PART I: INTRODUCTION AND MAJOR THEORETICAL UNDERPINNINGS

Part I contains background information about congressional reporting requirements, the objectives and approach used in writing the dissertation, and the key theoretical literature that underpins the discussion of congressional reporting requirements. Chapter 1 provides an introduction and the objectives, scope and methodology of the dissertation. Chapter 2 discusses the key theoretical literature that provides for a comprehensive discussion of how congressional reporting requirements are managed, reasons for their growth or decline, and the need for better control. The literature covered includes Rosenbloom’s call for a legislative-centered public administration, the role of congressional oversight, and a review of the limited literature specifically addressing the role of congressional reporting requirements.

The dissertation title, “Congressional Reporting: A Management Process To Build A Legislative Centered Public Administration,” is derived from a literature stream focused on Rosenbloom’s legislative-centered public administration. Rather than abdicate its authority over agencies during the 1930s New Deal era, Congress passed several statutes that made agencies extensions of Congress by including requirements in the statutes that the agencies submit reports to Congress about specified topics. Rosenbloom defines a “legislative-centered public administration” as--

. . . a theoretical construct derived from the major discussions, decisions, and actions taken by Congress with regard to federal administration. Its evolution began during the New Deal as Congress felt increasingly displaced and began to search for an appropriate role in the burgeoning administrative state. It speaks to Congress’s institutional interests as well as to the values that should inform administrative performance. It is part justification, part explanation of deep institutionalized congressional involvement in administration within the parameters of the constitutional separation of powers.1

The management process of congressional reporting should be seen as subordinate to the legislative centered-public administration that Rosenbloom envisions. Much of the emphasis in the early part of the dissertation emphasizes the management process part of the dissertation title. However, this is used to explain the congressional reporting process so the reader understands
the context of how this management process currently works and where it needs to be improved to better serve Congress, the agencies that prepare the reports as extensions of Congress, and the public.

CHAPTER ONE
INTRODUCTION

The purpose of this chapter is to provide background about the subject of congressional reporting requirements and how they are used in congressional oversight of the executive branch. The chapter also provides the objective, scope, and methodology of how the research was conducted and the limitations of the research. The next section discusses the definition of the term “congressional reporting requirements” and summarizes the key literature that describes the importance of congressional oversight. The list of questions discussed below is important in considering what improvements can be made in the congressional reporting process to enhance Rosenbloom’s call for a legislative-centered public administration. This is followed by a brief history of the origin of reporting requirements and a discussion of how reporting requirements can be classified according to type with examples provided for each type.

1.1 OBJECTIVES OF THE DISSERTATION
1.1.1 Problem Statement

The main research question for the dissertation is: How does the congressional reporting process contribute to a legislative-centered public administration? The dissertation will describe the congressional reporting process and identify factors that support (or do not support) a determination that this process contributes to a legislative-centered public administration.

Along the process of discovery, some additional sub-questions arose that were of significant value to the research. Examples of such questions were:

- What are the elements of the congressional reporting process and how are they institutionalized to form a management process?
- What are the problems associated with implementing an effective congressional reporting management process?
• How should the congressional reporting process be improved to contribute to a legislative-centered public administration (from congressional, executive agency, and public administration perspectives)?

1.1.2 Purpose of the Research

The key point the dissertation addresses is that congressional reporting requirements are an important management process that can be explored and improved to aid in bringing about Rosenbloom’s call for a legislative-centered public administration. The relative importance of reporting requirements varies considerably from those that are vitally important to those that are outdated and useless or result in the micromanagement of agencies. The sheer number of reporting requirements, as Radin (1998/9) says, results in “crowded management space,” not only for the executive branch, but also for the legislative branch. This dissertation identifies what needs to be done to improve reporting requirements as a management process in order to identify which reports are useful and which are candidates for elimination.

1.1.3 Significance of the Research and Literature Gap

This dissertation ties better management of the congressional reporting process to Rosenbloom’s call for a legislative-centered public administration. There is no comprehensive treatment in the literature of this topic, other than the articles Johannes (1976/77) wrote almost 30 years ago. There is, however, a rich history of attempts over the last 20 years to better manage congressional reporting and to treat the topic as a management system. More needs to be done, though, to properly understand, manage and utilize this information resource for the Congress, agencies, and the public administration community in order for the congressional reporting process to more fully contribute to Rosenbloom’s goal of a legislative-centered public administration.

The significance of this dissertation rests on two observations. First, the research fills a gap in the literature on congressional oversight, where little attention has been paid to congressional

2 Ibid.

4
reporting for nearly three decades.3 Included in this discussion of congressional oversight is a case study of the Federal Reports Elimination and Sunset Act of 1995 (P.L. 104-66), which is one of eleven laws that has had a significant impact on managing the number of reporting requirements with which agencies have to comply. Second, the dissertation addresses how congressional reporting requirements that some congressional committees (e.g., Senate Governmental Affairs and House Government Reform Committees) find most useful, such as performance reports (e.g., the Government Performance and Results Act--GPRA), may be consistent with attempts to move toward a more legislative-centered public administration. Explicit justification along these lines is included in the rest of the dissertation. David Rosenbloom shares my views about the gap in the public administration literature on this topic. In correspondence regarding my research topic, he wrote,

I think your dissertation will be an excellent contribution to our knowledge of Congress and federal administration. Focusing on reporting as one of Congress' managerial tools is a great idea. I don't remember coming across much discussion of reporting in my work on Congress in 1946. My impression is that "continuous watchfulness" was viewed as a day-to-day activity for committee staff, rather than something to be accomplished through reporting requirements. I didn't spend much time on the legislative history of the 1970 Legislative Reorganization Act. It may be that the act's "review and study" language was intended to capture reporting. Overall, reporting seems to be over maligned and under researched in the literature.4

If asked on which “shelf of the bookcase” of the public administration literature this dissertation sits, I envision it sitting along with the work of Johannes (1976/77), Aberbach (1990 and 2002), and Rosenbloom (2000)—as discussed in the literature review in Chapter 2. In addition, Clay’s dissertation and subsequent publications were used to help set the discussion in order to explain how reporting requirements fit into a “public management process.” The dissertation also fills a void in the contemporary public administration literature on “good governance” and the need for

3 On legislative oversight more generally, see Aberbach (1990), Keeping a Watchful Eye: The Politics of Congressional Oversight, The Brookings Institution. See also Ogul & Rockman (February 1990), “Overseeing Oversight: New Departures and Old Problems,” Legislative Studies Quarterly, 15: 5-24; and literature on congressional “delegation,” such as Epstein & O’Halloran (1999), Delegating Powers. The notes and discussion in Gormley & Balla (2004), Bureaucracy and Democracy: Accountability and Performance, CQ Press, is a good overview (pp. 72-74).
4 E-mail dated February 20, 2005.
public reporting in the classical sense, as currently propounded by Lee’s (2002/3) work. The findings and recommendations of this dissertation could help increase the frequency of use and effectiveness of congressional reporting as an oversight tool, thus moving congressional reporting up from its ranking of 12th in effectiveness found by Aberbach in his 1990 work, as shown in Table 1.3 below. Better management of reporting requirements would lead to fewer, but more useful reports, thus increasing the usefulness of the resulting reports to the congressional users and the agencies that prepare them.

Table 1.1: Aberbach’s Findings of Frequency of Use and Effectiveness of Oversight Techniques

<table>
<thead>
<tr>
<th>Technique</th>
<th>Frequency</th>
<th>Effectiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean/Cases</td>
<td>Rank</td>
</tr>
<tr>
<td>Staff communication with agency personnel</td>
<td>1.274/91</td>
<td>1</td>
</tr>
<tr>
<td>Member communication with agency personnel</td>
<td>2.802/86</td>
<td>9</td>
</tr>
<tr>
<td>Oversight hearings</td>
<td>2.561/89</td>
<td>3</td>
</tr>
<tr>
<td>Program reauthorization hearings</td>
<td>2.685/73</td>
<td>5</td>
</tr>
<tr>
<td>Hearings on bills to amend ongoing programs</td>
<td>2.756/70</td>
<td>7</td>
</tr>
<tr>
<td>Review of casework</td>
<td>3.551/87</td>
<td>13</td>
</tr>
<tr>
<td>Staff investigations and field studies (other than for preparation for hearings)</td>
<td>2.644/90</td>
<td>4</td>
</tr>
<tr>
<td>Analysis of proposed agency rules and regulations</td>
<td>2.800/90</td>
<td>8</td>
</tr>
<tr>
<td><strong>Agency reports required by Congress</strong></td>
<td><strong>2.813/91</strong></td>
<td><strong>10</strong></td>
</tr>
<tr>
<td>Program evaluations done by congressional support agencies</td>
<td>2.382/89</td>
<td>2</td>
</tr>
<tr>
<td>Program evaluations done by the agencies</td>
<td>2.954/87</td>
<td>11</td>
</tr>
<tr>
<td>Program evaluations done by “outsiders”</td>
<td>3.227/88</td>
<td>12</td>
</tr>
<tr>
<td>Program evaluations done by committee staff personnel</td>
<td>2.696/89</td>
<td>6</td>
</tr>
<tr>
<td>Legislative veto</td>
<td>4.305/82</td>
<td>14</td>
</tr>
</tbody>
</table>


6 Aberbach surveyed committee staff about the frequency and effectiveness of fourteen commonly used oversight techniques. After each technique, respondents could rate frequency by checking very frequently, 1; frequently, 2; occasionally, 3; rarely, 4; or never, 5. Respondents could rate effectiveness by checking very effective, 1; moderately effective, 2; not very effective, 3; or ineffective, 4. Techniques are listed in the order they were presented to respondents and were ranked in descending order of usefulness.
a. The number of cases is inconsistent for two reasons. Some respondents did not rate a technique or wrote in an “other” response; and the Appropriations Committee staffers were not asked about reauthorization hearings and hearings on bills to amend ongoing programs and are therefore excluded from the table in these instances. They were asked instead about hearings on supplemental appropriations bills.

b. Ascertained only of non-Appropriations respondents. See note a.

As shown in Table 1.1, and discussed in more detail in Chapter 2, Aberbach concluded that most oversight techniques generally rated between very effective and moderately effective. However, a few techniques such as agency evaluations and reports required by Congress are above 2.5 and thus closer to the not very effective level. He noted that program evaluations and reports prepared by non-committee staff fit in a “comprehensive review” dimension, but are generally downplayed in studies of congressional oversight. He noted that these components are among the least frequently employed oversight techniques, but are used according to committee staff. GAO and the other legislative support agencies perform most of the oversight of the executive branch. It should be noted, however, that legislative support agency staff tend to rely extensively on agency reports when they do their work, including writing reports and testimony that rank higher on the oversight tools list cited above. As shown in Table 1.3, the vast majority of techniques Aberbach cites are meant to elicit information about executive branch operations. In his follow-up to Keeping a Watchful Eye, Aberbach points to a key contextual shift from “advocacy” to “opposition” that accompanied a large drop in legislative hearings and meetings. As a result, reporting requirements may be substituting for such hearings/meetings, and the evident change in context has influenced the number and use of such requirements, as illustrated by the example of the Congressional Review Act cited above to oppose imposition of burdensome regulations. This illustrates Gilmour and Halley’s observation that:

> Information is the lifeblood of the legislative enterprise. Absent relevant intelligence, the consequences of legislative action are not only misinformed but potentially ruinous. Congress is well aware of this, to the point that the primacy placed on information access on Capitol Hill is unmistakable to even the casual observer.8

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1.2 THE ROLE OF CONGRESS IN OVERSIGHT OF THE EXECUTIVE BRANCH

Congressional reporting requirements result from statutory provisions requiring the President, executive agencies, and other entities to submit specified information to Congress or its committees, often on an annual or recurring basis, for the purpose of assisting legislative oversight. Reporting requirements are one of the most powerful methods available to Congress to oversee and review the implementation of legislation by the executive branch. One congressional reporting requirement can result in thousands of reports submitted to Congress to satisfy the requirement. For example, the Congressional Review Act of 1996 (P.L. 104-121) has resulted in 41,828 reports to Congress on proposed regulatory changes agencies are considering making. Of these reported changes, a congressional Joint Resolution of Dissapproval overturned only one.9 Although not conventionally viewed as a management process, the congressional reporting process is a significant management process and an important component of the American political system. The reporting requirements, their tracking mechanisms and the resulting reports to Congress, are not only tools available to Congress, but also to public administrators for evaluating program implementation and undertaking related research activities.

Norton (1976) provides a history of congressional oversight of the executive branch from the Nation's founding to modern times. He notes that the manner of best assuring executive implementation of public policy in accordance with legislative intent has been a perennial problem confronting policymakers since the beginning of the republic. James Madison discussed the issue in 1787 when he wrote in the Federalist that, in establishing a government "administered by men over men," the great difficulty would be to enable that government not only to "control the governed" but also to obligate it to control itself. The underpinning for oversight is the Constitution's system of checks and balances among the legislative, executive and judicial branches of government. Madison described this aspect of the government in Federalist No. 51 as establishing "subordinate distributions of power, where the constant aim is

9 The totals are from March 29, 1996 to March 30, 2006. The requirement is that in each instance three reports are sent--to the Secretary of the Senate, the Clerk of the House, and the Government Accountability Office--to maintain a database. The one regulation Congress overturned was the Department of Labor’s proposed ergonomics regulation in 2001.
to divide and arrange the several offices in such a manner that each may be a check on the
other." At the end of the next century, Woodrow Wilson equated oversight with lawmaking--
which was usually seen as the preeminent function of a legislature--when he wrote that "Quite as
important as legislation is vigilant oversight of administration."\(^{10}\)

The principles and purposes of congressional oversight over executive branch administration of
public policy are highlighted in Kaiser (1997). He notes that oversight, and related reporting
requirements and subsequent reports, ideally serve a number of overlapping objectives:

- Improve the efficiency, economy, and effectiveness of government operations;
- Evaluate programs and performance;
- Detect and prevent poor administration, waste, abuse, arbitrary and capricious
  behavior, or illegal and unconstitutional conduct;
- Protect civil liberties and constitutional rights;
- Inform the general public and ensure that executive policies reflect the public
  interest;
- Gather information to develop new legislative proposals or to amend existing statutes;
- Ensure administrative compliance with legislative intent; and
- Prevent executive encroachment on legislative authority and prerogatives.

While Kaiser notes the objectives of oversight, it is also important to keep in mind that some of
these objectives apply to evaluating whether oversight and reports are needed or if they are an
unfair and burdensome imposition on the executive branch and a waste of taxpayer money. In
this regard, Norton (1976) raises some questions that those charged with the responsibility of
seeking better congressional oversight should consider:

- In accord with the Constitutional distribution of and limitations on governmental
  powers, what is the legitimate role to be played by each of the three branches of
government?

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• What means and techniques are available to Congress to oversee and enforce the execution of policy?

• Has Congress fully utilized its powers to evaluate the extent and manner with which the programs it has enacted have been implemented?

• To what degree and by what devices should executive departments and agencies be made accountable to Congress?

• Are there practicable ways of improving the methods and procedures by which Congress attempts to review and to evaluate the accomplishments or failures of the executive branch?

Similarly, Harris (1964) provides criteria for evaluating congressional controls over the executive branch, such as hearings, reporting requirements, and other oversight tools. Harris views Congress’ use of these oversight tools in a positive light. For example, he states that “Congress must know if its legislative policies are faithfully, competently, and economically carried out, and if they are having desired effects.” Information from agencies is an important tool in this regard. Harris’ seven criteria or tests are:

1. Is the kind of control being considered authorized or implied in the Constitution, and is it in conformity with the basic division of powers between the two branches?

2. Do the controls provide Congress with the information it needs to discharge its basic responsibilities?

3. Are the legislative controls effective in bringing to light administrative abuses or arbitrary actions that have occurred in the past, and in preventing them in the future?

4. Do the controls operate in a way that allows executive officers the discretion and flexibility they need if they are to administer government programs effectively and be held responsible for results?

5. Do the controls, as applied in specific cases, reflect the policies and wishes of Congress as a body rather than the wishes of a small segment of Congress?

6. Do the controls tend to strengthen and enforce the internal disciplines of the executive branch, or do they duplicate and weaken them?

7. Finally, is a specific control a suitable one to be exercised by a legislative body?

This last question relates specifically to the appropriate use of information and decision-making by Congress vis-à-vis the executive branch. Harris notes that some decisions, such as those
relating to major public policies, are ideally suited to be made by a legislature. Indeed, that is the legislature’s function in a democratic society. However, there are other types of decisions that are not suitable to be made by a legislative body. He notes that a large proportion of governmental decisions can be made wisely and in an effective time span only by those who have appropriate information, expertise, and experience. In these instances, executive branch officials are more likely to have these qualifications—and it is appropriate for Congress to make sure that they do. But Congress and its committees are not likely to have the requisite knowledge, and even if they did they are not organized to put it into action. When considering whether congressional requirements for information need to be imposed on the executive branch, the question of whether Congress is getting into micro-management of government programs needs to be asked.11

Johannes (1976) provides a discussion of Congress’ heavy reliance on the President and executive agencies for major legislative proposals and the information needed to process them. If the executive branch does not prove responsive to a perceived problem, the Congress can prod action by holding hearings, conducting its own studies, or introducing and enacting bills on its own. But a major overlooked tool that Johannes explores is Congress’ formal efforts to alert the executive branch to a possible policy problem by getting that branch to assemble data and conduct analyses on perceived problems through formal reports. This results in Congress requiring by statute that the President, departments, agencies and commissions investigate problems and propose legislative solutions and report back to Congress. He goes on to note that what makes these provisions interesting is that by this means Congress is assigning the responsibility for, and shifting the burden of, learning and legislative initiation to the executive, thus presaging what Rosenbloom would discuss decades later regarding legislative-centered public administration. Johannes observed that the subject of reporting requirements was ripe for study because, except for national or presidential commissions, very little was known about reporting requirements in general.

In “Executive Reports to Congress,” Johannes (1976) tracked the types and trends of statutory reporting requirements and provided an assessment of their impact. He reported that nowhere in the academic literature was there an indication of how often Congress demands reports. With the exception of a few references in the academic literature, the situation remains the same today. Johannes concluded that the number and trend over time of reporting requirements are important because they provide a measure of Congress’ dependence on outside sources of information, its interest in being informed about what is happening in the executive branch, and its desire for formal oversight of government programs. It is hoped that this dissertation will help to fill the void in the literature regarding the importance of reporting requirements in fulfilling Congress’ oversight responsibilities.

1.3 ORIGIN OF CONGRESSIONAL REPORTING REQUIREMENTS

The first two requirements for the executive branch to report to Congress are included in the U.S. Constitution which requires that (1) the President report on the “State of the Union” and (2) the results of the decennial census population counts be reported for purposes of reapportionment of House seats by States. Based on parliamentary precedents in England, Congress throughout its history has also engaged in oversight of government, which is the review, monitoring, and supervision of the implementation of public policy (Congressional Research Service, 2002). The first several Congresses inaugurated such important oversight techniques as special investigations, reporting requirements, resolutions of inquiry, and use of the appropriations process to review executive activity. The first statutory reporting requirement was contained in the 1789 Treasury Department Act: “That it shall be the duty of the Secretary of the Treasury . . . to make report, and give information to either branch of the legislature, in person or in writing (as he may be required), respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office . . . .” 1 Stat. 65-66 (1789).

Despite its early origin, oversight was not given explicit recognition in public law until enactment of the Legislative Reorganization Act of 1946. That act requires House and Senate standing committees to exercise “continuous watchfulness” over programs and agencies within their jurisdiction. Contemporary developments, moreover, have increased the legislature’s
capacity and capability to conduct oversight activities of the executive branch. Public laws and congressional rules have measurably enhanced Congress’s implied power under the Constitution to conduct oversight.

Congress’s ability to evaluate the capacity of agencies and managers to carry out program objectives can be accomplished in part, through the numerous laws requiring agencies to submit reports to Congress. Thus congressional oversight of the executive is largely dependent upon information supplied by the agencies being overseen. Reporting requirements affect executive and administrative agencies and officers, including the President; independent boards and commissions; and federally chartered corporations (as well as the judiciary). The reporting requirement may promote self-evaluation by the agency. Organizations outside of Congress, such as the Government Accountability Office (GAO), offices of inspectors general (IGs) and study commissions, also advise Members and committees on how well federal agencies are working.

1.4 TYPES AND IMPORTANCE OF REPORTING REQUIREMENTS

Statutory provisions containing reporting requirements vary in terms of the specificity, detail, and type of information that Congress demands. Reports may be required at periodic intervals, such as semiannually or at the end of a fiscal year, or submitted only if and when a specific event, activity, or set of conditions exists. The reports may also call upon an agency, commission, or officer to:

- Make a study and recommendations about a particular problem or concern;
- Alert Congress or particular committees and subcommittees in advance about a proposed or planned activity or operation;
- Provide information about specific on-going or just-completed operations, projects, or programs; or
- Summarize an agency’s activities for the year or the prior six months.

Johannes (1976/77) was the first to categorize types of reporting requirements that existed from 1945 to the 1970s. General types, subcategories, and examples of statutory reporting
requirements are summarized in Table 1.1. The classification starts out using Johannes’ still valid initial classification. In addition, the classification scheme is updated by adding new types of reporting requirements—performance reporting—that occurred much more recently (Mullen, 2006).

**Table 1.2: Types, Subcategories, and Examples of Statutory Reporting Requirements**

<table>
<thead>
<tr>
<th>GENERAL TYPES</th>
<th>SUBCATEGORIES</th>
<th>EXAMPLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy-Making (Study and Recommend)</td>
<td>Agencies evaluate their policies/programs with recommendations for improvement</td>
<td>Health and Human Services report on the evaluation of the demonstration projects of coverage of chiropractic services under Medicare (P.L. 108-173)</td>
</tr>
<tr>
<td>Policy-making reports, including budget request materials</td>
<td>Requiring an official Homeland Security budget request for passenger screener hiring, training, and related costs (P.L. 108-11)</td>
<td></td>
</tr>
<tr>
<td>Studies by agencies or commissions on specific issues or policies to recommend legislation</td>
<td>Report on the Health and Human Services pilot program to test initial standards relating to the requirements for electronic prescription drug programs (P.L. 108-173)</td>
<td></td>
</tr>
<tr>
<td>Post Facto</td>
<td>Reports describing the operations of specific, usually new, agency programs</td>
<td>Federal Emergency Management Agency and GAO reports on the Cerro Grande Fire Assistance Program (5 U.S.C. 801(a)(1)(A)) (Note)</td>
</tr>
<tr>
<td></td>
<td>Reports describing what decisions/actions were made under delegations of discretionary authority</td>
<td>Office of Personnel Management report on the operation of discretionary actions (P.L. 106-265)</td>
</tr>
<tr>
<td></td>
<td>Reports of agency use of flexibilities with respect to appropriations</td>
<td>Department of Defense report on increased flexibility for personal service contracts in military medical treatment facilities (P.L. 103-160)</td>
</tr>
<tr>
<td>Advance notification</td>
<td>Notification by executive officials before they act or spend or a determination becomes effective</td>
<td>War Powers Resolution notification by the President before initiating hostile action against another country (P.L. 94-412)</td>
</tr>
<tr>
<td>Performance Reporting</td>
<td>Department and agency-wide performance plans and reports</td>
<td>Government Performance and Results Act (GPRA) performance plans and reports (P.L. 103-62)</td>
</tr>
<tr>
<td></td>
<td>Financial management plans and reports</td>
<td>Inspector General Act reports on IG activities and recommendations (P.L. 95-452)</td>
</tr>
<tr>
<td></td>
<td>Information resources management</td>
<td>E-Government Act reports on implementing e-government programs (P.L. 107-347)</td>
</tr>
</tbody>
</table>
Note: The Cerro Grande Fire Assistance Act is an example of aggressive oversight follow-up for a small/obscure program that is particularly important to a member of Congress who sponsored the legislation affecting his state or district. The act provides for compensation from the US government for claimants with damages from the Cerro Grande Fire in FY 2000. Congress initially appropriated $455 million to FEMA for claim payments. In FY 2002, FEMA was appropriated an additional $90 million. FEMA is required to issue a report on claim status and payments by August 28 of each year. Revised language in FEMA’s FY 2002 appropriations act also required GAO to audit FEMA’s report and issue a GAO report on the results within 120 days. It is also worth noting that such programs are not without precedent for large catastrophes such as that particular fire (which was started incompetently by National Park Service personnel at Bandelier National Monument) and FEMA’s response to destruction caused by Hurricane Katrina in the Gulf Coast.

As shown in Table 1.2, reporting requirements fall into four general categories: (1) policy-making (also known as “study and recommend”); (2) post facto; (3) advance notification; and (4) performance reporting, which, as noted, is the newest category. Policy-making reporting requirements occur when Congress requires the President, agencies and commissions to submit reports that contain information about their evaluations of programs and findings from studies Congress requested, along with specific recommendations for changes through legislation or administrative actions. Post facto and advance notification reporting requirements occur when Congress want specific information each year, quarter, or in various contingency situations. As their names imply, post facto reports are sent after a situation occurs; advance notification reports are sent before an executive action occurs in order to notify Congress, thus giving time for congressional approval or disapproval. The newest category, performance reporting requirements, is discussed in detail in Chapter 4 and comprises laws passed by Congress requiring major departments and agencies to report on their progress in meeting performance goals for their programs, financial management, and information technology activities.

In addition to reporting requirements contained in statutes, agencies also track reporting requirements contained in committee reports. The types of reporting requirements can be classified based on how case study agencies discussed in Chapter 3 track them. Table 1.3 shows the types of reporting requirements contained in committee reports and provides an example for each type and its report number.
Table 1.3: Types, Examples and Report Numbers of Reporting Requirements Contained In Committee Reports

<table>
<thead>
<tr>
<th>Types</th>
<th>Examples and Report Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submit report</td>
<td>Secretary of Defense annual report (with the budget) identifying DOD's deferred maintenance and strategic plan for reducing the backlog (House Report 106-945)</td>
</tr>
<tr>
<td>Notification</td>
<td>Secretary of Defense notifying Congress, as necessary, 30 days prior to transferring funds appropriated for a new construction project into a private sector pilot project at the same location (House Report 106-614)</td>
</tr>
<tr>
<td>Certification</td>
<td>Secretary of Defense certifying in budget justification materials that military construction projects have been considered for joint use (Report 106-945 page 430; to be included in title 10 U.S.C. 2815 subchapter I of Chapter 169)</td>
</tr>
<tr>
<td>Query/Concern</td>
<td>Concern about the availability and treatment for rare eye disorders and requests the FDA to update the Committee on progress in this area (House Report 108-584)</td>
</tr>
</tbody>
</table>

As shown in Table 1.3, the classification of reporting requirements contained in committee reports mirrors those contained in laws. Committee staff may find that including reporting requirements in report language rather than statutory language is an easier and more direct way of asking an agency for a policy making or study and recommend type of report than inserting the requirement in a law. Likewise, notification or certification requirements in committee reports are similar to post facto and advance notification requirements contained in law. The last category of query/concern is generally more specific as to the exact nature of the committee’s concerns, but would not normally be significant (or politically viable) enough to include in a statute requiring the same information. While including an information request in a written report is a more formal means than sending a letter or making a phone call to the agency involved, it is, of course, less formal than statutory language.

In recent decades, reporting and prior consultation provisions have increased in an attempt to ensure congressional access to information, statistics, and other data on the workings of the executive. The result is that approximately 10,000 reports now arrive annually in the Senate alone. How the House and the Senate manage these reports is discussed in Chapter 3; and laws eliminating hundreds of these reporting requirements are discussed in Chapter 5. Chapter 6 discusses ways to increase collaboration between Congress and the agencies that are required to
produce the reports in order to bring about better management of the congressional reporting process and contribute to Rosenbloom’s call for a legislative-centered public administration.

1.5 RESEARCH DESIGN

The primary research method for this dissertation is studying the management processes associated with congressional reporting requirements—in the Congress and four agencies—using archival and interview sources of information. It is similar to the research design used by Joy Clay (1991) in her dissertation on Congressional Hearings: A Neglected Management Process. In addition to the studies of the management and tracking systems of four agencies (Chapter 3), two chapters rely on studies exploring (1) a category of laws creating reporting requirements, using selected performance-reporting laws as cases (Chapter 4); and (2) a category of laws eliminating reporting requirements, using the Federal Reports Elimination and Sunset Act of 1995 (P.L. 105-66) as a primary case (Chapter 5).

The public administration and policy literature was reviewed for information regarding the uses of congressional reporting requirements, their management and elimination, and performance reporting requirements (e.g., the Government Performance and Reporting Act). Legislative histories of performance reporting laws and laws eliminating reporting requirements were also reviewed in order to establish legislative intent and factors leading to the laws’ enactment.

The case study approach is a preferred strategy for answering “how” and “why” questions when the focus is on contemporary events (Yin, 2003). Since this research investigates how the congressional reports process works, how the players view their respective roles and the roles of other key players, and how they perceive the reports management process, the research to support this dissertation has drawn from the case study tradition.

According to Yin (2003), descriptive case studies are in-depth investigations into a program, project, facility, or phenomenon, usually to examine what happened, to describe the context in which it happened, to explore how and why, and to consider what would have happened
otherwise. Case studies are particularly helpful in understanding general propositions, and in identifying key relationships and variables. Thus, the case study method can be particularly useful in the exploratory phases of a project.

Most descriptive case studies are written in the narrative and are aimed at a wide audience. For example, such studies can make complex scientific and technological projects accessible to a non-scientist audience. The potential scope of the descriptive case study method is broad—ranging from brief descriptive summaries to long complex treatments.

Descriptive case studies usually start with qualitative information from direct observation, program/project documents, and interviews with key project managers. Program and project documents are useful for establishing key dates, budgets, initial plans and goals, specific outputs, key staff, and other critical information helpful in framing a study. To extend the available information, the evaluator may bring in results from one or more evaluation methods, such as survey results or bibliometric results, to enhance the story.

Using a “story-telling” approach, the evaluator may present the genesis of ideas, give an account of the “human side” of the project, explain goals, explore project dynamics, and present outcomes. Case studies can also be used to construct theories about program or project dynamics. Multiple case studies may be conducted with uniform compilation of information across cases to provide aggregate statistics for a portfolio of projects.

An advantage of the descriptive case study method is that many decision makers read and process anecdotal cases more easily than they do quantitative studies. Another advantage is that by bringing in substantial program/project information on a less restrictive basis than most methods, case studies document events and provide a richness of detail that may prove useful in formulating questions and theories that lay the groundwork for further evaluation. Case studies

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are also valuable in identifying exemplary or best-practice experiences. They can be used to describe how and why a program is or is not working. Used in formative evaluations, they can guide agency behavior and serve as a benchmark for other program recipients.

As discussed by Stake (1994), the major conceptual responsibilities of the qualitative case researcher are as follows:

1. Bounding the case, conceptualizing the object of study;
2. Selecting phenomena, themes, or issues—that is, the research questions—to emphasize;
3. Seeking patterns of data to develop the issues;
4. Triangulating key observations and bases for interpretation;
5. Selecting alternative interpretations to pursue; and
6. Developing assertions or generalizations about the case.

Stake continues that with the exception of bounding the case (number one above), the steps are similar to those taken by other qualitative researchers. He states that “The more the researcher has intrinsic interest in the case, the more the focus of study will usually be on the case’s uniqueness, particular context issues, and story.” He lists major stylistic options for case researchers, including the following:

1. How much to make the report a story;
2. How much to compare with other cases;
3. How much to formalize generalizations or leave that to readers;
4. How much, in the report, to include description of the researcher as participant; and
5. Whether or not and how much to make response anonymous.

In the case study tradition, the research for this dissertation used interviews with selected actors in the reports management system and in the performance-reporting network as well as participant observations (of the report preparation and management processes). Research
questions included both open questions to encourage emergent responses and a list of guiding questions to attempt some comparability among interviewees. Some tailoring of questions was required in order to respond to the variance in position and/or participation in the reports management process.

This dissertation first examines the management processes of four departments and agencies (GAO, the Departments of Defense (DOD), Health and Human Services (HHS), and the Board of Governors of the Federal Reserve System (the FED)) in Chapter 3. In Chapter 4 a set of performance-based laws, such as the Government Performance and Results Act of 1993 (GPRA, P.L. 103-62) and other financial management and information technology reporting requirements is discussed. Finally, in Chapter 5, several laws to eliminate reporting requirements are discussed, especially the Federal Reports Elimination and Sunset Act of 1995 (P.L. 105-66).
1.5.1 Sampling Parameters

Sampling parameters include settings, actors, events and processes (Miles and Huberman 1984). For this research, as shown in Table 1.4, the following parameters were followed:

**Table 1.4: Sampling Parameters**

<table>
<thead>
<tr>
<th>Setting</th>
<th>Various offices, conference rooms where reports are prepared (all in Washington, D.C.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive:</td>
<td>Office of Management and Budget, Department of Defense, and Department of Health and Human Services.</td>
</tr>
<tr>
<td>Independent Agency:</td>
<td>Board of Governors of the Federal Reserve System.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Actors</th>
<th>Committee staff of Senate Governmental Affairs; House Government Reform; Senate Commerce Science and Transportation; and House Energy and Commerce.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Staff and key administrators of the Office of Management and Budget, Department of Defense, Department of Health and Human Services, and the Board of Governors of the Federal Reserve System.</td>
</tr>
</tbody>
</table>

| Events                | Reports preparation meetings/conferences; routine reports preparation activities; hearings before Congress, and news conferences when reports are released. |

| Processes             | Discussing, explaining, justifying, negotiating, interpreting, formulating, writing, reviewing, and testifying. |

As Table 1.4 shows, various settings, actors, events, and processes needed to be explored in order to conduct the research about how congressional reporting requirements are managed and the subsequent reports are prepared and sent to Congress. The sampling parameters discussed in Table 1.4 were determined based on my years of experience as a GAO employee in which I was responsible for preparing reports in response to requirements contained in law or committee
reports, dealing with agency officials who prepared required reports, and working congressional staff who received the reports. I also wrote a number of GAO studies on the congressional reporting process. Also, in addition to conducting literature reviews and researching legislative histories, interviews were conducted with key participants in the management of congressional reporting requirements. A list of offices/people interviewed includes:

1. The Clerk’s Office, U.S. House of Representatives;
2. The Secretary’s Office, U. S. Senate;
4. House Government Reform and Senate Governmental Affairs Committees;
5. U.S. Government Accountability Office;
6. U.S. Office of Management and Budget;
7. Legislative Records Center, U.S. Archives;
8. Offices of the Secretaries of Defense and HHS;
9. The Board of Governors of the Federal Reserve System;
10. Former staff of the National Performance Review (e.g., John Kamensky and Jonathan Bruell, now at IBM Center for the Business of Government);
11. Academic experts on performance reporting (e.g., Beryl Radin, UMB, Kathy Newcomer, GWU);
12. Practitioner experts on performance reporting (e.g., Cora Beebe, Dan Haigler, and Carl Metzger, NAPA); and
13. David Rosenbloom, about building a legislative-centered public administration.

GAO, DOD, HHS, and the FED were asked to provide information on how they tracked their respective reporting requirements in order to see if there were similar tracking systems. GAO was chosen because it is a legislative-branch agency that specializes in producing reports for congressional oversight. DOD and HHS were chosen because they are large departments with many reporting requirements and cover both civilian and military operations. The Federal Reserve was chosen because it is an independent regulatory agency with strong ties to the
banking committees and is known from personal experience to be very responsive to congressional information needs.

1.5.2 Data Collection

Access to the offices and departments cited in Table 1.4 was not a problem as I had contacts within all of these offices based on my past work for GAO and as President of the American Association for Budget and Program Analysis. Contacting congressional committees and executive branch agencies was cleared with my supervisor and GAO’s Office of General Counsel/Ethics Officer. I informed all interviewees while I was writing my dissertation that I was also a GAO employee. In addition, I also explained that while the topic of congressional reporting requirements will likely be the subject of a GAO study at some point in the future, individual agency responses would be held in confidence and any future GAO work would not be done by me, since I was leaving the agency. I contacted interviewees by phone or e-mail and then e-mailed a brief description of the research (i.e., the dissertation title, abstract, and questions discussed below) to them at the addresses the respondents provided to me during our initial contacts. I attached a statement, provided by the GAO ethics officer from General Counsel, at the bottom of all e-mails that read “Disclaimer: The contents of this message are mine personally and do not reflect the position of the Federal Government or GAO.”

In all, 25 interviews were conducted specifically for this dissertation, but I also discussed the topic of my dissertation informally with colleagues at meetings of the American Association for Budget and Program Analysis, the American Evaluation Association, the American Society for Public Administration, the Center for Accountability and Performance, and the National Academy of Public Administration. In-depth interviews lasted approximately one-half to one hour, with some respondents volunteering to submit written responses to the questions via e-mail. However, some interviews were limited because of the unwillingness of respondents to commit much time to my research or answer all the questions I wanted to discuss. Notes were taken during the interviews. As recommended by Miles and Huberman (1984), emerging themes were analyzed throughout the process to identify patterns and differences between groups and to continuously evaluate the interviewing process.
1.5.3 Data Analysis

Miles and Huberman (1984, p. 63) argue that analysis should be an ongoing, continuous effort. Since qualitative fieldwork must be able to capture emergent patterns and issues, a file of clippings and interviews was maintained to discern themes and issues, which are discussed primarily in Chapter 6, but also scattered throughout other chapters of the dissertation. Specific questions included the following:

1. How do you see your role and responsibilities in the congressional reports process?
2. What do you think Congress expects of you in fulfilling your role or in preparing a particular report?
3. How did you learn what was expected of you in regard to preparing a congressional report?
4. How do you perceive the concurrence/review process for producing the final agency report?
5. What process do you think the agency should follow in preparing reports for Congress? How do you decide to draft reports?
6. What do you anticipate will happen as a result of the report?
7. What role do you see various interest groups playing in the internal congressional reporting process (e.g., originating requirements or reviewing final reports)?
8. Who do you see as the key players in the agency’s congressional reporting process? What roles do they play?
9. Do you think that the congressional reporting process meets the four characteristics that help define management processes (i.e., Joy Clay’s definition):
   a. Regularity—a sense of recurrence around the task or function?
   b. Cycles of activities—routines and subroutines and expectations about the routines form the activities that demarcate the management process?
   c. Interaction—people, with their particular reading of the task or function, agency mission, personal agenda, and environment, come together to “perform” their respective tasks and functions?
d. Outcome oriented—some end product is identifiable with the management process, such as budget document, personnel action, regulation, and congressional testimony?

10. Do you think improvements can be made to better manage the congressional reporting process within your agency, or between your agency and Congress?

The unit of analysis for reviewing the responses to these questions centered on the individual response to each question from each of the four main contacts in each agency. At one point in preparing my dissertation prospectus I considered the use of a qualitative analysis software package, such as NUD*IST, for coding the responses to questions and analysis of documents, but this did not prove to be necessary to do the research. In gathering the information needed for this research on the four agencies, I received the most cooperation from GAO colleagues who track GAO’s reporting requirements, along with substantial cooperation from HHS and the FED, and less cooperation from DOD. I suspect that the DOD officials were less cooperative because of a natural reticence in dealing with GAO, particularly on a topic that was becoming a priority with their office as the result of an interest expressed by the Secretary of Defense about the number and expense of the congressional reporting requirements the department was preparing. Information provided by congressional committee clerks also varied, but not for lack of cooperation. Some committee staff were new at their jobs and did not know about the Clerk of the House or Secretary of the Senate databases that will be described in Chapter 3. The committee clerks of two committees were quite experienced and used the databases, but all committee clerks relied on their own logging systems for their individual committees. Officials from the other organizations cited above (Clerk of the House, Secretary of the Senate, National Archives, OMB, etc.) were very helpful in clarifying the roles of their organizations in the reports management process. All respondents recognized the importance of congressional reporting requirements in providing information to Congress, agencies, and the public, but all also recognized that improvements to the congressional reporting process could and should be made.

Analysis of the responses to the structured interviews and answers to follow-up questions, and a review of documents provided by the respondents determined what steps had been taken by
respondents to implement the provisions of the Federal Reports Elimination and Sunset Act of 1995 (P.L. 105-66). A review of Reports to Be Made to Congress and the executive communications databases, discussed in Chapter 5, determined the total number of requirements and reports before and after the sunset provision’s activation date of December 21, 1999, which was later extended by an amendment to May 15, 2000. This assessment determined the impact the sunset provision had on reducing agencies’ reporting burden. In addition, interviews of congressional and agency officials involved in the congressional reporting process helped to determine steps that could be taken to (1) improve the congressional reports management and tracking system; and (2) to better serve the Congress, as well as the larger federal community and the public. I also developed timelines and flow charts of various acts’ implementation (e.g., performance reporting requirements acts and the Federal Reports Elimination and Sunset Act of 1995 (P.L. 105-66) and flow charts illustrating an improved reports management approach.

1.5.4 Limitations of the Research

Yin (2003) points out that standard criticisms of case study approaches to doing research are that they are subjective, noncomparable, and imprecise. The results of one or more individual cases may not be generalizable (or lack external validity) to other cases, and that is a limitation of this approach in this dissertation as well. It is a limitation of the research that the case study of the Reports Elimination and Sunset Act of 1995 (P.L. 105-66) lacks generalizability to other reports elimination statutes. Also, the case study of the performance reporting type of reporting requirement examined in this dissertation is not generalizable to all types of reporting requirements. Similarly, the reports management processes of the four agencies chosen lack generalizability to each other or to other agencies that were not studied for this dissertation. Finally, the six committees chosen lack generalizability to other committees in the House and Senate that may in fact have better ways of tracking reports and providing feedback to the agencies about their usefulness. For example, I did not contact the appropriations or budget and finance-related committees, but instead chose six committees that were identified in the databases as receiving a large number of reports each session of Congress. Yin also points out that another criticism is that too often case studies are merely descriptive and atheoretic. A
disadvantage of the descriptive case study method is that the anecdotal qualitative evidence provided is generally considered less persuasive than quantitative evidence.

As with most “case study” designs, several issues are addressed in my dissertation to satisfy the reader that my case selection is appropriate. For instance, what are the relevant boundaries of an appropriate set of “cases”? (Or, put differently, what are the “cases” cases of?) How were these “cases” selected? How will possible sources of selection bias (such as divided v. unified government, or party-controlling Senate or House, introduced by time; type of agency targeted; and committee/subcommittee with jurisdiction) be avoided?

Small-N research designs, such as the one in this dissertation, may be strengthened by examining a larger number of cases, as has been done here. For example, while I focused on the Federal Reports Elimination and Sunset Act of 1995 (P.L. 105-66) as the primary case study for reports elimination laws, I also discuss other reports elimination laws passed in relatively recent years. The law I focused on, however, is the most recent one and the only one with a unique sunset provision. In addition, the 14 selected “cases” of performance-reporting requirements were chosen for this dissertation because they are often viewed, in the literature and by the experts I talked to during the research for this dissertation, as the most useful for contemporary congressional oversight. I also think that the performance-reporting requirements tie into Rosenbloom’s thesis of developing a legislative-centered public administration because they are emblematic of Congress’ tasking agencies to report back to Congress about their progress in meeting programmatic outcomes. Nevertheless, a limitation of the proposed approach is that this is a small-N research design in relation to the huge number of congressional reporting requirements and it lacks generalizability to other types of reporting requirements. However, the literature review and early chapters put the larger numbers of reporting requirements in context for the reader.

In addition, another justification is operating for my focus on the cases chosen for this dissertation. Stake (1994) contrasts “instrumental” case studies with "intrinsic" case studies. An intrinsic case study is “undertaken because one wants better understanding of the particular case,” whereas an instrumental case study is undertaken because “a particular case is examined
to provide insight into an issue or refinement of a theory.” While the cases chosen for this dissertation can be criticized for a small-N design, I believe I have demonstrated that the two types of cases—the reports elimination and sunset law and the 14 performance-reporting requirements—fit Stake’s description of instrumental case studies. The use of the case studies in this dissertation includes two of these instrumental case studies:

- **Heuristic/exploratory**: Use case as a vehicle for seeking to understand a phenomenon or process (e.g., Martha Derthick, *Agency under Stress: The Social Security Administration*), which was done by choosing four departments and agencies to understand how they manage reporting requirements; and

- **Plausibility probe**: Use case to help decide if an idea is worth pursuing or if a phenomenon or process is possible to study (e.g., Robert Dahl, *Who Governs*?), which was done by choosing performance-reporting requirements and reports elimination laws.

The cases chosen for this dissertation (performance-reporting requirements and reports elimination statutes, especially the Federal Reports Elimination and Sunset Act of 1995 (P.L. 105-66)) were both heuristic/exploratory cases and plausibility probes, by being vehicles for seeking to understand a phenomenon or process and for determining whether the reporting requirements process could be explored and improved to contribute to a legislative-centered public administration.

Additionally, the case studies were used as theoretically-informed cases to see if the management of reporting requirements, especially performance reports, fit Rosenbloom’s call for a legislative-centered public administration. Lastly, the case studies were used as revelatory cases because the public administration literature contains very little information on the laws that manage/eliminate reporting requirements. The case studies facilitate exploration of reporting requirements as a management process that can be improved to better use the information for congressional oversight, improved federal management, and public administration scholarship.

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16 Examples provided by Karen Hult from handout for PSCI 5115.
1.6 CONCLUSIONS

Congressional reporting requirements are important oversight tools that have not been adequately studied and are therefore ripe as a dissertation topic. The case study approach was useful for exploring the issues associated with the importance of reporting requirements, their contributions to congressional oversight, and their possible contribution to Rosenbloom’s call for a legislative-centered public administration. Case studies discussed in this dissertation will include (1) four agencies’ management systems of congressional reporting requirements, (2) the government-wide performance measurement reporting requirements instituted in the last 30 years, and (3) laws passed to eliminate reporting requirements that are no longer needed. The next chapter discusses in more detail (1) what Rosenbloom means by a legislative-centered public administration, (2) the importance of congressional oversight, and (3) the limited literature on congressional reporting requirements.