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Divided Government and Congressional Investigations

This article explores the political determinants of congressional investigatory activity. Using Mayhew's list of high-profile probes updated through 2006, we developed five measures of the frequency and intensity of investigative oversight. Contra Mayhew, we found that divided government spurs congressional investigatory activity. A shift from unified to divided government yields a five-fold increase in the number of hearings held and quadruples their duration. Conditional party government models also offer explanatory leverage because homogeneous majorities are more likely to investigate the president in divided government and less likely to do so in unified government. This dynamic is strongest in the House, but analyses of the Senate also afford consistent, if muted, evidence of partisan agenda control.

In the closing days of the 2006 midterm campaigns, a beleaguered yet tenacious Bush administration tried to rally its increasingly disenchanted base with stark warnings of how a Democratic Congress could fundamentally reshape politics over the next two years. Administration officials painted "apocalyptic visions" of a Congress run by Nancy Pelosi, Barney Frank, and Ted Kennedy that would threaten the conservative accomplishments of the administration's first term-and-a-half in office.¹ They inveighed that the inevitable Democratic legislative challenges to presidential policy in Iraq would undermine the troops in the field and "validate the strategy of the terrorists."² And, perhaps most interestingly, top administration strategists repeatedly raised the specter of unending Democratic investigations that would paralyze the government.³ Even impeachment, they claimed, was well within the realm of possibility.⁴ Indeed, the Speaker-in-waiting believed the charges credible enough that she publicly denied that impeachment was on the table and reportedly made it clear to John Conyers (D-MI), poised to become the next chair of the House Judiciary Committee, that his mandate would not be the mandate of Henry Hyde.⁵

The first three months of the 110th Congress confirmed the administration's fears of a flurry of congressional investigations. In their first two months on the job, Democrats held an astounding 81 hearings on the war in Iraq and Caucus Chairman Rahm Emanuel (D-IL) proudly proclaimed, "this is just the beginning."⁶ Foremost among these hearings were the inquiries into conditions at Walter Reed Army Medical Center, which have caused genuine political difficulties for an administration that has made "support the troops" its mantra. Apart from the war, questions concerning FBI domestic surveillance under the Patriot Act also provoked a string of hearings and demands on Capitol Hill for revising the law to protect civil liberties. Most recently, an investigation led by Senate Judiciary Committee Chairman Pat Leahy (D-VT) into the firing of eight federal prosecutors, allegedly for partisan political purposes, prompted widespread calls for the resignation of Attorney General Alberto Gonzalez and subpoena threats for presidential advisors Harriet Miers and Karl Rove.

This surge of investigatory activity on Capitol Hill has drawn the ire of President George W. Bush. When queried about his continued support for the attorney general in July 2007, a frustrated President Bush retorted, "I would hope Congress would become more prone to deliver pieces of legislation that matter, as opposed to being the investigative body. I mean, there have been over 600 different hearings and, yet, they're struggling with getting appropriations bills to my desk."⁷ Regarding the contrast between this scrutiny and the veritable free pass given the White House for its first six years in office, Emanuel put it best: "What a difference a year makes."⁸

These contemporary political developments raise two important points for political scientists. First, they remind us that Congress's check on presidential power is not limited to formal legislative actions alone. The investigatory arm of its committees retains a capacity to create political problems for the president, even when Congress's efforts to combat the executive branch legislatively are stymied. Indeed, House Oversight and Government Affairs Committee Chairman Henry Waxman (D-CA) contends that investigations may be "just as important, if not more important, than legislation."⁹ As the administration's rhetoric both before and after the midterm elections makes plain, the executive branch itself does not underestimate Congress's capacity to inflict political damage through investigation.

Second, the incessant speculating of politicians on the investigatory reach of a Democratic congressional majority highlights the lack of a comprehensive theory of the factors motivating investigatory behavior. No shortage of ink has been spilled on the dynamics driving

variance in lawmaking (Binder 2003; Coleman 1999; Edwards, Barrett, and Peake 1997; Howell et al. 2000; Jones 1994; Krehbiel 1996, 1998; Mayhew 1991), but high-profile congressional investigations have largely flown beneath scholars' collective radar (although see Aberbach 1990, 2002; Fowler and Hill 2006; Ginsberg and Shefter 1995, 2003; and Parker and Dull 2005). Indeed, the most thorough and best-known empirical analysis of high-profile congressional probes suggests that these investigations are equally likely in periods of unified and divided government, products of a more-complicated array of factors than simple partisan control of the political branches (Mayhew 1991). The disjunction between theory, empirical evidence, and contemporary politics could hardly be starker.

This article reexamines Mayhew's analysis of high-publicity congressional investigations of the executive branch in the post-World War II era. Herein, we attempt both to reconcile contemporary politics with scholarly understanding and to build a generalizable theory of the factors driving congressional willingness to police the executive through nonlegislative means. With Mayhew's list of significant investigations updated through 2006 as our starting point, we collected more-finely-grained data capturing the considerable variance in the scope and intensity of these high-publicity investigations, including data on the number of hearings, days of hearings, pages of documents produced, and Mayhew's own tally of prominent media coverage of each inquest. From literatures on lawmaking, we then culled three theoretical perspectives that offer testable hypotheses concerning the frequency and intensity of congressional investigations: simple theories of divided versus unified partisan control of government; preference-based theories emphasizing the spatial distance between the president and the congressional median; and conditional party government theory, which, in the current context, emphasizes the importance both of unified versus divided partisan control and cohesion within the majority party. Across operationalizations of investigatory activity, we found strong evidence that divided government is a significant predictor of interbranch tensions. Moreover, results consistent with conditional party government theories reveal that investigatory activity reaches its peak, particularly in the House of Representatives, when the opposition-led majority party is internally cohesive and consequently prepared and eager to combat the executive branch. Separate analyses of the Senate also reveal consistent, if weaker, evidence of partisan agenda control over investigations in the upper chamber. Preference-based theories, on the other hand, receive little support.

Three Theories of Congressional Investigatory Activity

We begin by analyzing the partisan incentives driving congressional investigations of the executive branch. Investigations can serve multiple purposes. Indeed, because they afford a potent check on executive discretion independent of a formal legislative process riddled with supermajoritarian requirements (Brady and Volden 1998; Krehbiel 1998) and transaction costs (Epstein and O'Halloran 1999; Howell 2003; Moe and Howell 1999; Moe and Wilson 1994; Weingast and Marshall 1988), high-publicity probes may be a particularly effective mechanism for serving the legislature's political goals. According to one school of thought, however, the willingness of Congress to exercise its oversight powers to constrain the executive is conditional on whether or not investigations serve the electoral interests of the majority party. When investigating alleged executive malfeasance, Congress leaves the taint of scandal lingering over not only the president, but also the president's party. Even though investigations of the executive branch may always serve Congress's institutional goals, because legislative majorities rarely act against their electoral interests, hearings will be more frequent and intense under divided, rather than unified, government.

In addition to the divided government hypothesis, we also considered two alternative hypotheses—one competing, one complementary. Inspired by Keith Krehbiel's intellectual corpus (see, for example, Krehbiel 1991, 1993, and 1998), the first hypothesis maintains that cross-branch ideological conflict motivates oversight. After we control for relative positions in the unidimensional policy space, party control of government should lose its predictive value. The second hypothesis, the conditional party government model (Aldrich 1995; Aldrich and Rohde 1995; Rohde 1991), stresses majority cohesion: united opposition-party majorities confront the White House with greater zeal than those beset by internal division.

Divided Government

Theories of lawmaking suggest that divided partisan control of the branches should increase congressional investigatory activity for the same reason that it decreases the ability to legislate: partisan electoral competition. Just as electoral incentives under divided government spur partisan position-taking and electoral posturing, thereby eroding the ground for bipartisan compromise (Cutler 1988; Kelly 1993; Key 1947; Sundquist 1981, 1988), electoral considerations should spur an opposition-led congressional majority to exploit its

control of the committee system to score political points and reap gains at the polls.¹⁰

Entrepreneurial legislative majorities, ostensibly rooting out executive misconduct, may use high-profile investigations in an orchestrated attempt to sour public perception of the president's party and tarnish its partisan brand name (Aldrich 1995; Cox and McCubbins 1993; Kiewiet and McCubbins 1991). As a result, hounding opposition-party officials under divided government carries the promise of electoral benefits. Inquisitors not only align themselves with good government—the *ne plus ultra* of valence issues, valued by all voters regardless of partisan affiliation (Stokes 1963)—but also undermine the president's and, by extension, the president's party's claim to competence. True, overzealous partisan warriors need look no further than the public backlash against the Monica Lewinsky investigation and subsequent impeachment of President Clinton in 1998–99, but, under split-party control, high-publicity oversight holds the promise of serving electoral ends.

By contrast, in periods of unified government, the majority party in Congress has strong partisan incentives not to investigate the executive branch, for undermining their party's leader in the White House may damage their party's collective fortunes in the next electoral cycle (Campbell 1991; Flemming 1995; Jacobson 2004; Mondak and McCurley 1994). Moreover, this partisan incentive to quash would-be investigations is bolstered by the majority party's greater capacity to inhibit action than to stimulate it. Recent research on the procedural advantages enjoyed by the majority-party leadership suggests that the majority exercises the most power when it purposely prevents action through negative agenda control (Campbell, Cox, and McCubbins 2002; Cox and McCubbins 2005; Jenkins and Gailmard 2007). While the ability of party leaders to compel their co-partisans to vote against their personal preferences on particular measures may be limited, procedural advantages frequently allow leaders to keep from the floor those policies that might garner majority support but are not preferred to the status quo by the majority-party median. In a similar vein, majority-party committee chairs wield considerable agenda control over possible investigations of alleged executive branch misconduct within their substantive purviews. There are certainly examples of committee chairs willfully and even energetically pursuing politically damaging investigations of a president of their own party (for example, the 1938–1944 Dies committee investigations), but, in general, we expect committee heads to be less eager to investigate a president of their own party than one of the opposition. Moreover, as the party leadership's control over semi-autonomous committee chairs increased with the reforms of the 1970s,

particularly in the House (Rohde 1991; Schickler 2001; Sinclair 1989; Zelizer 2004), so, too, should have their capacity to check committee-led investigations with the potential to damage the party label.

This combination of greater incentives for high-publicity investigations under divided government and leadership capacity to thwart politically damaging investigations into executive malfeasance in unified government generates the following hypothesis.

Hypothesis 1: Divided government and investigatory activity are positively correlated.

Yet the most comprehensive empirical inquiry into congressional investigatory activity, David Mayhew's *Divided We Govern* (1991), suggests otherwise. Summarizing his analysis of all high-profile investigations from 1945 to 1991, Mayhew concludes, "[O]ne pattern that decisively does *not* come to light . . . is a relation between the incidence of exposure probes and whether party control was unified or divided" (Mayhew 1991, 31).¹¹ Mayhew proposes a number of sources of alternative variation to a simple divided-unified government split that could account for the null result. Additionally, he acknowledges that the pattern may be the product of historical accident: Presidents Truman and Eisenhower were the objects of high-profile investigations under unified government. Exposure probes became less frequent in succeeding years, and this initial anomaly remained uncorrected. Regardless, Mayhew's work offers the null hypothesis.

Null 1: Party control of government bears no relation to investigatory activity.

Before presenting tests of these claims, we will outline two additional hypotheses: one suggesting that investigations are related to ideological conflict between the president and Congress, the other pointing to the importance of majority-party homogeneity.

Ideology

Some scholars reject partisanship—particularly in Congress—as chimerical. Ideology alone, they claim—each legislator's position on the standard left-right political spectrum—drives legislative behavior. One can explain party strength solely in terms of ideological unity, as Krehbiel (1993) has done. The organizations themselves, analytically superfluous, can then be safely ignored.

Ideology-based theories lend themselves to two competing interpretations. The first perspective conceives of committees not as agents of majority-party power, but as servants of the chamber median. Their primary goals are to collect information, thus decreasing uncertainty concerning the relationship between legislative vehicles and real-world outcomes (Krehbiel 1991). In this worldview, hearings are not political theater, but mechanisms to improve public policy and serve the institutional goals of the legislature through oversight and policing of executive abuses. Whether members seek out administrative failures or rely on affected interests to sound a fire alarm (McCubbins and Schwartz 1984), investigations produce good governance. Since neither party monopolizes corruption or incompetence, scandals should be distributed randomly across presidencies. With party abstracted from the analysis, control of government should not influence investigative activity. Similar reasoning guides Mayhew's discussion. By different means, Null 1 finds support.

Alternatively, an ideology-based perspective suggests a relationship not between divided government and investigatory activity, but between presidential-congressional preference heterogeneity and the frequency and intensity of investigatory conflict. Rejecting partisanship, the theory does not discount politically motivated hearings. Action pivots about the median voter, however, rather than about congressional majorities. Divided government, to the extent it correlates with oversight, is a proxy. Ideological divergence between the president and median legislator fires conflict, expressed partly through hearings. These considerations yield our first competing hypothesis.

Competing Hypothesis 1: As the ideological distance between branches increases, so does investigatory activity.

Although this model makes no place for party conflict, Hypothesis 1 and Competing Hypothesis 1 are not mutually exclusive. Consequently, we admit the possibility of joint significance.

Conditional Party Government

The conditional party government model (Aldrich 1995; Aldrich and Rohde 1995; Evans and Lipinski 2005; Rohde 1991; Sinclair 2006) offers our last hypothesis. After World War II, Democrats often held wide congressional majorities. Even so, liberals found their legislative efforts stymied. Internal divisions kept members from pursuing an aggressive course, with southern conservatives controlling important leadership positions, committee chairs above all.

As conservative Democrats drifted toward, or were unseated by, the GOP, intraparty heterogeneity decreased. Furthermore, both chambers underwent considerable institutional change in the early to mid-1970s. The transformation was most dramatic in the House, which has historically lacked the Senate's traditional bent toward individualism and invested greater powers in its leaders (Binder 1997; Ripley 1969). Caucus reforms made those individuals exercising power responsible to rank-and-file membership, a new reality vividly demonstrated by the 1975 removal of Wright Patman, Felix Hebert, and William Poage from their chairmanships. Yet, at the same time, the reforms reenergized the party leadership, opening the door for something akin to party government for the first time since the revolt against Speaker Cannon. Unified congressional majorities possessed new institutional machinery to overcome the efforts of well-placed minorities to thwart their legislative goals. Yet, by no means has success been guaranteed. Intraparty cohesiveness is one of the most important conditions of conditional party government.¹² When majority-party members agree on policy, they delegate to the leadership the power to see their wishes brought to fruition. Intraparty dissension, however, encourages members to reclaim authority delegated to the leadership.

This logic can also be applied to investigative activity. Majorities with little internal division and a firm grasp on the legislature's institutional machinery should have the greatest capacity to control the investigatory arm of Congress and bend it to their partisan purposes. Whether cohesion leads to more or fewer investigations, however, critically depends on whether partisan control of the branches is unified or divided. Under divided government, when investigative activity holds the promise of electoral benefits, as majority-party cohesion increases so, too, should that party's capacity to superintend the executive branch. By contrast, under unified government, when the majority party has partisan electoral incentives to thwart investigations of the executive, greater intraparty cohesion should bolster the majority's ability to limit potentially damaging high-publicity probes, thereby further decreasing the frequency, scale, and scope of investigatory activity. Hence our second competing hypothesis:

Competing Hypothesis 2: Majority homogeneity increases investigatory activity under divided government but decreases it in unified government.

Data and Methods

Dependent Variables

We started with Mayhew's list of high-publicity investigations, extended through 2006.¹³ To qualify as high publicity, a congressional probe of the executive branch had to receive at least 20 days' worth of front-page coverage in the *New York Times*.¹⁴ While the raw count of investigations in a given Congress or year is undoubtedly an important metric on which to evaluate our hypotheses, a simple count obscures the considerable variance in scope and intensity across publicity probes. For example, although all passed the 20-day threshold, the 1962 investigation of Agriculture Department favoritism toward Billie Sol Estes and the 1977 investigation of Bert Lance's financial dealings are qualitatively different from the Watergate inquiries or the Iran-Contra hearings. As a result, we supplemented Mayhew's basic measure with more-detailed information about the size and scope of each investigation.

Drawing on *Congressional Information Service* (CIS) publications and hearings data collected by Frank Baumgartner and Bryan Jones as part of the Policy Agendas Project, we identified all hearings related to each of the 35 high-publicity investigations. From this list, we also coded the total number of days of hearings and pages of testimony and accompanying documents. Finally, Mayhew himself provided a fourth measure of investigatory intensity: the number of front-page *New York Times* articles related to an inquiry.¹⁵

Because several of our key independent variables can vary across chambers and by year, the unit of analysis is the chamber-year. Appendix 1 presents summary statistics for each of the five dependent variables as well as for the independent variables included in the analysis.

Independent Variables

To test our theoretical hypotheses, we created three measures for the empirical analysis. The first measure is a simple dummy variable indicating whether partisan control of the chamber and the presidency is divided or unified. Disaggregating by chamber-year allowed us to account for situations in which opposite parties controlled the House and the presidency but not the Senate and presidency, and vice versa. Expectations were straightforward. If divided-government hypotheses are correct, then the coefficient for this dummy would be positive and significant. Divided government provides the impetus for congressional investigations. If ideological-conflict theorists are correct, then the

coefficient for divided government would be insignificant after we controlled for the ideological distance between the president and the congressional median. Finally, if, as conditional party government theories suggest, divided government correlates with increased investigatory activity, then this effect would be conditional on the cohesiveness of the majority party.

The second measure accounts for ideological distance between the branches. Although multiple measures of this distance are available, we adopted the difference in the first-dimension common-space score between the president and each chamber's median (Poole and Rosenthal 1997; Poole, Rosenthal, and McCarty 1995).¹⁶ If ideologically based theories are correct, then investigatory activity should increase with the distance between the ideal points of the president and the chamber median.

Finally, conditional party government theories require some measure of majority-party cohesion. Many measures are available (for a review, see Cooper and Young 2002), but we selected party cohesion scores defined as the absolute percentage of the majority party voting yea minus those voting nay summed across all roll calls.¹⁷ Under divided government, if conditional party government theories are correct, the more cohesive the congressional majority is, the greater its willingness and capacity should be to make political trouble for the president and the president's party through the power of the committee gavel. Conversely, under unified government, majority-party cohesion should be negatively correlated with the frequency and intensity of congressional investigations.

Control Variables

In addition to the independent variables of interest, our models include a number of controls. First, the models account for the mediating influence of presidential approval.¹⁸ Presidents with greater stores of public support and political capital (Kernell 1997; Neustadt 1990) may be less-attractive targets and better equipped to ward off aggressive congressional investigations than their enfeebled peers.

Scholars of diverse phenomena—from the number of significant laws passed in a given year (Krehbiel 1998; Mayhew 1991) to the frequency with which presidents use force abroad (Gaubatz 1991; Stoll 1984)—have emphasized the importance of the electoral cycle to political outcomes. In a similar vein, we included a dummy variable for presidential election years.¹⁹ Our theoretical expectations, however, were uncertain. Election years could, we thought, encourage more

investigations of the executive branch, since well-timed scrutiny may translate into immediate electoral ramifications. Conversely, as the political system gears up for an intense national electoral campaign, Congress may focus its energies into other channels.²⁰

One of the most important observations from Mayhew's (1991) analysis of high-profile investigations was their decreasing frequency over time.²¹ Mayhew has offered a number of explanations for this trend, from changing patterns of media coverage and the rise of independent investigative reporting, to a growing reliance on extracongressional investigations of executive behavior (by the General Accounting Office, for instance) and the post-Watergate era of the Independent Counsel (1991, 28–29). To account for this general downward arc, we included a yearly time variable in the model.²²

Finally, because the unit of analysis is the chamber-year, the models also include a dummy variable for the Senate to examine interchamber differences in investigatory activity. Because senators share important executive functions with the president and the upper chamber is viewed as a constitutional vanguard against majoritarian tyranny, the Senate may be more likely than the House to engage in oversight.

Models

For the four count dependent variables—the number of new investigations begun in a given chamber-year, the number and days of hearings held in a given chamber-year, and the number of front-page *New York Times* articles covering major congressional investigations—we estimated negative binomial models. For the remaining dependent variable—the number of pages of documents generated by the investigation, which approximates a continuous variable—we estimated ordinary least squares regression models.

Results and Discussion

Table 1 presents simple difference-in-means t-tests of all five dependent variables under unified versus divided government. At first blush, there is compelling evidence to support divided-government theories. Mayhew's measure, the number of investigations begun in a given chamber-year, is almost 12% larger in divided government than in unified government, although the difference is not statistically significant. Moreover, the days of hearings, pages of hearings, and *New York Times* coverage measures are all significantly higher in divided

TABLE 1
Investigatory Activity in Unified versus Divided Government

Variable	Unified Average	Divided Average	Percentage Difference	T-test (p -value)
Number of Investigations	0.30	0.33	12%	0.36
Hearings	5.18	4.79	-.07%	0.43
Days of Hearings	12.24	19.78	63%	0.09
Pages of Hearings	1,247	2,219	78%	0.08
<i>New York Times</i> Articles	12.28	19.92	62%	0.09

government than in unified government ($p < .10$). The only exception to the trend is the number of hearings, and this anomaly may reflect a change in convention over time. In the 1940s and 1950s, many entries for *hearings* in the *Congressional Information Service Index* abstracts were for but a single day; in many cases, there were even multiple “hearings” in the same committee on the same topic on a single day.²³ As time progressed, the number of hearings lasting a single day, or part of one, fell dramatically, and it became more common for CIS to identify a single hearing that lasted over multiple days and even months.

The results of the multivariate analyses presented in Table 2 confirm the bivariate correlations observed in Table 1 across measures of investigatory activity.²⁴ Only when using Mayhew’s limited measure of investigatory activity, the number of high-profile investigations begun in a chamber-year, do we find a null result for divided government. The relevant coefficient is positive and substantively large—a shift from unified to divided government has the estimated effect of increasing the number of investigations launched by more than 25%—yet it fails to meet conventional levels of statistical significance.²⁵

All other operationalizations of congressional investigatory activity, which collectively capture the considerable variance in the scope and intensity of Mayhew’s high-profile congressional probes, show a clear and strong relationship between divided partisan control and aggressive congressional investigations. For the event count models, simulated first differences best illustrate the scope of divided government’s effect on investigatory activity in the House of Representatives. When all other variables are set equal to their mean or median, a shift from unified to divided partisan control of the House

TABLE 2
Event Count and OLS Models of Investigatory Activity
(robust standard errors in parentheses)

Variable	Number	Hearings	Days	Pages	NYT
Divided Government	0.22 (0.28)	1.31*** (0.43)	1.49*** (0.42)	1.33** (0.66)	1.56*** (0.47)
Ideological Distance	1.55 (1.12)	-1.41 (1.56)	0.74 (1.46)	-1.56 (2.57)	1.42 (1.60)
Presidential Approval	-0.02* (0.01)	-0.03*** (0.01)	-0.04*** (0.01)	-0.08*** (0.02)	-0.04*** (0.01)
Presidential Election Year	-1.00** (0.44)	-1.29*** (0.36)	-0.76 (0.48)	-1.35** (0.63)	-1.44*** (0.46)
Year	-0.05*** (0.01)	-0.06*** (0.01)	-0.07*** (0.01)	0.01 (0.00)	-0.06*** (0.01)
Senate	0.68*** (0.27)	0.75** (0.35)	1.23*** (0.34)	1.20* (0.64)	1.28*** (0.44)
Constant	86.76*** (21.51)	120.50*** (22.16)	137.93*** (23.37)	-6.50 (48.45)	120.32*** (26.74)
Observations	120	120	120	120	120

* $p < .10$; ** $p < .05$; *** $p < .01$. All significance tests are two-tailed.

and the presidency increases the expected number of hearings five-fold (from 1 to 5), quadruples their expected duration in days (from less than 3 to 12), and quintuples the number of front-page *New York Times* articles reporting on congressional probes (from 3 to 15). Similarly, the linear regression model suggests large partisan-control effects, as divided government increases the expected number of pages of committee documents produced in a year by more than a thousand. In conjunction, the model results in Table 2 show that divided government greatly increases investigative congressional oversight.²⁶

The models offer little support, however, for theories emphasizing ideological distance between the president and Congress. In three specifications, the relevant coefficient is positive, as predicted, but in none of the models does it reach conventional levels of statistical significance. After accounting for whether partisan control of the chamber and the presidency is unified or divided, the ideological distance between the two has little explanatory power. Because of overlaps in measurement, deciphering the effects of preferences versus partisanship is often fraught with peril. In our data, the two measures are indeed positively correlated ($r = .43$). Reestimating the models in Table 2

with only the ideological-distance measure yields a positive coefficient in each specification; but again, in none of these alternative specifications is the relationship statistically significant. Given the difficulties inherent in measuring the ideological positions of legislators and the president on a common metric, we reserve judgment on the relative importance of ideological preferences to explanations of investigatory behavior. Still, this simple test bolsters our belief that the observed partisan effects are not merely artifacts of presidential-congressional ideological divergence.

The control variables largely performed as expected. Presidents with higher levels of public approval face significantly lower levels of congressional investigatory activity than do presidents with weaker reserves of political capital. First differences, again, illustrate the magnitude of the effects. For example, a president enjoying an approval rating of 60% facing an opposition-controlled House could expect, on average, about one-third fewer days of hearings investigating the administration than a president with a 50% approval rating. Similarly, a ten-percentage-point drop in public support results, on average, in a 50% increase in the number of *New York Times* front-page stories discussing investigations and an additional 800 pages in committee documents.

In all five models, the coefficient for presidential election year is negative and, in most cases, significant. The substantive effects are also large across models, often rivaling that of divided government. For example, in an opposition-controlled House, the number of expected high-profile probes decreases from .23 to .09 in a presidential election year. The finding is initially puzzling because presidential election years would seem to be the period when investigations of executive misconduct could pack the most political punch. Perhaps congressional leaders are wary of being too aggressive in the election year itself, lest they overshadow or otherwise cause problems for their own nominee's campaign. Whatever the dynamic in play, it is a matter worthy of future research.

Finally, in all but the number-of-pages regression, the coefficient for year is negative and significant, consistent with Mayhew's analysis. The dummy variable identifying the Senate is positive and significant, suggesting that presidents have more to fear from the upper chamber than the lower one.

The Table 3 models expand upon those outlined in Table 2 by testing the conditional party government hypothesis. According to this perspective, divided partisan control, in and of itself, is not the only factor driving investigatory activity. Rather, as the opposition majority party grows more internally cohesive, it will be more willing and better

TABLE 3
Majority-party Cohesion in Unified and Divided Government
(robust standard errors in parentheses)

Variable	Unified Number	Divided Number	Unified Hearings	Divided Hearings	Unified Days	Divided Days	Unified Pages	Divided Pages	Unified NYT	Divided NYT
Majority-party Cohesion	-0.06 (0.04)	0.06** (0.03)	-0.03 (0.04)	0.08*** (0.02)	-0.04 (0.04)	0.04 (0.03)	0.05 (0.05)	0.17** (0.08)	-0.08 (0.05)	0.08** (0.04)
Ideological Distance	-0.68 (1.34)	0.58 (1.66)	-7.78*** (2.54)	-1.74 (1.79)	-3.02 (3.23)	-2.99 (1.95)	-2.31 (2.38)	-10.26* (5.74)	-10.20** (4.54)	-0.96 (2.33)
Presidential Approval	-0.01 (0.01)	-0.02* (0.01)	0.00 (0.01)	-0.05*** (0.01)	0.00 (0.02)	-0.08*** (0.02)	-0.03 (0.02)	-0.18*** (0.04)	-0.05** (0.02)	-0.07*** (0.02)
Presidential Election Year	-0.98 (0.82)	-1.14** (0.55)	-0.78 (0.61)	-0.83* (0.45)	-0.19 (0.77)	-0.78* (0.48)	-0.37 (0.63)	-2.18*** (0.85)	0.13 (0.77)	-1.61*** (0.61)
Year	-0.06*** (0.02)	-0.04*** (0.01)	-0.06*** (0.02)	-0.06*** (0.02)	-0.08*** (0.02)	-0.03 (0.02)	-0.04 (0.02)	0.05 (0.06)	-0.07*** (0.02)	-0.05* (0.03)
Senate	1.09** (0.56)	0.51 (0.32)	0.68 (0.61)	0.97*** (0.37)	0.61 (0.71)	0.90** (0.43)	1.86 (1.17)	1.61* (0.91)	3.11*** (0.70)	0.90* (0.51)
Constant	114.36*** (43.29)	67.89*** (22.29)	124.53*** (42.16)	109.30*** (37.32)	159.70*** (37.40)	64.30 (41.06)	71.28 (45.07)	-87.27 (106.69)	152.40*** (42.66)	96.24* (51.31)
Observations	57	63	57	63	57	63	57	63	57	63

* $p < .10$; ** $p < .05$; *** $p < .01$. All significance tests are two-tailed.

equipped to use the legislative machinery at its disposal to launch high-profile probes to embarrass the president and the president's party. By contrast, majority-party cohesion in unified government should decrease the frequency and intensity of congressional inquests because it strengthens the majority party's capacity to quash politically damaging investigations of a co-partisan administration.

The models in Table 3 replicate all five models of investigatory activity reported in Table 2 but divide each model into two samples, one for chamber-years of unified partisan control and the other for chamber-years of divided partisan control. At first glance, the results strongly accord with conditional-party-government-based expectations. In unified government, the estimated relationship between majority-party cohesion and four of the five measures of investigatory activity is negative, as expected, although the resulting coefficients fail to meet conventional levels of statistical significance. Nevertheless, the consistency across specifications does lend some support to negative agenda power theories. Cohesive majorities in unified government may be able to bottle up potentially embarrassing probes and prevent, or at least blunt, their scale and scope.

Conversely, in divided government, the coefficient for majority-party cohesion is positive across all models, and in four of the five, it is statistically significant. Equally important for the conditional party government thesis, the effect is substantively large. For example, in the House during divided government, a one-standard-deviation increase in majority-party cohesion almost doubles the expected number of new investigations and more than doubles the number of congressional hearings launched in that chamber-year, as well as the number of front-page *New York Times* articles covering the investigations. The models also suggest that a one-standard-deviation boost in cohesion yields more than 1,000 extra pages of committee documents investigating alleged executive malfeasance. Even in the days-of-hearings model, in which the cohesion coefficient narrowly misses conventional levels of statistical significance, the substantive size of the estimated effect is quite large; a similar increase in majority-party cohesiveness produces a 60% increase in the predicted number of hearing days in a divided House, with all other variables held at their means or medians.²⁷

Thus, in a trend consistent with conditional party government theories, the internal cohesion of the majority party critically affects the politics of congressional oversight. In divided government, cohesive majorities under strong party leadership are well equipped to investigate an opposition president. Conversely, in unified government, cohesive majorities are better able to prevent, or at least mitigate, any legislative

inquest into alleged executive malfeasance perpetrated by a president of their own party.

A potential objection to the models illustrated in Table 3 is that because we pooled observations across chambers, the results may obscure significant cross-chamber differences in the importance of majority-party cohesion. In both the House and Senate, our theory suggests that divided government should be an important predictor of investigatory activity, as the majority party controls the gavel in both, affording it considerable power over committee business. Opposition chairs have strong partisan incentives to investigate allegations of executive wrongdoing, while those of the president's party possess incentives to block potentially damaging probes of their ally in the White House. Conditional party government theories go one step further and stress the greater capacity of party leaders, when intraparty homogeneity is high, to influence and shape the course of legislative actions, including, perhaps, partisan-motivated investigations launched in committees. Because the Senate leadership has never developed institutional resources and procedural powers on par with its counterpart in the House (Cox and McCubbins 2005; Sinclair 2000; Smith 2007), conditional party government theories have traditionally focused on the lower chamber. If these dynamics are in fact limited to the House, then Senate majority-party cohesion, even in divided government, should have little influence on patterns of investigatory activity.

Recently, however, a growing number of scholars have investigated the capacity of Senate leaders, under conditions akin to those of conditional party government theory, to exercise considerable control over the chamber's agenda, even without the special orders and other tools available to the majority leadership in the House (Bargen 2004; Campbell, Cox, and McCubbins 2002; Den Hartog and Monroe 2006, 2008; Jenkins and Gailmard 2007; Lee 2008). If this capacity also extends to the investigatory realm, then the powers of the Senate majority leadership to pursue partisan aims through investigatory politics may also be strongest when intraparty homogeneity and cohesion are high.

To examine whether the opposition party's willingness and capacity to superintend the executive in divided government grows as a function of cohesion within its ranks in both chambers or only in the House, as traditional conditional party government narratives suggest, we conducted analyses disaggregating the divided-government models outlined in Table 3 by chamber. Results are shown in Table 4.

The revised models offer unambiguous evidence for the importance of majority-party cohesion in driving investigatory activity in

TABLE 4
 Majority-party Cohesion in Divided Government in the House and Senate
 (robust standard errors in parentheses)

Variable	House Number	Senate Number	House Hearings	Senate Hearings	House Days	Senate Days	House Pages	Senate Pages	House NYT	Senate NYT
Majority-party Cohesion	0.08* (0.04)	0.05 (0.04)	0.11*** (0.04)	0.06 (0.04)	0.00 (0.05)	0.06 (0.06)	0.11 (0.09)	0.24** (0.10)	0.16*** (0.06)	0.03 (0.06)
Ideological Distance	0.14 (3.25)	0.30 (2.21)	-3.42 (3.38)	-0.92 (4.01)	1.35 (4.29)	-3.19 (5.51)	-9.75 (5.83)	-7.90 (9.00)	-4.57 (5.02)	2.71 (4.61)
Presidential Approval	-0.04* (0.02)	-0.02 (0.02)	-0.09*** (0.03)	-0.04 (0.03)	-0.08*** (0.03)	-0.07 (0.05)	-0.16*** (0.05)	-0.19*** (0.06)	-0.11*** (0.03)	-0.03 (0.05)
Presidential Election Year	-1.54** (0.77)	-0.87 (0.77)	-1.20* (0.71)	-0.45 (0.79)	-1.53* (0.88)	-0.75 (1.00)	-1.94** (.90)	-2.43 (1.60)	-2.07 (1.31)	-0.83 (0.79)
Year	-0.03 (0.02)	-0.04** (0.02)	-0.04 (0.04)	-0.06* (0.03)	-0.06 (0.04)	-0.04 (0.05)	.05 (0.07)	0.02 (0.08)	-0.03 (0.05)	-0.06 (0.04)
Constant	50.95 (44.08)	74.66** (34.13)	86.10 (67.43)	116.53** (59.85)	132.02* (78.16)	76.73 (95.65)	-89.44 (131.32)	-32.47 (157.70)	59.85 (104.75)	116.85 (82.47)
Observations	34	29	34	29	34	29	34	29	34	29

* $p < .10$; ** $p < .05$; *** $p < .01$. All significance tests are two-tailed.

the House during periods of divided government. In all but the days-of-hearings model, the cohesion coefficients are positive and substantively large, and in three of the five models, they are statistically significant.

The results from the Senate models are more mixed, but on the whole, there is support for the contention that, despite the upper chamber's weaker partisan leadership structures, as the cohesion of the majority party increases in divided government so, too, does its capacity to pursue partisan goals through investigations into alleged executive misconduct. In all five Senate models, the coefficient for the majority-party-cohesion variable is positive, and in the pages-of-hearings model, the relationship is statistically significant. Compared to the corresponding House estimates, in three of the five models, the cohesion coefficient is considerably smaller; this result may reflect the House leadership's greater capacity to use the array of institutional and procedural tools at its disposal to pursue a partisan investigative agenda when backed by a homogeneous party caucus. The consistency of the Senate results suggests, however, that an opposition party can successfully mobilize the machinery of the Senate to achieve their goals through investigative means and that this capacity grows with the cohesion of the majority-party rank and file.

Conclusion

The fundamental output of government is public policy. Political scientists have explored nearly every aspect of policymaking in great depth. While scholarly controversy no doubt remains, we have learned much about agenda setting, issue framing, consideration in committee and on the floor, resolution of interchamber differences, veto bargaining, implementation, and adjudication.

Focusing exclusively on policy, however, ignores vital aspects of legislative behavior. This article has explored the dynamics driving an important, yet often overlooked, tool through which the legislature can check the executive, even when transaction costs, supermajoritarian requirements, and other institutional impediments doom legislative options: the committee gavel. Although much of congressional oversight is merely routine, it is possible for high-profile investigations to dominate public attention for months on end, something rarely accomplished by even landmark legislative initiatives. Senator McCarthy's loyalty hearings, Watergate, Iran-Contra: each defined an era, all had grave consequences.²⁸ Similarly, its ultimate ramifications may remain unknown, but the outburst of investigatory activity

launched by Democrats in the 110th Congress has the potential to define the political arena leading up to the 2008 presidential contest and beyond.

In spite of this potential, the dynamics driving congressional investigations have received little attention. David Mayhew's (1991) treatment stands almost alone. Our empirical evidence strongly suggests that Mayhew's research, largely because of his very limited measure of investigative activity, wrongly discounts the partisan dimension of congressional investigations. At least since the end of World War II, partisanship has played a key role. Under divided government, high-profile oversight activity grows more frequent and intense. In unified government, investigatory activity wanes, particularly when a cohesive congressional majority is in place to defend its partisan ally in the White House and the integrity of the shared party label. Explanations putting ideology above partisanship find limited support.

Finally, this article's analytic shift from the legislative to the investigatory arena offers a new perspective on traditional debates into the prospects for party government in both the House and Senate. Consistent with conditional party government theories, intraparty homogeneity in the House strongly predicts the majority party's ability to pursue its partisan goals by investigating an opposition-controlled White House in periods of divided government. The Senate, however, follows a similar pattern, although perhaps to a lesser extent. These results dovetail with recent scholarship on the prospects for party governance in the upper chamber and suggest that, in certain political environments, Senate majorities, like their House counterparts, are well equipped to pursue partisan goals through both legislative and investigatory means.

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APPENDIX 1
Summary Statistics for All Dependent and Independent Variables

Variable	Mean	Standard Deviation	Min	Max
<i>Dependent</i>				
Number of Investigations	.32	.55	0	3
Hearings	4.98	11.11	0	82
Days of Hearings	16.20	30.98	0	197
Pages of Hearings (1000s)	1.76	3.73	0	24.84
<i>New York Times</i> Articles	16.29	31.85	0	165
<i>Independent</i>				
Divided Government	.53	.50	0	1
Ideological Distance	.42	.16	.10	.68
Presidential Approval	57.44	13.04	24	84
Presidential Election Year	.25	.43	0	1
Year	1,976.50	17.39	1947	2006
Senate	.50	.50	0	1
Majority Party Cohesion	69.05	9.16	52.16	88.70

NOTES

1. Adam Nagourney and Robin Toner, "With Guarded Cheer, Democrats Dare to Believe It Is Their Time," *New York Times*, October 22, 2006, A1.

2. Michael Abramowitz, "War's Critics Abetting Terrorists, Cheney Says," *Washington Post*, September 11, 2006, A12. Ben Wallace-Wells, "What He's Trying to Say," *New York Times*, October 29, 2006, Section 6:44. "Interview of Vice President by Sean Hannity," *States News Service*, October 24, 2006.

3. Inter alia: Audrey Hudson, "Democrats Wait in the Wings with Subpoenas," *Washington Times*, October 31, 2006, A1. "John Dingell and the Coming Congress," *Washington Times*, October 13, 2006, A18. Paul Krugman, "Don't Make Nice," *New York Times*, October 23, 2006, A19. Robin Toner, "How the Democrats Would Rule the Hill," *New York Times*, October 8, 2006, A1. Kate Zernike, "Seats in Danger, Democrats Proclaim Their Conservatism," *New York Times*, October 24, 2006, A23.

4. Eric Pfeiffer, "Party Chiefs Debate Voter Motivation," *Washington Post*, October 30, 2006, A4. Jennifer Yachnin, "If Only House Flips, Partisan Gridlock Awaits," *Roll Call*, September 11, 2006.

5. Edward Epstein, "A Democrat-Controlled House Wouldn't Impeach Bush," *San Francisco Chronicle*, May 13, 2006, A1.

6. Peter Baker, "Libby Verdict Brings Moment of Accountability," *Washington Post*, March 7, 2007, A1.

7. Jim Rutenberg, "Bush Opposes Raising Gas Tax for Bridge Repairs," *New York Times*, August 10, 2007, A12.

8. Peter Baker, "Libby Verdict Brings Moment of Accountability," *Washington Post*, March 7, 2007, A1.

9. In statements consistent with Representative Waxman's belief, Thomas Mann has argued that the rise of oversight in the 110th Congress "has been the most important change since the 2006 election in terms of relations between the Congress and the administration" (Charles Babington, "Democrats Pursue Agenda with Inquiries," *Associated Press*, August 22, 2007).

10. The expectation that investigatory activity should surge in periods of divided government does not require that partisan electoral incentives be the driving force behind investigations. For example, even if institutional incentives spur most high-publicity probes of the executive, the level of investigatory activity should still increase in periods of divided government. From this perspective, divided government does not provide the impetus for investigations per se; rather, its presence creates an environment in which institutional and electoral incentives to investigate overlap.

11. In a subsequent edition (2005), Mayhew does, however, note that the bulk of the investigatory action since 1991 has occurred in periods of divided government.

12. Aldrich and Rohde also emphasize the importance of significant interparty differences, in addition to majority-party cohesiveness. In the investigatory framework, such differences are almost always likely to occur because members of the president's party stand to gain by tarnishing the president and the president's party label, while members of the president's party stand to lose from such investigatory activity.

13. Our dataset includes all probes from 1947 to 2002 identified by Mayhew, except for the inquiry into Soviet spy rings under President Truman, which did not begin until the Republican 83d Congress took office with President Eisenhower in 1953. No investigations in the 108th or 109th Congress met Mayhew's threshold.

14. Mayhew has acknowledged that the 20-day threshold is arbitrary, but he defends the choice and discloses that there were few close calls. For the most part, investigations either clearly met or failed to meet the criterion of significant, sustained coverage in the national press.

15. Several investigations were conducted either by joint committees or by independent committees in the House and Senate. For joint committees, we included hearing data for the investigation in both House and Senate chamber-year tallies. For independent committees, we divided hearing data accordingly. In both cases, we included *New York Times* coverage, which often was not chamber-specific, in both House and Senate chamber-year tallies.

16. Common space scores were not available for Truman. Following Lewis (2002), we adopted Truman's common-space score for his service in the Senate. Replicating the analyses without Truman yields virtually identical results across specifications.

17. We replicated the analyses with a variety of other measures of intraparty cohesion, including party unity and support scores and the standard deviation in the majority party's first-dimension NOMINATE score, with similar results.

18. We measured approval as the average across polls in a president's Gallup approval rating in January of each year. Alternative operationalizations, such as presidential support in the first quarter of a given year or in the last quarter of the preceding year, yield virtually identical results.

19. We reestimated all models to include a congressional-election-year dummy to capture any additional effects for the electoral cycle and also to control for the

natural rhythm of Congress, in which oversight activity peaks in the first session and legislative activity peaks in the second. In every specification save one, the resulting coefficient is insignificant and the relationships for all other variables remain virtually identical to those reported in Table 2.

20. We also included three operationalizations of various honeymoon effects: a start-of-term variable coded as 1 for the first two years of an administration's first term; a dummy variable coded as 1 for the first year of a president's first and second terms; and a dummy variable coded as 1 only for the first year of a president's first term. Only the third operationalization attains statistical significance in any specification (two of five, pages and NYT coverage). In every case, all relationships reported in the tables remain unchanged.

21. On the decline in oversight more generally, see Ripley and Franklin 1982.

22. Although the year variable captures this clear downward trend identified by Mayhew, excluding it from the analyses yields virtually identical results for the independent variables of interest across specifications.

23. We coded as a "hearing" each entry given a unique CIS identification number. Thus, each "hearing" can comprise one or multiple days of congressional testimony.

24. Dickey-Fuller tests for all five series in both the House and Senate reject the null hypothesis of a unit root. To control for possible autocorrelation, we also estimated all models listed in Table 2 with a lagged dependent variable, arriving at virtually identical results for all explanatory variables of interest. Poisson Autoregressive models reflect the same reliability (Brandt and Williams 2001; Brandt et al. 2000).

25. As Mayhew notes, Harry Truman's presidency is the greatest outlier in terms of investigatory activity in unified government. Replicating an identical model with presidential fixed effects or for only post-Truman presidencies almost triples the substantive size and greatly increases the statistical significance of the relationship between the raw count of investigations and divided government. Replicating the other four models with presidential fixed effects also yields virtually identical results to those reported in Table 2, except that in the *New York Times* model, the divided-government coefficient, although still positive, is no longer statistically significant.

26. As an additional robustness check, to ensure that partisanship has not only recently become a critical factor driving the frequency and scale of investigatory activity, we replicated all models reported in Table 2 exclusively for Mayhew's 1947–1990 period. Across specifications, the results are virtually identical.

27. Although the sample sizes are small, we found another result consistent with our theoretical arguments: only in divided government does Congress view a president with flagging support among the public as an appealing target for investigations that might reap political gain.

28. In a recent interview, Thomas Mann openly speculated that the onslaught of Democratic investigations into the administration's conduct of the war in Iraq has had tangible consequences for policymaking: "I have no doubt the hearings have altered the course the administration has taken on a range of areas, including Iraq" (Charles Babington, "Democrats Pursue Agenda with Inquiries," *Associated Press*, August 22, 2007).

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