Jamie L. Whitten, a Democrat from Mississippi). If Dingell is still serving on February 14, 2009, he will surpass Whitten's record for longest tenure in the House.

With the Democrats' victory in the 2006 midterm elections, Dingell again became chairman of the House Energy and Commerce Committee, a panel he previously chaired from 1981 to 1995. Given the wide-ranging jurisdiction of the E&C Committee, John Dingell was the fourth-most powerful congressman, behind only House Speaker Nancy Pelosi, Majority Leader Steny Hoyer, and Ways and Means Committee Chairman Charles Rangel—all fellow Democrats. Congressman Dingell has never been a strong supporter of the Department of Homeland Security, and has opposed DHS initiatives at almost every turn.

On November 5, 2008, representative Henry Waxman of California challenged Dingell for the chairmanship of the House Energy and Commerce Committee. Waxman defeated Dingell in a vote by the full Democratic Caucus on November 20, 2008. Waxman will take the chairmanship of the

5.2. CONGRESSIONAL OVERSIGHT OF HOMELAND SECURITY 59

committee starting with the 111th Congress, and many expect a more cooperative relationship between the E&C committee and the other committees of Congress.

The 111th Congress will also see a change in Congressional staff. As of this writing, the Committee on Homeland Security is slated to have no fellows or detailees from the national labs on either the majority or minority staffs. Setting up a scientist position on the Hill takes a fair amount of time, and few laboratories have seen the benefit of expanding their homeland security visibility by interacting with the Hill. While I am grateful for the opportunity to be the first Sandian to serve on the Committee on Homeland Security, I hope I will not be the last. Although the committee is still learning to take its first steps and has not yet risen to a powerful legislative entity within the House, it is the primary committee with jurisdiction over the Department of Homeland Security. As the consolidation of congressional oversight of homeland security increases—as it hopefully will in the next Congress—the committee’s role in shaping homeland security policy will increase as well.

5.2 Congressional Oversight of Homeland Security

The recently released report, *World at Risk: The Report of the Commission on the Prevention of WMD Proliferation and Terrorism*, has become the third high-level Congressional commission report to call for consolidation of Congressional oversight of homeland security. Specifically, the commission states that:

The Senate and House Homeland Security Committees should be empowered as the sole oversight committees for DHS and commit to producing annual authorization bills for the department’s activities. Committees that traditionally have had jurisdiction over agencies that are now a part of DHS should no longer have this authority. It is in the interest of DHS, Congress, and ultimately the nation to streamline and strengthen congressional oversight [17, p. 91].

Such recommendations have been proposed by members of the Committee on Homeland Security many times, but have never been implemented. Com-

mittees aggressively protect their jurisdictions, and none has been willing to give up its right to conduct oversight in any area of homeland security.

Members of the Committee on Homeland Security would like to see homeland oversight move toward a model closer to that of the Department of Defense—with one authorizing committee and one appropriations committee in each chamber of the Congress. Unfortunately, that goal is difficult, if not impossible, to achieve. The trouble with achieving a DoD-like model of Congressional oversight for DHS is rooted in two facts: (1) DHS has responsibility for some missions outside of homeland security, and (2) agencies other than DHS have responsibility for some homeland security missions.

The total budget authority across the federal government for homeland security is shown in Table 5.1. The table does not reflect each department's total budget, but rather the funding each department contributes to homeland security missions. As we can see in the table, DHS controls only 50% of federal homeland security funding. The Department of Defense is second to DHS with 26% of homeland security funding, and the remaining 24% is spread over more than half-a-dozen agencies. Agencies outside of DHS are naturally outside of the Committee on Homeland Security's jurisdiction.

Likewise, divisions of DHS, such as the Secret Service, the Coast Guard, and Customs and Immigration, support missions outside of homeland security and, therefore, are within the jurisdiction of other committees, such as the Judiciary Committee and the Committee on Transportation & Infrastructure. By comparing the top line of Table 5.1 to the total DHS budget authority shown in Figure 5.1 (shown in the next section), we can see that the fraction of DHS budget spent on "homeland security" missions is only 50-70%, depending on the year. For example, in FY07 only 58.4% of DHS total budget authority was spent on definable homeland security missions.

Given the number of homeland security programs outside of DHS, and the "non-homeland" functions of some agencies within DHS, it is difficult to imagine a political solution that could achieve the sweeping reforms recommended by the WMD Commission. For more information on the challenges facing consolidation of homeland security oversight, see Appendix A.

5.2. CONGRESSIONAL OVERSIGHT OF HOMELAND SECURITY 61

Department	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009^a	FY2009 as % of
Department of Homeland Security	23,063	22,923	24,549	26,571	29,554	32,740	32,817	49.5%
Department of Defense	8,442	7,024	17,188	17,510	16,538	17,374	17,646	26.6%
Department of Health and Human Services	4,144	4,062	4,229	4,352	4,327	4,301	4,457	6.7%
Department of Justice	2,349	2,180	2,767	3,026	3,518	3,523	3,795	5.7%
Department of State	634	696	824	1,108	1,242	1,962	2,466	3.7%
Department of Energy	1,408	1,364	1,562	1,702	1,719	1,829	1,943	2.9%
Department of Agriculture	410	411	596	597	541	570	691	1.0%
National Science Foundation	285	340	342	344	385	374	379	0.6%
Department of Veteran Affairs	154	271	249	298	260	272	348	0.5%
Department of Commerce	112	125	167	181	205	207	262	0.4%
Other Agencies	1,445	1,437	1,910	1,429	1,545	1,772	1,500	2.3%
Total Federal								
Budget Authority	42,447	40,834	54,383	57,118	59,833	64,923	66,303	100%

^a. Represents the President's budget request. Enacted budget figures were not available for all departments at the time of this writing.

Table 5.1: Federal homeland security funding by agency; enacted budget authority in millions of dollars, FY2003-FY2009. (SOURCE: *Homeland Security Department: FY2009 Appropriations*, Lake et al. [18].)

5.3 The Executive Branch and Homeland Security

President Obama will have a plethora of homeland security decisions to make early in his administration. These decisions will range from the organization of the Executive Office of the President (EOP) to the structure of the Department of Homeland Security (DHS) and the homeland security missions of other departments and agencies.

One of the first decisions the new administration will have to make regards the fate of the Homeland Security Council (HSC) within the EOP. Established in 2001, shortly after the terrorist attacks of 9/11, the HSC was initially a group of cabinet-level members assembled to “advise and assist the President with respect to all aspects of homeland security.”¹ After the Department of Homeland Security was stood up in 2002, the HSC became a collection of policy experts headed by the President’s Homeland Security Advisor.

Since its establishment, multiple policy analysts have recommended absorbing the HSC into the stronger and more influential National Security Council (NSC). Proponents of this idea claim such a move would eliminate redundancy that currently exists in the White House and would avoid the debate that has arisen over the semantic differences between homeland security and national security. Opponents of merging the two councils (of which there are several in the Congress) feel that absorbing the HSC into the NSC and making the President’s Homeland Security Advisor a deputy to the National Security Advisor will lower the visibility and importance of homeland security issues. At the time of this writing, there has been no official statement from President-elect Obama on the fate of the HSC. However, those near the President-elect have stated he is in favor of combining the two councils. We do not, at this point, know what a combination of the two councils will look like.

Another homeland security issue for the next administration will be the position (or positions) of the WMD Coordinator within the EOP. The “Implementing Recommendations of the 9/11 Commission Act,” H.R. 1, was enacted into law on August 3, 2007.² This law established the Of-

¹The HSC was originally established by Executive Order 13228 of October 8, 2001. It was later codified into statute in the Homeland Security Act of 2002.

²The 9/11 bill (as it is known) was H.R. 1 in the 110th Congress; Public Law 110-53.

office of US Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

This so-called WMD Coordinator was intended to serve as the “principal advisor to the President on all matters relating to the prevention of weapons of mass destruction proliferation and terrorism.”³ President Bush did not appoint anyone to this post during the final 18 months of his administration. The official reason for the delay in appointment, according to the White House, was that the position was “stuck in legal.” As a Senate-confirmed position, it is not immediately clear where the office could be established within the EOP. Separation-of-powers considerations would more than justify any president’s right to prevent a Senate-confirmed position within the White House Office, the Vice President’s Office, or the National Security Council.

Since the law was enacted in 2007, multiple policy analysts and reports (including the WMD report mentioned above) have encouraged Congress to amend the law and remove the requirement of a new office with a Senate-confirmed leader in exchange for a commitment from the President to establish a high-level official within the EOP with essentially the same duties as a WMD Coordinator. While there has been no specific mention of a WMD Coordinator from the Obama transition team, President-elect Obama and his advisors have stated their intention to appoint high-level officials responsible for nuclear, biological, and cyber security within the EOP.⁴ What these positions will look like, and their relations to the National Security Council, is as yet unclear.

In addition to reorganization of the EOP, DHS may also experience some shuffling of the org-chart. As of this writing, Arizona Governor Janet Napolitano has been tapped to lead DHS, but who will serve under her has not been released. While we do not know of any large changes Governor Napolitano is planning to make at DHS, people are speculating. One of the first questions she will have to answer is whether FEMA should be kept inside DHS or returned to an independent agency. Proponents of FEMA independence have argued that having an independent agency would streamline decision-making in emergency situations. Opponents of moving FEMA out of DHS point to all the DHS resources that FEMA could tap in

³§1841, Public Law 110-53.

⁴http://www.barackobama.com/issues/homeland_security and “New Leadership Planned To Fight WMD Terrorism”, Boston Globe, December 3, 2008, By Bryan Bender, Globe Staff.

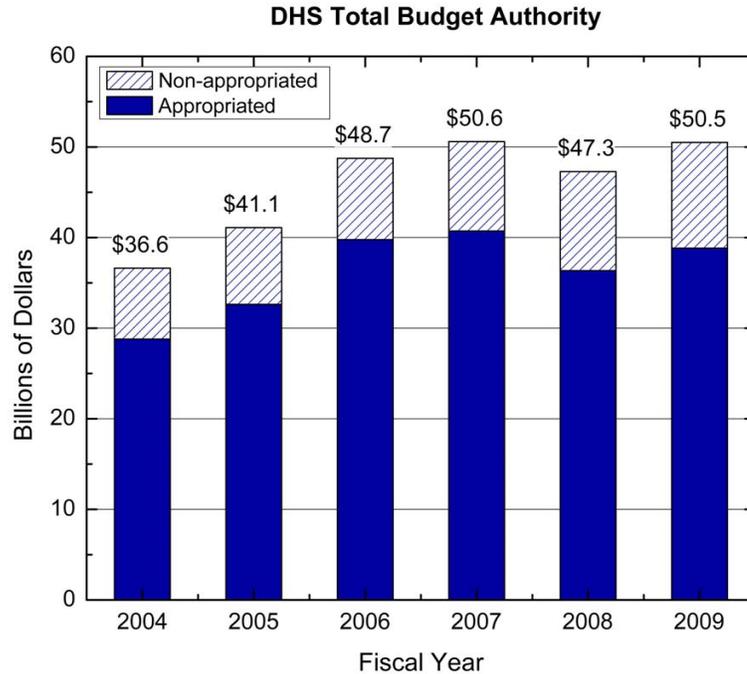


Figure 5.1: Total budget authority for Department of Homeland Security. Gross budget levels reflect amounts that are enacted by Congressional appropriations. Non-appropriated funding includes funding sources such as fees and trust funds. (SOURCE: This data was prepared by CRS using the FY04–FY09 DHS Budgets in Brief.)

an emergency or surge situation.

Although DHS only controls 50% of homeland security funding, it must still be considered the focal point for homeland security policy and opportunity for Sandia. The total budget authority for DHS over the last six years is shown in Figure 5.1. As seen in the figure, the total budget authority for DHS is currently around \$50 billion. Historically, federal spending increases if the same political party controls both the White House and the Congress. Therefore, federal spending on homeland security could be expected to increase over (at least) the next two years, along with DHS’s share of homeland security funding.

Science and technology issues are found in multiple agencies of DHS.

A to-be-published study by the CRS showed that 50% of funding the national laboratories receive from DHS is from the Science and Technology Directorate. That means that 50% of funding is from outside of S&T. The Domestic Nuclear Detection Office is second to S&T in supporting work at the national labs. Other DHS agencies funding work at the national labs include FEMA, Infrastructure and Preparedness Directorate, and the US Coast Guard. The complete CRS report should be finalized in early 2009.

The next several months will be an exciting time at the Department of Homeland Security (DHS). Of all the federal agencies, DHS will have the most challenging and most watched transition into the Obama administration. The department has never been through a presidential transition, and, with over 200,000 employees, DHS is not just one of the youngest federal agencies, but also one of the largest. President-elect Obama's homeland security team will have their work cut out for them on a long list of national security and politically sensitive issues.

Special thanks to Jonathan Margulies
for his help in editing this report.

Appendix A

Congressional Jurisdiction and Homeland Security

In no other committee are jurisdictional challenges more apparent than the Committee on Homeland Security. These battles over jurisdiction on the Hill translate into an enormous burden for the Department of Homeland Security (DHS) and weaken the department's ability to prevent acts of terrorism and respond to natural disasters.

The [9/11 Commission Report](#) identified no fewer than 88 Congressional committees and subcommittees with oversight responsibility for homeland security. One of the Commission's recommendations, that "Congress should create a single, principal point of oversight and review for homeland security," is much easier said than done. Even the Commission understood how challenging it would be, and stated in their report:

Of all our recommendations, strengthening congressional oversight may be among the most difficult and important... Few things are more difficult to change in Washington than congressional committee jurisdiction and prerogatives.¹

In a September 4, 2007 letter to Congressman Peter King, Secretary Chertoff stated, "Oversight activity by some 86 committees and subcommittees of Congress creates a uniquely difficult and unnecessary burden for DHS." He went on to say, "Literally *thousands* of Congressional re-

¹[9/11 Commission Report](#), p. 419.

quests. . . consume a very significant amount of senior leadership time, which must be balanced with meeting operational mission demands.”

In the three years since the 9/11 Commission report, homeland security oversight went from 88 committees and subcommittees to 86, which can hardly be considered progress.

A common complaint from employees at DHS is the large number of committees and subcommittees that call on them to testify, answer congressional inquiries, and submit reports. Understanding the burdens that disparate Congressional oversight places on DHS requires an understanding of Congressional jurisdiction. The first thing to understand is that there are two types of jurisdiction: legislative and oversight.

Legislative jurisdiction is clearly defined for every standing committee in Rule X of the [House Rules](#). This rule explains each committee’s authority in legislating bills. For example, if a member introduced a bill that stated “The Department of Homeland Security shall create a program that does. . .,” this bill would be referred to the Committee on Homeland Security. This is because the bill involves issues that under Rule X are within the jurisdiction of that committee. Only the Committee on Homeland Security has the right to legislate the department to perform a function or task.

The burden currently being placed on DHS is due to each committee broadly interpreting its oversight jurisdiction. Rule X contains language that each committee has authority to conduct oversight (e.g., investigatory hearings, studies, GAO requests, etc.) that is necessary to keep the committee informed to sufficiently carry out its legislative duties.

This is why, even though committees such as Committee on Homeland Security have no legislative jurisdiction over agencies like DOE, DTRA, and FBI, they can still invite (or subpoena, when necessary) officials from those departments to testify at hearings or give briefings to members and staff.

Committees have oversight mandates that are intentionally broad. Members of Congress want (and fight to maintain) the ability to hold hearings and conduct oversight over whatever they want. Setting up the Committee on Homeland Security was no easy task, and in the process a lot of assurances were given to other committees that they would not be losing turf.

The House measure to create DHS was initially referred to no fewer than 12 committees. Obviously, something had to be done or the department would never have been established.

The Select Committee on Homeland Security was created for the dura-

tion of the 107th Congress specifically to markup and report The Homeland Security Act of 2002 (H.R. 5005) to the House. The act was signed into law, and the department was established in statute. This act included a sense of Congress that “... each House of Congress should review its committee structure in light of the reorganization of responsibilities within the executive branch by the establishment of the Department.” (Public Law 107-296, §1503)

In adopting its rules for the 108th Congress, the House created the Select Committee on Homeland Security for the duration of the 108th Congress, and vested it with the following jurisdiction:

- (1) LEGISLATIVE JURISDICTION—The select committee may develop recommendations and report to the House by bill or otherwise on such matters that relate to the Homeland Security Act of 2002 as may be referred to the Speaker.
- (2) OVERSIGHT FUNCTION—The select committee shall review and study on a continuing basis laws, programs, and Government activities relating to homeland security.

To assist the House in determining how it might organize itself in the future vis-à-vis the issue of homeland security, the House commissioned the Select Committee to do a study.

- (3) RULES STUDY— The select committee is authorized and directed to conduct a thorough and complete study of the operation and implementation of the rules of the House, including rule X, with respect to the issue of homeland security. The select committee shall submit its recommendation regarding any changes in the rules of the House to the Committee on Rules not later than September 30, 2004.

On September 30, 2004, the Select Committee on Homeland Security transmitted its recommendations to the Rules Committee. Those recommendations included the following points:

- standing Committee on Homeland Security be established, with the addition of a new clause to Rule X.
- Jurisdiction is to be granted over “homeland security generally” and over DHS, except for non-homeland security matters within the authority of the department;

- “exclusive authorizing and primary oversight jurisdiction” is to be granted with respect to the department’s authority related to the “prevention of, preparation for, and response to acts of terrorism within the United States.”

The Select Committee also recommended restricting the jurisdiction of several powerful committees (e.g. Energy & Commerce, Ways and Means, Judiciary, etc.) by adding the following phrase to the end of each committees duties as spelled out in Rule X:

In the case of each of the foregoing, the committee’s jurisdiction shall not include responsibilities of the Department of Homeland Security.

That recommendation was swiftly shot down.

The recommendation to establish a standing committee was accepted, and on January 4, 2005, the House created the standing Committee on Homeland Security. Rule X granted the jurisdiction of the new committee:

- (1) Overall homeland security policy
- (2) Organization and administration of the Department of Homeland Security
- (3) Function of the Department of Homeland Security relating to the following:
 - (A) Border and Port Security
 - (B) Customs (except customs revenue)
 - (C) Homeland security information
 - (D) Domestic preparedness for the collective response to terrorism
 - (E) Research and Development
 - (F) Transportation Security.

The new standing committee was also given special oversight functions:

The Committee on Homeland Security shall review and study on a continuing basis all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department of Homeland Security.

However, members of other committees demanded that the new committee not infringe upon their own authority. To appease other committees, David Dreier, then Chairman of the Rules Committee, inserted a “legislative history” into the *Congressional Record* that clarified Rule X with respect to homeland security. Specifically it stated,

Nothing in this clause shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review homeland security activities to the extent that such activity directly affects a matter otherwise within the jurisdiction of that committee.

In remarks on floor of the House, Chairman Dreier stated,

We envision a system of *purposeful redundancy*. By that we mean more than one level of oversight and an atmosphere in which competition of ideas is encouraged. . . the American people will live with the assurance that we are working to prevent anything from falling through the cracks.

This language, inserted into the *Congressional Record* and Dreier’s subsequent statements on the House floor, opened the door for almost any committee to exert oversight over DHS.

Any attempts to push back against this legislative history have met with little or no success. The 9/11 Bill was signed on August 3, 2007 (P.L. 110-053) without a “sense of Congress” on consolidating oversight. Members of other committees fought to have that section of the bill removed, and they won.

Little (if any) progress was made on consolidating congressional oversight of homeland security in the 110th Congress. Hopefully, these jurisdictional battles can be overcome in the future. Until oversight of homeland security is consolidated into one authorizing committee and one appropriating committee in each of the House and the Senate, the Department of Homeland Security will continue to be pulled in conflicting directions by committees with opposing priorities.

For more detailed information on the establishment of the Committee on Homeland Security, see the CRS report by Michael Koempel: *Homeland Security: Compendium of Recommendations Relevant to House Committee Organization and Analysis of Considerations for the House, and 109th and 110th Congress Epilogue*, CRS Report RL32711 (2007).

Appendix B

H.R. 5531: Next Generation Radiation Screening Act of 2008

The bill referred to in Section 3.3, H.R. 5531, the “Next Generation Radiation Screening Act of 2008”, is reproduced here as it was passed in the House on July 30, 2008. Other versions of the bill (e.g. the “as introduced” version) and the accompanying committee report can be found on the Library of Congress website, THOMAS (<http://thomas.loc.gov/>).

110TH CONGRESS
2D SESSION

H. R. 5531

AN ACT

To amend the Homeland Security Act of 2002 to clarify criteria for certification relating to Advanced Spectroscopic Portal monitors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

2

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Next Generation Radi-
3 ation Screening Act of 2008”.

**4 SEC. 2. MEMORANDUM OF UNDERSTANDING REGARDING
5 ADVANCED SPECTROSCOPIC PORTAL MON-
6 ITORS.**

7 (a) IN GENERAL.—Title XIX of the Homeland Secu-
8 rity Act of 2002 is amended by adding at the end the fol-
9 lowing new sections:

**10 “SEC. 1908. ADVANCED SPECTROSCOPIC PORTAL MON-
11 ITORS.**

12 “(a) FINDINGS.—Congress finds the following:

13 “(1) The consequences of radiological or nu-
14 clear terrorism would be catastrophic.

15 “(2) A system such as the Advanced
16 Spectroscopic Portal (ASP) is intended to improve
17 the process of screening passengers and cargo to
18 prevent the illicit transport of radiological and nu-
19 clear material.

20 “(3) A system such as the ASP can always be
21 improved, even after it is deployed.

22 “(4) There is no upper limit to the functionality
23 that can be incorporated into an engineering project
24 of this magnitude.

25 “(5) Delaying deployment of the ASP to in-
26 crease functionality beyond what is minimally re-

3

1 quired for deployment may limit the ability of the
2 United States to screen passengers and cargo for ra-
3 diological and nuclear material.

4 “(6) There are operational differences between
5 primary and secondary screening procedures. Con-
6 sideration should be given to the implication these
7 differences have on the minimum functionality for
8 systems deployed for use in primary and secondary
9 screening procedures.

10 “(b) AGREEMENT ON FUNCTIONALITY OF ADVANCED
11 SPECTROSCOPIC PORTAL MONITORS.—The Director of
12 the Domestic Nuclear Detection Office and the Commis-
13 sioner of Customs and Border Protection shall enter into
14 an agreement regarding the minimum required
15 functionality for the deployment of ASP by United States
16 Customs and Border Protection (CBP).

17 “(c) REPORT TO CONGRESS.—Not later than 60 days
18 after the date of the enactment of this section, the Sec-
19 retary shall provide Congress with the signed memo-
20 randum of understanding between the Office and CBP.

21 **“SEC. 1909. CRITERIA FOR CERTIFICATION.**

22 “(a) FINDINGS.—Congress finds the following:

23 “(1) In developing criteria for Advanced
24 Spectroscopic Portal (ASP) performance, special
25 consideration should be given to the unique chal-

4

1 lenges associated with detecting the presence of il-
2 licit radiological or nuclear material that may be
3 masked by the presence of radiation from naturally
4 occurring radioactive material or legitimate radio-
5 active sources such as those associated with medical
6 or industrial use of radiation.

7 “(2) Title IV of division E of the Consolidated
8 Appropriations Act, 2008 (Public Law 110–161) re-
9 quires the Secretary to submit to Congress a report
10 certifying that ‘a significant increase in operational
11 effectiveness will be achieved’ with the ASP before
12 ‘funds appropriated under this heading shall be obli-
13 gated for full-scale procurement of Advanced
14 Spectroscopic Portal Monitors’, and requires that
15 ‘the Secretary shall submit separate and distinct cer-
16 tifications prior to the procurement of Advanced
17 Spectroscopic Portal Monitors for primary and sec-
18 ondary deployment that address the unique require-
19 ments for operational effectiveness of each type of
20 deployment.’.

21 “(b) SPECIFICATION OF SIGNIFICANT INCREASE IN
22 OPERATIONAL EFFECTIVENESS.—

23 “(1) IN GENERAL.—The Secretary shall, in ac-
24 cordance with the requirements of title IV of division
25 E of the Consolidated Appropriations Act, 2008, and

5

1 in consultation with the National Academies, develop
2 quantitative metrics that demonstrate any signifi-
3 cant increased operational effectiveness (or lack
4 thereof) of deploying the ASP in Primary and Sec-
5 ondary Screening sites, as determined by United
6 States Customs and Border Protection (CBP).

7 “(2) METRICS.—The metrics referred to in
8 paragraph (1) shall include the following:

9 “(A) A quantitative definition of ‘signifi-
10 cant increase in operational effectiveness’.

11 “(B) All relevant threat materials.

12 “(C) All relevant masking scenarios.

13 “(D) Cost benefit analysis in accordance
14 with the Federal Accounting Standards Advi-
15 sory Board Generally Accepted Accounting
16 Principles.

17 “(E) Any other measure the Director and
18 the Commissioner determine appropriate.

19 “(c) CONSIDERATION OF EXTERNAL REVIEWS IN
20 THE DECISION TO CERTIFY.—In determining whether or
21 not to certify that the ASP shows a significant increase
22 in operational effectiveness, the Secretary may consider
23 the following:

24 “(1) Relevant reports on the ASP from the
25 Government Accountability Office.

6

1 “(2) An assessment of the ASP by the Inde-
2 pendent Review Team led by the Homeland Security
3 Institute.

4 “(3) An assessment of the ASP in consultation
5 with the National Academies.

6 “(4) Any other information the Secretary deter-
7 mines relevant.

8 **“SEC. 1910. AUTHORIZATION OF SECURING THE CITIES INI-**
9 **TIATIVE.**

10 “(a) FINDINGS.—Congress finds the following:

11 “(1) The Securing the Cities Initiative of the
12 Department uses next generation radiation detection
13 technology to detect the transport of nuclear and ra-
14 diological material in urban areas by terrorists or
15 other unauthorized individuals.

16 “(2) The technology used by partners in the Se-
17 curing the Cities Initiative leverages Advanced
18 Spectroscopic Portal (ASP) technology used at ports
19 of entry.

20 “(3) The Securing the Cities Initiative has fos-
21 tered unprecedented collaboration and coordination
22 among its Federal, State, and local partners.

23 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
24 is authorized to be appropriated to the Director of the Do-
25 mestic Nuclear Detection Office of the Department

7

1 \$40,000,000 for fiscal year 2009 and such sums as may
2 be necessary for each subsequent fiscal year for the Secur-
3 ing the Cities Initiative.”.

4 (b) CONFORMING AMENDMENT.—The table of con-
5 tents in section 1(b) of the Homeland Security Act of
6 2002 is amended by inserting after the item relating to
7 section 1907 the following new items:

“Sec. 1908. Advanced spectroscopic portal monitors.

“Sec. 1909. Criteria for certification.

“Sec. 1910. Authorization of Securing the Cities Initiative.”.

Passed the House of Representatives July 30, 2008.

Attest:

Clerk.

Bibliography

- [1] Charles W. Johnson. *How Our Laws Are Made*. U.S. Government Printing Office, 2003. URL <http://thomas.loc.gov/home/lawsmade.toc.html>. Document 108-93.
- [2] Paul Dwyer. Legislative branch employment: Trends in staffing, 1960-2000. *CRS Report for Congress: RL30996*, June 21 2000.
- [3] William G. Wells, Jr. *Working With Congress: A Practical Guide for Scientists and Engineers*. American Association for the Advancement of Science, second edition, 1996.
- [4] Robert V. Remini. *The House*. Smithsonian Books, 2006.
- [5] Roger H. Davidson, Walter J. Oleszek, and Frances E. Lee. *Congress and Its Members*. CQ Press, eleventh edition, 2008.
- [6] Norman J. Ornsteing, Thomas E. Mann, and Michael J. Malbin. *Vital Statistics on Congress 2008*. Brookings Institution Press, 2008.
- [7] John L. Jackley. *Hill Rat: Blowing the Lid Off Congress*. Regnery Gateway, 1992.
- [8] Ida A. Brudnick. The congressional research service and the american legislative process. *CRS Report for Congress: RL33471*, March 19 2008.
- [9] Frederick M. Kaiser. GAO: Government accountability office and general accounting office. *CRS Report for Congress: RL30349*, July 3 2008.
- [10] Matthew E. Glassman. Office of legislative counsel: House. *CRS Report for Congress: RS20735*, March 31 2008.

- [11] Richard A. Muller. *Physics for Future Presidents: The Science Behind the Headlines*. W.W. Norton & Company, 2008.
- [12] FAS website. Federation of American Scientists, 2008. Office of Technology Assessment Archive: <http://fas.org/ota/>.
- [13] David C. King. *Turf Wars: How Congressional Committees Claim Jurisdiction*. University of Chicago Press, 1997.
- [14] Walter J. Oleszek. *Congressional Procedures and the Policy Process*. Washington: CQ Press, 2007.
- [15] Sandy Streeter. Appropriations bills: What is report language. *CRS Report for Congress: 98-558*, January 25 2007.
- [16] Toni Feder. Congressional fellows bridge science and policy. *Physics Today*, 59(12), 2006.
- [17] Bob Graham, Jim Talent, Graham Allison, Robin Cleveland, Steve Rademaker, Tim Roemer, Wendy Sherman, Henry Sokolski, and Rich Verma. *World at Risk: The Report of the Commission on the Prevention of WMD Proliferation and Terrorism*. Vintage Books, 2008. URL <http://www.preventwmd.org>.
- [18] Jennifer E. Lake, Blas Nunez-Neto, Coordinators, Sarah A. Lister, Alison Siskin, Chad C. Haddal, Bruce R. Lindsay, Francis X. McCarthy, Harold C. Relyea, Shawn Reese, Barbara L. Schwemle, Bartholomew Elias, John Frittelli, Daniel Morgan, and John D. Moteff. Homeland security department: Fy2009 appropriations. *CRS Report for Congress: RL34482*, September 25 2008.

DISTRIBUTION:

1	MS 9001	Paul Hommert, 8000
1	MS 9004	Jill Hruby, 8100
1	MS 9004	Brian Damkroger, 8130
1	MS 9001	Karen Scott, 12122
1	MS 9406	Jim Lund, 8132
1	MS 0131	Karl Braithwaite, 12120
1	MS 0131	Daryl Drayer, 12123
1	MS 1393	Clyde Layne, 5920
1	MS 1375	Henry Abeyta, 6900
1	MS 0672	Jonathan Margulies, 5629
1	MS 1210	James L. Novak, 5935
1	MS 1209	Vance Behr, 5930
1	MS 1210	Matthew Allen, 5935
1	MS 0899	Technical Library,

