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## *Don't Sweat the Details! Enhancing Congressional Committee Expertise Through the Use of Detailees*

In contrast to the dramatic growth in the size and influence of the executive branch over the past 40 years, congressional committee staffing levels are at an all-time low. Faced with growing demands to produce legislation and to conduct oversight of executive branch policymaking, Congress can and does supplement its existing staff by borrowing personnel, known as detailees, from federal agencies. Using an original dataset of detailees from 1997 to 2015, we analyze the degree to which congressional committees rely on detailees to increase legislative capacity. We find that committees in the House and Senate use detailees in different ways to further both legislative and oversight initiatives.

The ability of Congress to provide itself with the expertise to fulfill its legislative and oversight functions is paramount to the effective functioning of the US government. Congressional committee staff serves as one of the primary sources legislators use to acquire, filter, and process information (Adler and Wilkerson 2012; Curry 2015; Rohde 2005). Committee staffers with specialized policy expertise conduct research and analysis, draft legislation, filter interest-group input on policy, and help with investigations and oversight of federal executive agencies (Aberbach 1990; Curry 2015; Esterling 2007; Levy 2016; Patashnik and Peck 2017; Shobe, 2017; Walker 2015). Additionally, committee staffers provide members of Congress with expertise on the political environment, including information on the policy positions of various interest groups, the key officials and offices involved in executive policy implementation, and the nature of decision making in federal agencies (Curry 2015; Levy 2016; Shobe, forthcoming; Walker 2015). Generally, Congress invests in committee staff resources because such staff aids

individual members in addressing important matters that affect the members' re-election constituencies (Adler and Wilkerson 2012).

Despite the clear benefits of committee capacity and expertise, members of Congress face both fiscal and political pressures to divert resources from committees to personal Washington and district offices and to the offices of party leadership (Baumgartner and Jones 2015; Curry 2015; Madonna and Ostrander 2014). Recently, some commentators and scholars have argued that Congress elected to "lobotomize" its internal committee and support agency (e.g., GAO, CBO, etc.) capacity in favor of allocating more staff to leadership and district offices to support re-election goals as well as to match the centralized and polarized policy-making environment (Glastris 2016; Lewallen, Theriault, and Jones 2015). For example, staffing levels of standing committees in the House of Representatives are about half of their 1980 levels (Drutman and Teles 2015). Pay for committee positions such as staff directors and counsels have fallen by as much as 20%, leading to high turnover among staffers, a younger and more inexperienced staff, and the so-called revolving door effect as many find jobs with lobbying firms (Drutman 2015; Jensen 2011). At the same time, Congress has reduced its policy expertise, and the executive branch has grown drastically in both size and influence (Burke 2000). The differences in the capacity of the branches are staggering: Today's executive branch employs over 4 million and issues over 4,000 rules each year. In contrast, the legislative branch employs 30,000 and enacts approximately 300 substantive laws per year (Kosar et al. 2016). The decrease in congressional committee capacity and expertise has had serious consequences for traditional measures of legislative and oversight productivity, as the raw numbers of both bills enacted and oversight hearings conducted have decreased to near-record lows (Kosar et al. 2016).

If members of Congress believe their individual electoral fates are at least in part tied to the performance of the institution as a whole, then why are members of Congress willing to reduce capacity and expertise in congressional committees? A possible explanation is that members of Congress and their committees have learned to be more strategic in how they deploy and acquire resources to fulfill their legislative and oversight functions (MacDonald and McGrath 2016; Madonna and Ostrander 2014). This begs the question, given the demands to produce research and analysis, craft legislation, and conduct oversight, how can committees supplement their existing capacity and expertise to aid the performance of the institution as a whole?

One low-cost and often overlooked method for congressional committees to enhance their capacity and expertise involves borrowing

executive branch personnel. Known as detailees, these individuals serve temporary assignments (typically one year) to congressional committees while remaining on the payroll of the executive branch. Detailees are often midcareer civil servants who have particular expertise in agency policy or knowledge of internal decision making. They provide congressional committees with advice, guidance, and research on legislative and oversight activities and offer committees an opportunity to supplement their dwindling staff. Indeed, as the number of committee staff has decreased by 35% in the House and 15% in the Senate over the past 20 years, the number of detailees assigned to congressional committees has increased by over 300%. Yet despite the rise in the number of detailees, we know little about their use.

We conduct the first systematic examination of detailee use by developing an in-depth case study of congressional committees' utilization of detailees. Based on 15 interviews with congressional staff directors and detailees, we develop several preliminary expectations about when and under what circumstances congressional committees will use detailees. Specifically, our interviews indicate committees that produce more legislation, conduct more oversight of executive agencies, and operate in a more complex interest-group environment are more likely to rely on detailees. Next, we use a novel data set that identifies the detailees assigned to congressional committees from 1997 to 2015 to explore empirical regularities in committee use of detailees. Our empirical findings suggest that detailees may be most valuable to congressional committees when meeting with stakeholders; while we find that a committee's use of detailees increases with the mobilization of the committee's interest-group environment, we find weak or contradictory support for our other expectations. These results have important implications for the ability of Congress to supplement its traditional resources with the expertise necessary to fulfill its legislative and oversight responsibilities.

### **Developing Legislative Capacity and Expertise**

How Congress should procure the necessary expertise to engage in policymaking is a question as old as the United States itself (Gailmard and Patty 2012). Congress relies on both internal and external entities for legislative assistance. Legislative support agencies such as the Government Accountability Office, Congressional Research Service, and Congressional Budget Office provide Congress with nonpartisan policy analysis and information about government operations. In addition, legislators receive political information from the congressional caucus

system and interest-group networks about the impact of various policies on important constituencies (e.g., Ainsworth and Akins 1997; Esterling 2007; Wright 1996). However, congressional committees and their staff provide the main source of legislative capacity and expertise in Congress (Adler and Wilkerson 2012; Baumgartner and Jones 2015; Deering and Smith 1997; Fenno 1973; Lewallen, Theriault, and Jones 2015; Patashnik and Peck 2017).

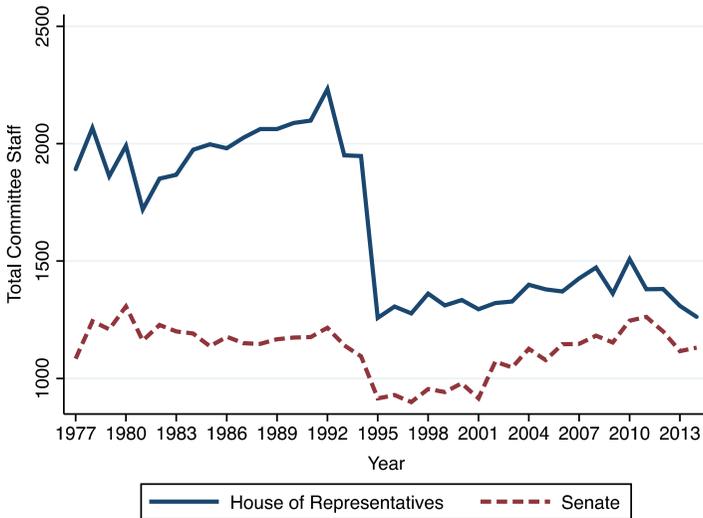
Generally, members of Congress are willing to invest in committee staff resources because they “anticipate that whether Congress addresses pressing public problems matters for their own individual reelection prospects” (Adler and Wilkerson 2012, 59). As the political environment has become increasingly complex, committees have become all the more important to the functioning of Congress in its lawmaking, oversight, and re-election efforts (Curry 2015). Congressional committees foster the re-election goals of members by allowing members to become experts in policy areas important to their constituencies and to distribute benefits to key stakeholders (e.g., Adler and Lapinski 1997; Brady 1988; Fenno 1973; Mayhew 1974). In addition, committees operate organizationally to divide labor in a way that efficiently handles information to improve decision making on the over 10,000 measures introduced in each Congress and to oversee scores of federal agencies and programs (e.g., Adler and Wilkerson 2012; Krehbiel 1991).

The staff employed by these committees provide members of Congress with policy-specific expertise that bolsters each committee’s ability to conduct research and analysis, draft legislation, filter interest-group input, and evaluate federal executive agency performance (Aberbach 1990; Curry 2015; Esterling 2007; Levy 2016; Patashnik and Peck 2017). Committee staffers also provide legislators with additional expertise on the political implications of various policies, including knowledge of the positions of various interest groups and key officials in the executive branch (Curry 2015; Levy 2016; Shobe 2017; Walker 2015). Despite the importance of congressional committees and staff to Congress, the capacity and expertise of these committees is in decline.

### *The Rise and Decline of Committee Staff*

The Legislative Reorganization Act of 1946 fundamentally reorganized and formalized the committee structure of Congress and provided each committee with 10 full-time staff members: four professionals with substantive expertise relevant to the jurisdiction of the committee and six clerks or administrative staff.<sup>1</sup> The number of

FIGURE 1  
House vs. Senate Committee Staff, 1977–2014. [Color figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]



committee staff remained unchanged over the next two-and-a-half decades until the passage of the Legislative Reorganization Act of 1970, which increased the number of professional staff on each committee to six.<sup>2</sup> Since 1970, each chamber of Congress has used its own internal rules to add staff to committees. Currently, the Rules of the House of Representatives permit each standing committee to appoint no more than 30 professional staff members.<sup>3</sup> While current law only authorizes each standing committee in the Senate to hire six professional staff members in addition to six clerical staff employees,<sup>4</sup> committees may increase staffing levels by procuring “temporary” consultants to advise the committee with respect to any matter within its jurisdiction.<sup>5</sup>

Despite the relative stability of the laws and rules regulating committee staffing, the raw number of committee staff has gradually decreased since 1977. Figure 1 shows the change in committee staff in the House and Senate from 1977 to 2014. The decline in committee staff has been much more pronounced in the House than in the Senate, with the number of staff decreasing from a high of 2,233 in 1992 to a low of 1,262 in 2014. Committees in the House have not recovered from the drastic cuts in staff during the speakership of Newt Gingrich, who tried

to centralize control of both information and decision making in party leadership rather than in committees (Curry 2015; Deering and Smith 1997). While the decline in staff has not been as drastic in the Senate, the 1,134 committee staffing level in 2014 is still lower than the number of committee staff in the late 1970s.

While it is clear that the raw number of committee staff in both chambers has decreased since 1977, this reduction in number would not necessarily influence committees' legislative and oversight capacity if more recent staff possesses greater expertise and experience. However, an evaluation of the strategic decisions by both staffers and by legislators suggests this is not the case.

First, many of the most knowledgeable and experienced committee staff leave Congress for more desirable jobs in the private sector. In part, this is because at the same time that congressional committee staff has declined, the federal government is doing and spending more. For example, the total number of pages in the *Federal Register* (often used as a measure of total federal regulatory burden) increased from 65,603 in 1977 to 81,402 in 2015,<sup>6</sup> and federal expenditures increased from \$611.9 billion to \$5,654.0 billion over the same time period.<sup>7</sup> This growth, considered with the decline in raw numbers of committee staff, means that the workload of individual committee staffers has increased over time. This increased workload has led to unattractive work conditions and high turnover, particularly among committee staffers who have substantive policy expertise (e.g., Drutman and Teles 2015; Kosar et al. 2016). Factors such as long hours, relatively low pay, and decreasing benefits have resulted in an exodus of committee staff from Capitol Hill to lobbying firms that can promise an increased salary and reduced workload (Kosar et al. 2016). This causes an overall loss of legislative capacity and expertise, as senior committee staffers who possess greater policy expertise and institutional memory are more likely to leave (Romzek and Utter 1996, 1997). Junior to midcareer staffers tend to remain in their positions until they gain enough expertise and experience to be attractive to lobbying firms (Jensen 2011). Once committee staffers gain personal contacts, policy expertise, and knowledge of congressional procedure, interest groups and lobbying firms then recruit the staffers from Congress (Drutman and Teles 2015).

Second, strategic decisions by members of Congress themselves have led to a shift of staff away from congressional committees. The increase in partisanship among members of Congress has resulted in the centralization of legislative and oversight expertise in the party leadership rather than in committees (Baumgartner and Jones 2015; Lewallen, Theriault, and Jones 2015). The number of staff assigned to leadership

has increased fourfold since the mid-1970s, spurred in part because rank-and-file members are more inclined to trust legislators who are ideologically similar to them (Madonna and Ostrander 2014). In addition, members of Congress increasingly have shifted resources to their personal staff offices, particularly in their districts (Madonna and Ostrander 2014).

In the face of limited committee staff, it is possible that certain committees and members have learned to be more strategic in how they deploy and acquire resources to fulfill their legislative and oversight functions (MacDonald and McGrath 2016; Madonna and Ostrander 2014). This begs the question, given the demands to produce research and analysis, craft legislation, and conduct oversight, how do committees supplement their existing capacity and expertise to accomplish these functions? While scholars have demonstrated that committees can supplement in-house expertise with information from interest groups (e.g., Esterling 2004, 2007; Wright 1996) and technical assistance requests from federal agencies, this information often has a “filtered” perspective on any given issue (Curry 2015; Esterling 2007; Levy 2016; Shobe 2017; Walker 2015). An additional way that Congress can supplement the expertise of committees involves borrowing personnel from federal executive agencies. We explore this low-cost and often overlooked method of enhancing legislative capacity and expertise through an in-depth case study and empirical analysis of original data.

### **The Use of Executive Branch Detailees in Congress**

As part of the Legislative Reorganization Act of 1946, Congress developed a process to borrow executive branch personnel to aid in the development of legislation and the conduct of oversight. Specifically, the law allows committees to enter into an agreement with a federal executive agency to “detail” an employee to a temporary position with the committee.<sup>8</sup> These details assign an employee of a federal agency to work for a congressional committee for a specified period (typically 12 months) while remaining on the agency’s payroll. While the Senate does not place a cap on the number of detailees committees may acquire, House rules limit the number of detailees per committee to 10% of the committee’s permanent staff ceiling.

The detailing of executive branch personnel to committees benefits both Congress and federal agencies. Congress gains a valuable staff person who can provide real-time input and suggestions. While it appears the executive agency loses in the detailee equation (i.e., paying for an employee who no longer works for the agency), detailees gain

experience in the legislative process, can represent the interests and perspectives of the agency, and give the agency a conduit to committee decision making. In order to understand the process by which detailees are selected, the tasks they perform, and the political environment in which detailees operate, we conducted interviews with current and former detailees and with the staff directors of several standing committees in the House and Senate. In total, we conducted seven interviews with Senate staff directors (five majority (R)/two minority (D)), five interviews with House staff directors (two majority (R)/three minority (D)), and three interviews with detailees.<sup>9</sup> Our interviews ranged from 30 to 75 minutes and were semistructured, as we relied on a protocol but allowed interviewees to explore topics as they occurred during the conversation. These interviews, combined with written accounts of detailees from federal agencies, suggest that detailees provide legislative support to committees, assist committees with their oversight agenda, and allow committees to effectively filter and use information provided by interest groups.

### *Selecting Detailees*

The process of identifying and selecting detailees often begins when a committee or subcommittee identifies particular subject matter expertise that is needed for ongoing legislative or oversight activities. Once the committee has identified a particular need, there are three ways through which the committee selects detailees. First, a committee may reach out, typically via a letter from the committee chairman, to the Legislative Affairs Office of an agency and ask for a slate of candidates to interview for a detail. The committee then interviews each candidate, and the one with the best fit is selected for the position. One House committee staff director referred to this as the “crapshoot” method of selecting detailees due to the varying quality of detailees acquired through this method.

A second, albeit unusual, way a committee can identify a detailee is by an agency advancing a particular candidate for a detail without a formal request from the committee. A Senate staff director noted that this situation occurs when agencies are “trying to build their relationship with the Hill or they believe perhaps there is insufficient understanding of their agency.” Additionally, a separate Senate staff director noted that “we are approached by agencies when they have an up-and-coming employee who wants to get a broader view of the policymaking apparatus.” Detailees advanced by agencies are still interviewed by the

requisite committee or subcommittee to determine if they are a suitable fit.

The final, and most common, way a committee may select a detailee is by requesting a specific agency official with whom the committee has had prior interaction. Committees routinely interact with program office officials from federal agencies while working on legislation and oversight. Through repeated interactions, specific personnel within the agency develop a reputation among committee staff not only for their competence, but also for their ability to quickly respond to congressional inquiries. When a committee is interested in a specific person, the chairman of the committee must send a letter to the agency requesting that specific individual. As one Senate staff director noted: "Let's say I want somebody from Commerce. I don't send a letter saying I want a detailee. I will send them a letter that says I want Martha Stewart, for example. I know exactly who I want." In some cases, agencies are reluctant to let individuals identified by committees go because they are often promising future leaders within the agency. As a Senate staff director notes, committees can use their institutional powers to overcome agency resistance:

When we request specific people, because of their reputation, it almost always comes back as a no from the agency. I've been turned down by every agency I've requested from. Then it typically requires me to have a conversation with the Secretary of the agency. Currently we have four detailees on our investigations unit. I tell the Secretaries, we can have them doing other things or investigating your agency. So typically, the Secretary and I will come to some kind of mutual understanding. I've never not gotten someone I've wanted.

This quote highlights the tensions that exist between the executive and legislative branches, even in a program both sides describe as mutually beneficial.

Once agencies and committees come to an agreement on a detail, the chairman of the committee must write a formal letter requesting the specific individual, the length of the detail, the salary of the individual, the arrangement for salary and travel expenses to be paid by the agency, and a general list of the tasks and responsibilities of the detailee. Interestingly, the chairman writes letters to agencies requesting detailees for both the committee's majority and minority staff. While theoretically this would allow the majority to effectively stop the flow of detailees to the minority committee staff, the majority rarely, if ever, rejects minority requests for detailees. As one committee staffer explained:

I've been here for 13 years . . . in that time I've been in both the majority and minority. Frankly, we would not want a request for a detailee denied when I am on the other

side. I think the other part of it is we all recognize there are resource constraints on committees and during the time I've been here our committee has shrunk as opposed to increasing, so folks are sympathetic to that.

After the committee chairman writes the letter of agreement, the House Administration Committee or Senate Committee on Rules and Administration must approve requests for detailees in writing.<sup>10</sup> The process used by both the House Administration and Senate Rules committees for approving detailees is largely pro forma. Several committee staff directors, including the staff director for the Senate Rules Committee, could not recall an instance where House Administration or Senate Rules denied a committee's request for a detailee.

### *Supplementing Committee Staff with Additional Legislative Support*

Committees select detailees to supplement expertise with respect to both their legislative and oversight agendas. First, detailees help committees develop subject matter expertise, evaluate the policy consequences of legislative drafting decisions, and determine how the executive branch might interpret new legislation. Committees generally have the resources to understand their political environment but often lack the policy-specific knowledge detailees can provide. As one staff director noted, "it's really more about the subject matter. And just being really deep into how things actually work."

Generally, staff directors describe detailees as acting as regular members of committee staff when it comes to a committee's legislative agenda. As one Senate staff director said, "they are preparing memos for the Senator on bills that are coming before the committee . . . They are helping in the drafting of legislation. They negotiate legislation post-introduction. They are fully integrated members of the staff." Yet because detailees often have specialized, expert knowledge of a policy area, they are able to provide awareness more traditional congressional staff may not have. As one detailee noted, "I feel that I am a regular staff member but, because of my background, there are times they will come to me and say hey, you worked on this so what is the story here." In describing the drafting and subsequent markup of legislation, another detailee commented:

We all worked on it. We did a lot of the early drafting of the bill. There were certain provisions where I was the lead on making sure the language was right. Usually, I am the POC for a lot of the technical stuff because that is my background.

Some staff directors and detailees suggested that detailees are particularly helpful when a committee is considering a

reauthorization of the appropriation of funds. As one committee staff director said: "It is certainly the case that if we were still in the throes of a reauthorization process, we would have been less likely to let our detailee go."

Certainly, committees have other means of acquiring information from subject-matter experts in the executive branch. However, the process for securing information through requests directly to a federal agency is slower and involves agency coordination with the presidential administration. Detailees provide a way around these problems. In describing the advantage of using detailee expertise, one current detailee explained: "We [detailees] are good because we are right here." As one staff director noted:

Most of the time, things are moving quickly and we don't have the time to wait to make a formal request to the agency for technical assistance and wait for a well-scrubbed response. Detailees give us in-house technical assistance. The advantage is that we get a quicker answer. The disadvantage is that it might not be as polished. It might not represent the agency's best technical assistance on a particular matter. It is triage technical assistance.

Yet committees vary in their strategic use of detailees for legislative initiatives. For example, one committee staff director noted that the committee was unlikely to use detailees to work on pending legislation out of fear a detailee would leak information to the executive branch. On the other end of the spectrum, some staff directors noted that regardless of their upcoming agenda for the session, they secure detailees to support their daily legislative work because "it is free labor with specialized expertise." Finally, some staff directors suggested that they are most likely to use detailees when the committee needs real-time information on ongoing legislative markups, and they are less likely to use detailees on longer-term legislative efforts such as reauthorization bills. As one former detailee recalled: "A lot of it is last minute. This is an issue, get smart on it. Write the policy and it gets passed."

### *Securing Assistance with Oversight of the Executive Branch*

In addition to providing legislative support, detailees help committees conduct oversight of executive branch implementation of previously delegated authority. The sheer volume of federal agency policymaking and the number of agency policy makers often overwhelms the capacity of congressional committee staffs (Spence 1997). As such, committees are limited in their ability to supervise agencies. Congress simply does not have enough time to identify, understand, and address every

important agency policy decision (e.g., Hall and Miler 2008; Huber and Shipan 2002). Detailees can help ease committees' oversight burdens. As one current detailee stated: "Because I know [my subject matter], I'm valuable for oversight." Committees tend to select someone who is "integral in some agency process" or who can provide awareness of "how a certain agency works, how it operates." A House staff director put it this way: "We aren't using them for insider information, but we want their insight into how a certain agency works. That information is very helpful to us."

Detailees routinely provide background memos and information in support of oversight hearings. As one staff director said: "We will put them on research projects, writing a lot of memos . . . I will have them dig into the issue with their background from the agency. If we are doing oversight, they will write hearing memos." While committee staff certainly can and do help with hearing preparation, detailees often provide a unique perspective. When describing the expertise detailees bring to a committee, another staff director commented:

That perspective on how an agency works is pretty valuable. So I think that is definitely one thing that they can provide . . . You know your agencies pretty well, but you know them from the outside and not necessarily from the inside. So I think the detailees can provide that perspective.

However, many staff directors noted that they try to keep distance between detailees and the oversight of their home agencies. Some noted that they would not let detailees work on oversight hearings for their home agency.

Additionally, detailees assist committees with oversight of agency regulation. One staff director explained: "Part of the benefit of having a detailee is they know who to talk to in the agency. Absolutely, we use them to get in touch with the decision-makers in regards to rulemakings." Because of their knowledge of the structure and internal rule-making processes of agencies, detailees provide committees with access to real-time information on specific rules. As one current detailee noted:

Rule making is a big issue for the committee. When agencies overstep their bounds, you get interest groups coming in. They care. The staffers need to be smart on what the rule says . . . who are the winners and losers. I also tell them here is the name of the person who is working the rule, here is the guy on my staff back at [my agency] who is working on it. Here is what we are being told as to when the final rule may come out. Here is the number of comments we got in and what we think the issues may be.

*Supplementing Interest-Group Engagement*

A final area where detailees can supplement committee capacity is in meeting with stakeholders. Committee staff routinely assists members of Congress by meeting with interest groups to gather their input for legislative initiatives as well as to hear their objections or support for actions taken by executive agencies (Esterling 2007; McCubbins and Schwartz 1984). Several of our interviewees suggested detailees provide committees and members with valuable capacity and technical expertise to process and filter interest-group inputs for both legislation and oversight efforts. A NASA detailee described his interaction with stakeholder groups:

A lot of the constituents, space companies or a coalition, we will meet with them on a regular basis to hear their concerns. If the Chairman has meetings with any space company, I will write up a memo that says here is this company, here is what they do, and here is what they are coming to meet with you about. [In reference to legislation,] it is checking with verifying with the stakeholders, taking their inputs.

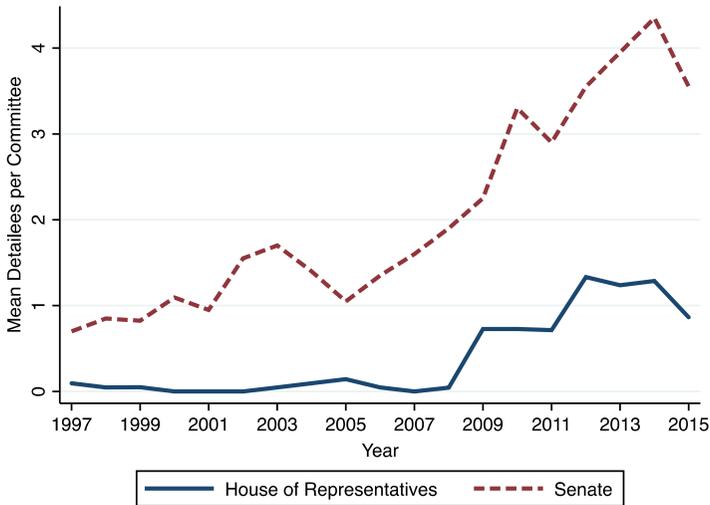
Because detailees often have established relationships with members of stakeholder groups, a key task of detailees is to assist in filtering and processing signals and information from interest groups.

In summary, our study suggests that detailees can help congressional committees work through the policy consequences of legislation and give committees insight into how an agency might interpret proposed statutory provisions. In addition, detailees help with the oversight of previously delegated authority by sharing knowledge of complex regulatory schemes. Specifically, our discussions with both detailees and congressional committee staff directors lead us to expect that detailees provide valuable expertise when committees are considering substantive legislation or are considering a reauthorization of the appropriation of funds for a particular executive agency's program. Detailees may also help committees prepare for hearings and provide insight into agency regulatory processes. Finally, our interviews suggest that detailees play an important role in meeting with and processing the information provided by stakeholders.

**Analyzing Systematic Variation in Detailee Use**

Our qualitative analysis suggests that committees vary in their strategic use of detailees for legislative and oversight initiatives. In order to explore systematic variation in congressional committee use of detailees, we conduct an empirical analysis using a new data set of all detailees in

FIGURE 2  
House vs. Senate Detailees per Committee (Average), 1997–2015.  
[Color figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]



congressional committees from 1997 to 2015.<sup>11</sup> To obtain our data on detailees, we searched the list of staff members of each committee and subcommittee in Congress in every edition of the *Congressional Yellow Books* from 1997 to 2015 for individuals listed as “detailee.”<sup>12</sup> On average, each committee in Congress used between one and two detailees per year. Figure 2 graphs the mean number of detailees per committee in the House and Senate. As Figure 2 illustrates, between 1997 and 2015, the mean number of detailees per committee has increased over time. However, the mean number of detailees per committee in the Senate was always higher than in the House. This pattern is unsurprising given that the House limits the number of detailees that each committee may employ but the Senate does not.

Not only is there variation in detailee use between the House and Senate and across time, there is also variation in detailee use across committees. Between 1997 and 2015, 41 different committees used at least one detailee, with a high of 25 detailees in one year (Senate Committee on Homeland Security and Governmental Affairs in 2014) and a low of 0 (75% of all committee years).<sup>13</sup> To explore this variation, we examine the correlation between congressional committee use of detailees and the need for policy expertise.

*Measuring Committee Workload*

In order to gauge each committee's yearly need for expertise from the executive branch, we collected information on the four aspects of each committee's workload that our interviews suggested may correlate with detailee use. First, for each year, we identify the total number of bills discharged by each committee and considered by the floor of the committee's chamber of Congress.<sup>14</sup> Given that both the detailees and staff directors we interviewed indicated that detailees provide helpful expertise on legislative initiatives, we expect that a committee will rely more on detailees as this number of bills increases. In addition, because some staff directors suggested that detailees were particularly valuable during the reauthorization process, we collected yearly information from the Congressional Budget Office on the number of laws under each committee's jurisdiction with expiring authorizations of appropriations for definite or indefinite amounts.<sup>15</sup>

As noted in our qualitative analysis, committees often rely on detailees for support and expertise in preparation for hearings and in understanding the regulatory process. Thus, we collected information on the total number of hearings held by each committee each year using the Comparative Agendas Project's Congressional Hearings data set.<sup>16</sup> We expect that detailee use may increase with the number of hearings held by a committee. In addition, we use major rule reports issued under the Congressional Review Act (CRA) to identify significant regulation promulgated each year by agencies under each committee's jurisdiction. Briefly, under the CRA, before a regulation becomes effective, the agency promulgating the regulation must submit a report to Congress summarizing the rule.<sup>17</sup> Under the CRA, major rules are those likely to (1) result in an annual effect on the economy of \$100,000,000 or more; (2) cause a major increase in cost for consumers, industries, government agencies, or geographic regions; or (3) have significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of the United States to compete with foreign-based enterprises in domestic and export markets.<sup>18</sup> We collected information on every major rule report issued to committees each year under the CRA using the US Government Accountability Office's Congressional Review Act Resources. Given that these regulations likely have a significant effect on congressional constituencies, we expect that, when an agency promulgates a major rule, Congress may employ detailees in order to gather information on the potential policy consequences of the regulation.

Our interviews also suggested that detailees provide committees with assistance in responding to important stakeholder communications.

To explore the relationship between detailee use and interest-group interaction with congressional committees, we include a proxy obtained from the Center for Responsive Politics<sup>19</sup> measuring the average amount of campaign contributions received by each member of a committee in a given year. Campaign contributions not only signal constituent mobilization, but may also create incentives for individual members to improve their policymaking capacity (Esterling 2007). As stakeholder mobilization around a committee increases, we expect that committees rely more heavily on detailees to meet with constituency groups and to process the information provided by those groups.

*Measuring Alternative Forms of Expertise and the Political Environment*

Of course, committees have other means of developing legislative capacity and cultivating expertise. Most obviously, committees naturally rely on their own staff and members. To account for the resources of each congressional committee, we include a measure of the number of members in each committee, the number of individuals employed by the committee, and the number of subcommittees within each committee in a given year. To obtain this information, we used the Congressional Directory prepared by the Joint Committee on Printing for each Congress.<sup>20</sup>

Finally, given that the assignment of a detailee to a congressional committee requires some coordination between Congress and the federal agency that permanently employs the individual, it is possible that party dynamics may influence the number of detailees. Our interviews suggested that committees do try to identify detailees whose political views and beliefs are consistent with that of the majority or minority. Many staff directors noted that the partisan affiliation of the detailee was important to know ahead of time, as committees look for detailees who “at a minimum will be politically neutral and preferably be politically sympathetic to our affiliation.” As a committee staff director for the Republican majority noted: “Bringing a liberal Democrat into our organization wouldn’t work. Obviously, we would be asking them to do things philosophically they may not want to do.” However, because both parties use detailees and defer to the other in selecting detailees when they are in the majority (i.e., the Republican majority in the Senate allows Democrats in the minority to select more liberal detailees), it is possible that differences between the partisanship of the administration and a committee does not influence committee use. To explore this expectation, we

include the absolute value of the ideological difference between the president and the median member of each committee.<sup>21</sup>

### *Estimating Congressional Committee Use of Detailees*

Table 1 provides models estimating the total number of detailees per committee each year. We estimate models of detailees in each chamber separately due to the differences in procedural rules governing the use of detailees in the House and Senate (e.g., limits on the number of detailees in the House) as well as the differences among the chambers in the relative expertise and capacity of committees (Deering and Smith 1997). Additionally, differences in the autonomy of committees in the House and Senate may affect the need for and use of detailees (see Curry 2015). To analyze our panel data, we estimate the models using conditional fixed effects negative binomial regression.<sup>22</sup>

The models in Table 1 illustrate significant differences in the use of detailees in House and Senate. Interestingly, the number of detailees in the House is negatively correlated with the number of bills considered by a committee. For example, moving from the minimum number of bills discharged by a committee and considered by the floor to the maximum decreases the predicted count of detailees by about four. While this may appear to be a counterintuitive finding, one of our interviewees from a House committee with a particularly partisan and high-volume workload suggested the committee worried that detailees would convey sensitive legislative information to the executive branch. Additionally, this finding may support prior research indicating that much of the policy analysis in the House now takes place within leadership offices rather than committees (Madonna and Ostrander 2014). Our finding of a significantly negative correlation between the number of House subcommittees and the number of detailees further reinforces this conclusion.

Our models also suggest that Senate committees are more likely to use detailees to oversee significant regulations promulgated by an agency under a Senate committee's jurisdiction. Moving from the minimum number of significant regulations to the maximum increases the predicted count of detailees by over two. Additionally, in contrast to the House, the number of subcommittees on a Senate committee positively correlates with the number of detailees. These findings are consistent with our conversations with Senate committee staff directors who noted that the Senate has always been more "subcommittee centric" when it comes to the use of detailees.

TABLE 1  
 Analysis of Total Number of Detailees per Committee, 1997–2015

	House <i>Coef.</i> ( <i>SE</i> )	Senate <i>Coef.</i> ( <i>SE</i> )
Bill Consideration	-0.012* (0.006)	0.006 (0.003)
Expiring Authorizations	0.026 (0.086)	-0.003 (0.034)
Hearings	-0.018* (0.008)	-0.010* (0.005)
Significant Rules	-0.018 (0.070)	0.066** (0.015)
Contributions	4.187** (0.965)	0.816* (0.327)
Ideological Difference	-0.669 (0.637)	-0.891 (0.484)
Subcommittees	-0.599** (0.228)	0.163* (0.081)
Committee Staff	-0.003 (0.016)	-0.006 (0.006)
Members	-0.117 (0.065)	0.144 (0.094)
Constant	-44.745** (12.736)	-14.872** (5.158)
Observations	161	210

*Note:* Dependent variable is the total number of detailees in each committee each year.

\* $p \leq 0.05$ , \*\* $p \leq 0.01$ .

In both chambers, there is a negative correlation between the number of detailees and the number of hearings held by a committee. Moving from the minimum number of hearings to the maximum decreases the predicted number of detailees in the House by 2.5 and in the Senate by a little less than one. There are two possible explanations for this finding. First, several of our interviewees suggested that detailees provide the committee with insights and information on the internal workings and policy agenda of their agencies. It is possible that as a committee relies more on detailees, the need to procure information from agency executives (or interest groups) through a hearing decreases. Second, committees and their staff may rely more on forums other than hearings for oversight and information (technical assistance requests, closed-door meetings with interest groups and agency officials, etc.) when they have a detailee. This is consistent with recent scholarship that

has found a decline in member interest in conducting oversight hearings (Fowler 2015).

While House and Senate committees vary in detailee use with respect to consideration of new legislation and regulations, committees in both chambers are significantly more likely to employ detailees as the committee's interest-group environment grows. Moving from the minimum amount of average contributions per member of a committee to the maximum increases the predicted count of detailees by a little less than two in the House and one in the Senate. This finding is consistent with our conversations with committee staff directors and detailees. One of the most beneficial aspects of acquiring a detailee rather than a traditional staffer (outside of the free labor) is a detailee's connections with important constituency groups. Whereas it would take a new staffer several months, if not years, to acquire knowledge of the interest-group environment surrounding a particular policy issue, detailees often already have established relationships with key stakeholders. Additionally, detailees provide an important information-filtering function for committees and their members that a new staffer may not be able to provide (Esterling 2007).

Finally, the other covariates included in the models have reasonable effects. It is important to note the imprecise estimates of the correlation between detailees and the ideological distance between the median member of the committee and the president. This result, consistent with our interview data, suggests that the legislative and executive branches believe detailees provide benefits and that these benefits outweigh partisan or ideological considerations. Additionally, there is little correlation between the use of detailees by House and Senate committees and the number of expiring authorizations, the number of committee staff, and the number of members of Congress on each committee.

### **Implications and Conclusions**

The capacity of Congress, and particularly its committees, to fulfill its constitutional duties in light of the increased power and capacity of the executive branch has garnered significant attention in both the popular and scholarly press. Many observers have questioned the decision by members of Congress to "lobotomize" its internal committee and support agency capacity given public policy concerns and members' reelection interests (Adler and Wilkerson 2012, 59; Glastris 2016; Kosar et al. 2016). However, as our analysis and interviews illustrate, members of Congress and congressional committees increasingly rely on free

labor from executive detailees who possess subject matter and political expertise on issues under the committee's jurisdiction.

The ubiquity and importance of the detailee program was evidenced in 2003 when the Office of Personnel Management (OPM) issued a proposed rule that would limit details to six months and require each agency to obtain the approval of the Director of OPM before sending an employee to Congress.<sup>23</sup> Predictably, members of Congress were outraged at the attempted centralization of the appointment of detailees by the Bush Administration. Even members of Bush's own party had concerns. Senator Grassley (R-IA) wrote in a letter to OPM, "I also worry that if this proposed regulation becomes final, Congress would lose out on the expertise and experience detailees provide" (Barr 2003) and Senator Susan Collins (R-ME) noted:

These detailees apply their expertise in researching issues, staffing hearings, and working on legislation. In return, they gain valuable experience, which develops their careers and benefits their agencies. Agencies and legislative offices should remain free to negotiate and agree on the terms of each detailee on a case-by-case basis, as they do now. If the individual agency and legislative office determine there are mutually beneficial reasons to detailee an employee for an agreed upon length of time, there is no reason for interference by OPM on behalf of the executive branch as a whole. (Nelson 2003)

Due to the swift and intense pressure placed upon the Bush Administration, OPM never promulgated the final rule. This anecdote illustrates the importance of the detailee program to committees and members of Congress. Yet scholars have largely overlooked the detailing of employees from the executive to legislative branches as a legislative tool for acquiring expertise.

Our analysis represents the first comprehensive description and systematic examination of the use of detailees by congressional committees. Our empirical findings suggest that committees in both the House and Senate use detailees to supplement expertise, but they do so in different ways. While committees in the House actually use fewer detailees when considering legislation and conducting hearings, Senate committees use more detailees when overseeing agencies that promulgate significant regulation. Notably, committees in both chambers use detailees as the interest-group environment in which committee members operate grows richer. Our analysis suggests that detailees may help committees further members' re-election prospects by responding to stakeholder communications. In sum, detailees help members pursue their electoral goals by providing no-cost expertise to committees, which can assist in improving the legislative and oversight functions of the institution as a whole.

While our study is an important first step in understanding the ways in which Congress uses detailees to supplement its expertise, there are several critical areas for future exploration. First, while our interviews provide important information on the benefits of detailees to committees and members of Congress, additional interviews are needed to assess the perspective and interests of federal agencies in providing their employees to the legislative branch. The agency perspective is important for understanding which agencies provide detailees more frequently to Congress as well as the variance in the different types of personnel agencies provided to committees. Second, detailees have serious implications for our understanding of executive-legislative relations. While scholars have long recognized that our system of separated powers likely functions more as a system of shared powers (e.g., Fisher 1998; Neustadt 1960; Wilson 1885), the use of detailees by Congress suggests that the lines between the branches may be more blurred than initially thought. Further exploration of the linkages between agencies and committees in the use of detailees may allow scholars to shed light on the degree to which executive agencies are involved in the design and formulation of legislation and other legislative functions.

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## NOTES

The Dirksen Congressional Center provided generous support for this and related research. Prior versions of the article were presented at the 2016 Western Political Science Association Meeting, San Diego, CA and at the 2016 Midwest Political Science Association Annual Meeting. We thank the participants at these conferences as well as Nicole Kalaf-Hughes, Jason MacDonald, and Tracy Sulkin for helpful comments and support. Finally, we thank Adam Yusen for his excellent research assistance.

1. Pub. L. No. 601, § 20, 2 Stat. 834-835 (1946).
2. Pub. L. No. 91-510. § 301, 84 Stat. 1175-1177 (1970).
3. Clerk of the House of Representatives, Rules of the House of Representatives for the 114th Congress, Rule X 9(a)(1) (2015). See also Deering and Smith (1997).
4. 2 U.S.C. § 4301 (2016). Standing rules of the Senate provide that the staffs of committees should reflect the relative number of majority and minority members of the committees. Senate Committee on Rules and Administration, Rules of the Senate for the 114th Congress, Rule XXVII(3) (2015).

5. 2 U.S.C. § 4301 (2016).
6. Office of the Federal Register, Federal Register and CFR Publications Statistics, <https://www.federalregister.gov/uploads/2016/05/stats2015Fedreg.pdf>.
7. Office of Management and Budget, Historical Tables, Total Government Expenditures: 1948–2015, <https://www.whitehouse.gov/omb/budget/Historicals>.
8. Pub. L. 601 § 202(f) (1946); 2 U.S.C. § 4301(f) (2016).
9. We sent e-mail requests for interviews to Senate and House committee staff directors in both the majority and minority. We also sent e-mails to current detailees serving in each House and Senate committee (using the most recent *Congressional Yellow Books*). See Supplemental Materials (p. i) for more information about these interviews.
10. 2 U.S.C. § 4301(f) (2016).
11. While we originally collected information on detailees from 1989 to 2015, we found that the *Congressional Yellow Books* did not systematically or regularly include information on detailees until 1997. To avoid concerns about missing data, we begin our analysis in 1997, when the *Yellow Book* had a routinized process for identifying detailees.
12. We also obtained information on individuals listed as “fellow.” For analysis of congressional committee use of both detailees and fellows, see Table 17A and accompanying text in the online supporting information.
13. See Table 1A and accompanying text in the online supporting information for further description of the number of detailees used each year by various committees.
14. We obtained this information by searching Congress.gov. We also estimated the correlation between detailee use and the total number of bills referred to committee and between detailee use and the total number of bills reported out of the committee. See Tables 18A and 19A and accompanying text in the online supporting information for these and other alternative measures of legislative workload.
15. See Congressional Budget Office, Unauthorized Appropriations and Expiring Authorizations Reports, <https://www.cbo.gov/about/products/major-recurring-reports#13>.
16. Frank R. Baumgartner and Bryan D. Jones, with the support of the National Science Foundation (grant numbers BSR 9320922 and 0111611), originally collected the data used for this measure. The Department of Government and the University of Texas at Austin distributed the data, and neither the NSF nor the original collectors of the data bear any responsibility for our analysis. For additional measures of oversight workload, see Table 20A in the online supporting information.
17. 5 U.S.C. § 801(a)(1)(A) (2016). The purpose of this requirement was to create a mechanism for legislators to review new rules issued by federal agencies. See Pub. L. No. 104-121, § 251; 110 Stat. 847, 868-874 (1996).
18. 5 U.S.C. § 804(2) (2016). This classification is important, as it imposes a 60-day waiting period before an agency may implement a major rule so that Congress may review and disapprove of the regulation by joint resolution. See 5 U.S.C. § 802 (2016).
19. See [opensecrets.org](https://www.opensecrets.org).
20. 44 U.S.C. § 721 (2016) requires that the Congressional Directory be made available during the first session of each new Congress. For most sessions of Congress, the Joint Committee on Printing only published one directory. However, for the 106th–110th Congresses, more than one directory was available. For those Congresses, we used the following editions: 106th (June 1999, October 2000), 107th (December 2001; October 2002), 108th (July 2003; August 2004), 109th (July 2005; September 2006), 110th

(August 2007; August 2008). Interestingly, different publications provide different committee staffing numbers. We also estimated models with the staffing information obtained by CRS using telephone directories (Chausow et al. 2015a, 2015b). The two measures correlate at 0.907 and, unsurprisingly, models estimate with both yielded similar results. See Table 22A in the online supporting information.

21. We use the first-dimension DW-NOMINATE ideal point estimates (Carroll et al. 2009; Lewis and Rosenthal 2004).

22. Our dependent variables take on nonnegative integer values and are characterized by small means with larger variances. See Figures 1A and 2A for histograms of the distribution of detailees and Table 2A in the online supporting information for descriptive statistics. Because there is significant evidence of overdispersion, negative binomial models are preferred to Poisson models. The likelihood ratio test comparing the models strongly suggests that negative binomial regression is more appropriate. While a Hausman test indicates that fixed effects models are preferred to random effects, see Table 3A for models estimated with alternative specifications, including random effects.

23. Office of Personnel Management Employment (General), 68 Fed. Reg. 53,054 (proposed September 9, 2003) (to be codified at 5 C.F.R. pt. 300).

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### Supporting Information

Additional Supporting Information may be found in the online version of this article:

Additional Information about Interviews

Additional Information about Congressional Detailees and Committees

Figure 1A: Distribution of Detailees in House Committees (1997–2015)

Figure 2A: Distribution of Detailees in House Committees (1997–2015)

Table 1A: Largest Number of Detailees Assigned to a Single Committee in Each House (1997–2015)

Table 2A: Descriptive Statistics

Additional Specifications

Table 3A: Random Effects Model

Table 4A: Negative Binomial Regression with Yearly Fixed Effects and Standard Errors Clustered on Committee

Table 5A: Negative Binomial Regression with Committee Fixed Effects (House)

Table 6A: Negative Binomial Regression with Committee Fixed Effects (Senate)

Table 7A: Analysis of Total Number of Detailees per Committee Without Legislative Workload Outliers, 1997–2015

Table 8A: Analysis of Total Number of Detailees per Committee Without Regulatory Oversight Workload Outliers, 1997–2015

Table 9A: Bill Consideration Leads and Lags (House)

Table 10A: Bill Consideration Leads and Lags (Senate)

Table 11A: Expiring Authorizations Leads and Lags (House)

Table 12A: Expiring Authorizations Leads and Lags (Senate)

Table 13A: Significant Rules Leads and Lags (House)

Table 14A: Significant Rules Leads and Lags (Senate)

Table 15A: Contributions Leads and Lags (House)

Table 16A: Contributions Leads and Lags (Senate)

Table 17A: Analysis of Total Number of Detailees and Fellows per Committee, 1997–2015

Table 18A: Alternative Measures of Legislative Workload

Table 19A: Reported Bills

Table 20A: Alternative Measures of Hearings

Table 21A: Indicator for President/Committee Difference

Table 22A: Alternative Measure of Committee Staff