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ARMED AND NOT DANGEROUS: A REVIEW OF THE SENATE ARMED SERVICES COMMITTEE'S OVERSIGHT OF THE IRAQ CONFLICT BETWEEN 2002 AND 2004

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While President George W. Bush receives most of the scrutiny, blame, and praise for the current Iraq conflict, Congress has had an important role in overseeing the planning and execution of the war. Referencing transcripts of Senate Armed Services Committee hearings between 2002 and 2004, this paper uses four major criteria—attendance rates, quality and diversity of witnesses, evidence of partisanship, and assertions of institutional prerogatives—to assess the committee's oversight of the Iraq conflict during that time period. This analysis concludes that the committee struggled to fulfill its duties in most of these categories. Overall, the committee's oversight of the Iraq conflict must be considered a failure.

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INTRODUCTION

Is the current Iraq conflict President George W. Bush's war? Media attention, credit, and blame for the war—now entering its sixth year—have been largely directed at President Bush and his administration. Every allegation of doctored pre-war intelligence, every day without evidence of weapons of mass destruction, and every deployment and redeployment of troops leads to increased scrutiny of the Bush administration.

No matter how great a role the executive branch played in arguing for, planning, and executing the Iraq war, it did so in the context of a tripartite system of government. The president could only initiate and continue armed conflict with the implicit or explicit consent of the United States Congress. Thus, the legislature necessarily played a role in creating and supporting the Iraq conflict. What was this role? How did Congress perceive its oversight duties? How well did Congress perform? What can we learn about oversight in general from the Iraq War?

To begin answering these questions, I conducted a case study of the Senate Committee on Armed Services' oversight of the conflict in Iraq between 2002 and 2004. The Armed Services Committee has the most direct jurisdiction of any Senate committee over the planning and conduct of the Iraq war. Unlike its House counterpart, which has more than twice as many members, the Senate committee includes just 25 members, with well-known ideological perspectives and political persuasions. The years 2002 through 2004 represented a critical period, including the run-up to war, the transfer of Senate control from Democrats to Republicans, the initiation of hostilities in Iraq, the growth of the Iraqi insurgency, the Abu Ghraib scandal, and the 2004 presidential election cycle.

In order to conduct a systematic, thorough review of the committee's activities, I reviewed the transcripts of every open committee hearing specifically dealing with Iraq during the time period in question. Although other hearings, including general defense appropriations hearings and global posture reviews, may have peripherally involved the Iraq conflict, I focused solely on hearings that primarily involved Iraq. I assessed the hearings using four main criteria: attendance rates, quality and diversity of witnesses, evidence of partisanship, and assertions of institutional prerogatives.

Attendance: I recorded senators' attendance at each oversight hearing. I marked as present each senator who spoke into the microphone at least once. These totals were used as a proxy to assess each committee member's interest in the Iraq conflict. I found that committee members compiled only a 63 percent attendance rate, and that Democrats attended hearings at a greater rate than Republicans (72 percent to 54 percent). In addition, overall attendance for both parties increased as the insurgency strengthened and the 2004 presidential election approached.

For the purposes of this study, I assumed that senators who attended oversight hearings placed a greater value on oversight than those who did not attend. Clearly, this assumption is not perfect. Senators could have attended hearings without speaking, watched from their senate offices, or conducted other vital business in lieu of attending the hearing. Still, given the limited information available, I will assume that attendance is a strong proxy for a senator's interest in the matter. In order to speak at an oversight hearing, a senator must delay other important

business, physically travel to the hearing room, and wait to speak in order to put comments, concerns, and questions into the public record. On balance, senators who consistently make this effort are likely to put a higher priority on oversight than those who do not.

Witnesses: Congressional oversight hearings are generally only as strong as their witnesses. I reviewed the responsibilities and affiliations of the witnesses called to testify in front of the committee on Iraq-related matters. While the committee called high-level and influential witnesses throughout the three years studied, only Democratic Chairman Levin ever called witnesses from outside the administration. Republican Chairman Warner, on the other hand, limited the witness roster to administration representatives, arguably narrowing the committee's perspective on the conflict.

Partisanship: Congressional committees have not been immune to what many pundits consider an increasingly nasty and hostile political environment. I assessed the extent to which outright partisanship worked its way into the hearings. Stark partisan conflict fluctuated throughout the three years studied, reaching its peak in late 2003 and early 2004. However, even during these periods, most senators avoided outright partisan attacks. At times, the committee demonstrated legitimate bipartisan cooperation, especially regarding the Abu Ghraib scandal.

To the extent that partisanship can distract Congress from its essential oversight functions, I assume that partisan clashes can have a deleterious effect on oversight. Of course, partisanship is not always evidence of ineffective oversight. Partisan disagreements stemming from legitimate policy differences are not, on their own, damaging to oversight. However, when attacks on the other party take up a great deal of a hearing's time, then the committee is clearly not functioning as efficiently as it could be.

Assertion of Institutional Prerogatives: In order to conduct effective oversight, Congress needs access to information. The history of congressional oversight is fraught with disputes with the executive branch over documents, witnesses, and other sources of information. I reviewed how often—and how aggressively—senators pressed the executive branch for information regarding the Iraq conflict. The committee largely failed to pursue and obtain critical information that could have helped it conduct oversight. In open hearings, only a few vocal Democratic senators pushed for more information from the Department of Defense and the Bush administration. Otherwise, the Armed Services Committee appeared to be satisfied with the documents voluntarily provided by the executive branch.

The approach outlined above has its limitations. Public hearing transcripts, while informative, do not include any of the behind-the-scenes dealings that are an integral aspect of the executive-legislative relationship. Also, written transcripts do not provide information about body language, posture, and inflection that could add to this analysis. Although the majority of Senate Armed Services Committee hearings were open, the lack of information on closed hearings represents a gap in the report. While it would be useful to put these hearings into historical context as well as analyze the ensuing three years of hearings, doing so in a thorough manner would go beyond the time and space limitations of this project. These caveats are important but should not diminish the several key insights of this study.

ANALYSIS: 2002-2004

2002

President Bush delivered a speech in front of the United Nations on September 12, 2002, setting the groundwork for military action in Iraq. Soon afterwards, the Senate began to deliberate on a resolution authorizing the use of force against Iraqi dictator Saddam Hussein. At the time, the Democrats held a razor-thin one-vote majority in the Senate, and Senator Carl Levin (D-MI) held the chairmanship of the Senate Armed Services Committee. With the then-politically powerful President Bush—who commanded a 70 percent approval rating immediately after his U.N. speech (The Roper Center)—urging a speedy passage of a use of force resolution (The White House 2002), Levin was forced to conduct oversight under extreme time pressure. As a result, Levin scheduled four committee hearings regarding Iraq (three open, one closed) during a hectic eight-day sequence in September 2002.

Attendance: Arguably, the choice to send troops to battle is the most important decision that a government can make. Ideally, government actors—including senators—should use every tool at their disposal to make an informed decision about the use of force in Iraq. This did not appear to be the case in the Senate Armed Services Committee during the run-up to the Iraq conflict. During the three open hearings on Iraq in 2002, the committee amassed a paltry 47 percent attendance rate. Over the course of the week, attendance steadily declined. Fifteen senators attended the first open hearing, which featured Defense Secretary Donald Rumsfeld, twelve senators showed up to question the retired generals, and only eight senators arrived for the hearing featuring former Defense Secretary James Schlesinger and former National Security Advisor Samuel Berger. Six of the committee's twenty-five senators—Joe Lieberman (D-CT), Jeff Bingaman (D-NM), Ben Nelson (D-NE), Strom Thurmond (R-SC), John McCain (R-AZ), and Rick Santorum (R-PA)—did not attend a single Armed Services Iraq hearing in 2002.

Notably, Democrats attended the 2002 hearings at a significantly greater rate than Republicans, setting a trend that would last throughout the period. Democrats attended the hearings at a 54 percent rate, while Republicans only compiled a 39 percent figure. No more than five of the committee's twelve Republicans spoke at any one hearing.

There are several potential explanations for this clear and consistent partisan discrepancy in hearing attendance. In general, the president's party might put less emphasis on oversight because of a tendency to agree with the executive's worldview and ideology. Some senators might not have seen the value in attending oversight hearings concerning a policy with which they agreed. Furthermore, it is possible that Republicans tend to favor a stronger executive role in military affairs and might therefore place less emphasis on military oversight than their Democratic colleagues. In addition, members of the president's party might take oversight less seriously because they do not want to publicly question their party's administration. Despite these tendencies, several Republicans who agreed with President Bush still consistently attended the Iraq hearings over this time period, which makes broad conclusions about the partisan no-show discrepancy difficult to draw.

Regardless of the reasons that senators chose not to show up, the poor attendance figures for both parties are disappointing given the enormous significance of the decision to

preemptively invade Iraq. Although senators' schedules are typically packed to the brim, and the hearings occurred during campaign season, it is still difficult to imagine what could have taken precedence over these committee hearings. By refusing to attend hearings aimed at educating both senators and the public, these senators failed to live up to their most basic duty as public servants: to show up.

Attendance totals in 2002:

Republicans	14/36	39%
Democrats	21/39	54%
Total	35/75	47%

Witnesses: All four Armed Services Committee hearings leading up to the Iraq conflict featured prominent, respected, and influential witnesses. In addition to Rumsfeld, Schlesinger, and Berger, a panel of four decorated retired generals appeared in open session, and Director of Central Intelligence (DCI) George Tenet addressed the committee in closed session. The slate of witnesses brought not just impeccable credentials and high profile résumés, but also a wide array of perspectives about a potential war in Iraq. Although the first two hearings featured only Bush administration representatives, the two concluding hearings offered varying viewpoints. By inviting a panel of retired generals to appear before the committee, Senator Levin allowed senators to hear from military experts not closely aligned with the Bush administration's war effort. During the hearings, these former generals displayed a variety of opinions, ranging from General Joseph Hoar's outright skepticism to Lieutenant General Thomas McInerney's outright support for the war. Similarly, Berger and Schlesinger arrived at the hearing table with distinctly different perspectives about military action in Iraq.

While a less skeptical chairman may have been tempted to fill the witness list with a parade of executive personnel, Senator Levin recruited witnesses not obligated to toe the administration line. Thus, when weighing whether or not to authorize the use of force in Iraq, members of the Senate Armed Services Committee were exposed to more than just the executive's perspective. At the end of the day, no senator who attended the hearings could honestly claim ignorance of the arguments and counter-arguments pertaining to the use of force in Iraq. While congressional oversight hearings provide an important opportunity for legislators to grill executive branch officials, to the extent that oversight informs congressional decision-making, views outside the administration orthodoxy should be recognized. In that sense, Senator Levin deserves credit for ensuring that the hearings exposed committee members to a broad range of perspectives.

Partisanship: The sober and subdued pre-war hearings in the Senate Armed Services Committee featured little obvious partisanship. To be sure, committee members came into the hearings with their own preconceived notions about the potential war in Iraq, and some—perhaps all—had already made up their minds about their votes. However, that did not stop the committee from maintaining a generally civil tone. No one's patriotism was questioned; no one was called a warmonger or a chicken hawk. Besides one minor altercation regarding how strictly senators were being held to their time limits, there were no outward signs of conflict between senators. Apparently recognizing the gravity of the decision to go to war in Iraq, committee members put aside partisan bickering and presented a serious face to the public.

Assertion of Institutional Prerogatives: Owing to the proceedings' expedited nature, the committee made little effort to request documents or demand more detailed information from the executive. Senators from both parties asked Secretary Rumsfeld tough questions about Saddam Hussein's weapons capabilities, the importance of building a coalition, Iraq's connection to the War on Terror, and post-conflict planning. However, with a final vote on the resolution scheduled less than a month after the first hearing (Brunner), there was little opportunity to delve beyond Rumsfeld's cursory answers.

Even if the committee decided to pursue more detailed inquiries into the administration's rationale for war; even if the administration responded in a comprehensive and timely fashion; and even if the committee members showed serious interest in the information, there would likely not have been enough time for senators to adequately review and assess it. Because the Democratic Senate leadership went along with the Bush administration and expedited debate on the use of force resolution (Dewar and VandeHei 2002), the committee's hands were virtually tied. As a result of the strictly limited timeline, pre-war oversight was weaker than it could have been.

2003

Featuring a steady stream of major developments, 2003 represented a critical year in the Iraq conflict. On March 20, the first bombs of the Iraq conflict fell. Within weeks, American forces marched into Baghdad. On May 1, President Bush gave his "Mission Accomplished" speech, declaring an end to major combat operations in Iraq. By the summer, the Iraqi insurgency began picking up steam. Still, the news coming out of Iraq was not all negative: On December 13, U.S. forces captured Hussein, who was hiding out in a farmhouse cellar (BBC News 2003).

In response to the mid-term elections of 2002, the Senate Armed Services Committee shifted to Republican hands in 2003. Senator John Warner (R-VA) took over the post of Chairman, relegating Levin to Ranking Member. During the year, Warner scheduled a total of seven hearings that focused on the conflict in Iraq. Four of these hearings were open to the public, two were closed, and one featured both open and closed sessions. Several of these hearings dealt with more than just Iraq; the pre-conflict hearings were to discuss "potential military operations" and "emerging threats," the April 10 hearing also had NATO expansion on the agenda, and the September 9 hearing dealt with "current military operations abroad." Thus, during this time period, Warner called only three hearings solely dealing with the conflict in Iraq.

Attendance: The Senate Armed Services Committee's interest in overseeing the Iraq War appeared to grow as 2003 wore on. The February 12 and April 10 hearings were sparsely attended, with only an average of twelve of the twenty-five senators on the committee asking at least one question. Seventeen senators spoke at the July 9 hearing, which featured Secretary of Defense Donald Rumsfeld, nearly double the total of the April 10 hearing. With serious attacks on the Jordanian embassy and UN outpost in Iraq making headlines (CNN 2003), and the insurgency gaining strength, attendance rose to twenty of twenty-five members for the September 25 hearing.

Much like 2002, Democrats attended the 2003 hearings at a greater rate than Republicans. Democrats attended open 2003 hearings at a 68 percent rate, while Republicans only compiled a 54 percent attendance figure. Three Republicans—Saxby Chambliss (R-GA), John Ensign (R-NV), and Lindsey Graham (R-SC)—missed all five open hearings, while Joe Lieberman (D-CT), whose views on the Iraq War mirrored those of many Republicans, was the only Democrat to miss all the 2003 hearings.

Attendance totals in 2003:

Republicans	35/65	54%
Democrats	41/60	68%
Total	76/125	61%

Witnesses: The witnesses brought before the Senate Armed Services Committee in 2003 represented some of the biggest players in the Bush administration's war effort. On February 12, Director of Central Intelligence Tenet came before the committee, the April 10 and September 9 hearings featured Deputy Defense Secretary Paul Wolfowitz, the July 9 hearing included Defense Secretary Donald Rumsfeld, and the September 25 hearing involved Administrator of the Coalition Provisional Authority Paul Bremer. Each hearing also featured a major active-duty military figure.

Although the witnesses were undoubtedly power players, Chairman Warner did not follow Levin's example of bringing in outside experts to discuss the situation in Iraq. As a result, while some senators, especially Democrats, took advantage of the opportunity to grill administration witnesses, the hearings featured no witnesses who dissented from the administration's position. Besides one minor "quibble" between Rumsfeld and General Tommy Franks about the timeline for force levels in Iraq (Ricks and Dewar 2003), there were no substantive policy disagreements between witnesses in 2003. During the September 25 hearing, Senator Robert Byrd (D-WV) expressed exasperation on just this point: "And we're not going to hear the OMB; I wish we would, especially in the Appropriations Committee. I think we should, but we're not going to get to call any outside witnesses, 'outside,' quote/unquote" (Senate Armed Services Committee 9/23/2003). In sum, the lack of alternate perspectives may have limited the usefulness of the hearings. While the hearings still provided a forum for senators to potentially hold members of the administration accountable, they did not allow senators to learn from points of view other than those of the administration.

Partisanship: Early in 2003, the relatively bipartisan tone of the pre-conflict period continued. With American forces finishing up a remarkably smooth invasion of Iraq, the April 10 hearing featured an almost subdued tone among the few senators who decided to show up. Witnesses were given broad latitude to answer questions; senators generally did not interject or cut them off. Further, there was little evidence of partisan rhetoric or inter-party squabbling in the transcripts.

As 2003 went on, though, this bipartisan period of good feelings began to erode. Starting in July, a new polarization became apparent in hearing transcripts. While there were still few direct political squabbles between senators, Democrats increasingly took administration officials to task, while Republicans appeared to harden their positions behind the war effort. The

Washington Post described the July 9 hearings: “The sharp tone yesterday represented something of a change for congressional Democrats, who have been largely supportive of President Bush’s handling of postwar Iraq” (Ricks and Dewar 2003).

But the September hearings, which dealt with President Bush’s \$87 billion supplemental appropriations request for Iraq, represented the first true partisan battles within the committee since Bush administration first began hinting at war in Iraq. Democrats who voted against the war, including Senators Levin, Byrd, and Ted Kennedy (D-MA), issued sharp rebukes of the administration’s decision-making in the run-up to war. Senator Pat Roberts (R-KS)—and later, Senator John Cornyn (R-TX)—responded by questioning whether “rather harsh criticism” from individuals in Washington could help terrorists in Iraq “gain currency ... from the idea that we have a lack of resolve and a reduced commitment by us and or our allies” (Senate Armed Services Committee 9/3/2003). For the first time, the phrase “cut-and-run” worked its way into the committee’s lexicon. Also for the first time, senators began to directly address and respond to comments made by those on the other side of the aisle—often at the expense of asking substantive questions to the witnesses. The *Washington Post* noted the Senate’s clear change in tone since earlier in the year:

The pointed exchanges underscored how the bipartisanship that, for months, characterized the debate on Iraq in Congress is crumbling as the postwar occupation has proven bloodier and more expensive than expected, and as next year’s presidential primaries get closer. (Ricks and Loeb 2003)

Assertion of Institutional Prerogatives: With major combat operations still ongoing, the committee did little to check the executive’s authority. Both Warner and Levin made document requests to Wolfowitz during the April 10 hearing but did not place much emphasis on them. By the end of the year, however, the playing field had shifted. After Bremer refused to hand over relevant information, Levin angrily argued that Congress had a right to obtain Coalition Provisional Authority (CPA) documents:

LEVIN: Well, but I think it is important that since the August, and apparently September, modifications have been made, that we get copies of those.
BREMER: I will keep you informed, but I want to keep my hands free as to how I do that.
LEVIN: Well, *there’s no reason that I can imagine why this Senate should not get a copy of your August and September modification*, just the way you...
BREMER: Well, maybe you will, sir. I just want to go back and...
LEVIN: *Not maybe. No. No. Not maybe.* I can’t think of a reason why. If it’s classified, send it to us in classified form. *But there’s no reason why we’re not entitled to that.*
BREMER: I will keep you informed, sir.
LEVIN: Well, I’m sorry, Mr. Chairman. On that one, that’s not good enough. Are you asserting some kind of a privilege in sending this thing?
BREMER: Well, I’m not, Senator. I just want...
LEVIN: There’s no reason why we’re not entitled to a document which you have prepared. (Senate Armed Services Committee 9/25/2003, italics added)

Soon after this exchange, Chairman Warner silenced Levin on the matter, rather than support Levin’s assertion that the legislative branch had a right to the documents. In this case, Warner did not take on the executive branch, even though access to CPA documents could have aided Congress in its effort to effectively oversee the conflict in Iraq.¹

On a similar note, Senator Byrd—an unabashed war critic—expressed frustration at the July 9 hearing that Secretary Rumsfeld could not immediately provide Congress an estimate of monthly expenditures on the Iraq and Afghanistan wars.

SEN. BYRD: Do you have—do you recall a figure? Can you give us an estimate? I've heard the figure of \$1.5 billion a month.

SEC. RUMSFELD: I would not want to venture a guess and be wrong, sir.

SEN. BYRD: Well, somebody ought to know.

SEC. RUMSFELD: Well, they do know; be happy to brief you on it.

SEN. BYRD: Well, I'd like to know now. (Laughter.) (Senate Armed Services Committee 7/9/2003)

The hearing soon adjourned for a vote, and later Rumsfeld returned with figures for Byrd. However, Rumsfeld appeared unsure of the numbers and offered conflicting estimates later in the hearing.² In this case, the fact that the Secretary of Defense did not prepare even a basic spending figure to report at an oversight hearing suggests that the executive branch might not have been taking congressional oversight seriously. This might be because, in 2003, only a few vocal members of the Democratic minority engaged in any serious effort to assert the committee's prerogative to oversee the conflict in Iraq.

2004

Under the backdrop of a heavily contested presidential election, 2004 featured a near-constant stream of bad news for the United States on the Iraqi front. The two bloodiest months of the conflict, April and November 2004, reminded Americans of a ferocious and increasingly threatening insurgency in Iraq (ICasualties.org). In addition, the reports of prisoner abuse at Abu Ghraib prison in Iraq dealt another serious blow to the war effort. In January, the U.S. military announced an investigation regarding alleged mistreatment of Iraq prisoners (CBC News 2005). Three months later, scandal erupted when CBS's *60 Minutes II* broadcast images of American soldiers graphically abusing and humiliating Iraqi detainees. In October, the Iraq Survey Group head Charles A. Duelfer released the *Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD*. He concluded that while Iraq had ambitions of reconstituting its nuclear, biological, and chemical weapons programs, it did not have active programs to produce or stockpile weapons of mass destruction when the United States invaded Iraq in 2003 (Duelfer 2004). This revelation represented a direct blow to the Bush administration's original rationale for the Iraq War.

Given these negative developments, Chairman Warner scheduled eleven Iraq-related hearings in the Senate Armed Services Committee in 2004. Despite the potential for the hearings to embarrass the Bush administration prior to the election, Warner made the Abu Ghraib abuses a particular focus of oversight, holding six (five open, one open/closed) hearings on the topic. Three hearings (two open, one closed) dealt with the Iraq Survey Group's efforts to find weapons of mass destruction in Iraq. While the committee extensively oversaw the Abu Ghraib abuses and the WMD investigation, Warner conducted only two general police-patrol hearings into the actual conflict. Thus, even as the United States became bogged down in an increasingly difficult situation in Iraq, the Senate Armed Services Committee did not have much opportunity to inspect and critique the administration's war policy, aside from the Abu Ghraib incident.

Attendance: Despite the increasing frequency of hearings and election-year pressures, overall attendance at Iraq oversight hearings increased from 61 percent in 2003 to 68 percent in 2004. The four high-profile Abu Ghraib hearings in May were better attended than any other hearings in the three-year sample; between twenty and twenty-three of the committee's twenty-five senators spoke at each hearing. In contrast, the two hearings directly addressing strategy and tactics in the Iraq conflict each included only sixteen senators. In general, the committee's interest waned as the year went on and elections approached—just twelve senators, on average, attended each of the last three hearings of 2004.

Once again, Democrats attended oversight hearings at a substantially greater rate than Republicans, and the gap widened in 2004. Democrats attended open hearings at a 79 percent rate, an increase of eleven percentage points from 2003. In contrast, Republicans' 58 percent attendance figure represented only an improvement of four percentage points from 2003. Six of the thirteen Republican senators on the committee—Susan Collins (ME), Jim Talent (MO), Elizabeth Dole (NC), Graham, Chambliss and Cornyn—attended fewer than half of the committee's eleven hearings. Disturbingly, even with the Iraq conflict worsening, senators, particularly Republicans, were still not motivated to attend oversight hearings. With several members of the majority party passing up the opportunity to make their voices heard at hearings, the executive had little incentive to take congressional oversight seriously.

Attendance totals in 2004:

Republicans	76/130	58%
Democrats	95/120	79%
Total	171/250	68%

Witnesses: On the whole, the witnesses called to testify in 2004 followed the same template as those in 2003. Chairman Warner again exclusively brought administration and military representatives in front of the committee but did not shy away from calling high-level officials. Deputy Defense Secretary Wolfowitz appeared before the committee on three occasions, weapons inspectors David Kay and Duelfer made a total of three appearances, and Secretary Rumsfeld testified once. Virtually every civilian and military official directly involved in the Abu Ghraib affair, including Rumsfeld, testified under oath before the committee during one of its six hearings on the matter.

In one sense, Warner deserves credit for bringing policymakers to the hearing table and reaching into the highest ranks to conduct a thorough investigation of the Abu Ghraib scandal. However, the failure to include a single witness critical of administration policy in any oversight hearing again represented a glaring and critical omission, especially given the setbacks on the ground in Iraq.³ In addition, it is worth noting that the Abu Ghraib hearings represented the only occasions where witnesses were sworn in during the three years studied. While the administration of oaths sent a clear message about the seriousness of the committee's Abu Ghraib investigation, Warner and Levin might have been well served to send similar messages about other—arguably more important—issues, such as intelligence failures, military struggles, and pre-war planning.

Partisanship: Early in 2004, the partisanship that characterized the hearings in late 2003 continued unabated. Senator Kennedy attacked the Bush administration's "obsession with Iraq," while Senator Ensign reminded Democrats to show "responsibility" and temper their criticisms of the Bush administration (Senate Armed Services Committee 4/20/2004). Senators of both parties spent precious time rebutting their counterparts' criticisms and leveling their own charges at each other. But, interestingly, the explosion of the Abu Ghraib story appeared to at least limit the committee's outright partisanship, even as the 2004 elections rapidly approached. With the exception of the committee's most strongly conservative members, Democrats and Republicans alike supported the general premise that Abu Ghraib represented an enormous and embarrassing failure, and that care needed to be taken to avoid similar events in the future.

Occasionally, this agreement on broad principles translated to directly observable positive outcomes. For example, during the second May 11 hearing, Senators Warner, Levin, and Bill Nelson (D-FL) reached across partisan lines to pursue the same line of questioning, something that rarely, if ever, occurred previously during Iraq oversight hearings (Senate Armed Services Committee 5/11/2004). Although partisan sniping never completely disappeared from the hearings, it never returned to the level of late 2003 and early 2004. These senators generally chose other venues to express their opinions on the Kerry-Bush contest, and the result was a more coordinated, less distracted form of oversight.

Assertion of Institutional Prerogatives: In 2003, only a handful of Democrats made serious efforts to obtain documents and hold the executive branch to account regarding the Iraq conflict. In general, a broader spectrum of senators, including some Republicans, genuinely attempted to check the executive in 2004. Still, though, the loudest calls for executive cooperation came from Democrats who voted against the war. Once again, many of these calls were deflected by executive branch officials and ignored by Chairman Warner. In one exchange with Wolfowitz, Senator Jack Reed (D-RI) expressed disgust with the Department of Defense's intransigence about document production but did not receive backing from Warner. Following a pattern demonstrated by several administration witnesses throughout the hearings, Wolfowitz stated that he would "do his best" to get the documents, but refused to say that he would provide them or admit that Congress had any right to the information:

REED: Mr. Secretary, that's totally unfounded. We are constitutionally required to supervise the activities of the Department of Defense. We have just as much of a right to get this information as you do. And you seem to be saying we don't. You seem to be saying that we cannot get access to reports prepared in the course of business of the Department of Defense. Is that what you're saying?

WOLFOWITZ: Senator, I will do my best. I have not looked at this issue. I would like to get you the report. If I can get it for you, I ...

REED: Well, what you seem to be saying, Mr. Secretary, if you don't want the contents of that report disclosed to us, you won't get it for us. If those contents are embarrassing to the administration, you won't get it for us ... (Senate Armed Services Committee 4/20/2004)

While Democrats tended to be more aggressive, a few Republicans began to assert themselves in the face of the executive's reluctance to comply with document requests. Warner used his power as committee chairman to conduct extensive hearings of the Abu Ghraib abuses and boasted about the results: "Over 17,000 pages of documentation have been received by the committee. In my years on the committee, over a quarter of a century, I believe this is an unprecedented amount of information for this committee to have received as a direct

consequence of the initiatives of the committee” (Senate Armed Services Committee 9/9/2004). Furthermore, Warner and Senator McCain expressed frustration about the Department of Defense’s unwillingness to provide information about its plans for funding the Iraq conflict. Said McCain: “We really feel that it’s not in keeping with our responsibilities if we have to read about a shortfall in the newspaper or get it from the General Accounting Office, which is a branch of Congress, not of the executive branch” (Senate Armed Services Committee 7/22/2004). In response, Warner promised to follow up with a letter to Secretary Rumsfeld. While it is beyond the scope of this study to determine whether Warner actually wrote the letter and obtained the information in question, the pledge to follow up represented a step in the right direction.

Congress flexed its muscles somewhat more often in 2004. However, this did not represent more than an incremental improvement in the quality of oversight. Warner convinced the administration to turn over some Abu Ghraib-related documents, but he did not use the committee’s subpoena power to compel further disclosures, as the *New York Times* editorial board suggested (“Abu Ghraib, Stonewalled” 2004). The committee’s record was much worse on other issues; little effort was expended looking into the administration’s WMD claims, even after the Duelfer report concluded that the threat, as advertised, simply did not exist. In addition, there was sparse oversight of the ongoing, and rapidly deteriorating, U.S. military effort in Iraq.

In the end, while 2004 represented a small step forward—especially regarding oversight of the Abu Ghraib conflict—the Senate Armed Services Committee still failed to take substantive steps to obtain documents and challenge the administration. Not surprisingly, therefore, the Bush administration still refused to take congressional oversight seriously. In one particularly telling incident, Secretary Rumsfeld forgot to bring a chart to the first Abu Ghraib oversight hearing, prompting him to exclaim, “Oh, my!” (Senate Armed Services Committee 5/7/2004). Scholar Norman Ornstein commented: “Could anything more clearly demonstrate the contempt this department [of Defense] has for Congress? This was not a routine authorization hearing—this was a hearing testing the very core reputation of the Defense Department and the military. And they forgot the key chart!” (Ornstein 2004). Although Rumsfeld’s mistake might have been attributable to simple human error, the absent chart still symbolized the administration’s lackadaisical attitude toward oversight.

KEY FINDINGS AND IMPLICATIONS

Attendance was weak, especially for Republicans

In an ideal world, oversight hearings would be conducted by a full slate of senators, all diligently paying attention to the witnesses’ testimony. Due to time pressures and conflicting schedules, this is unrealistic in today’s Congress. Nonetheless, it is difficult to believe that Senate Armed Services Committee members considering a monumental issue such as the war in Iraq could amass only a 63 percent attendance rate throughout the three years studied. It is worth noting that a few senators, including Kennedy and Sessions (R-AL), compiled near-perfect attendance records, indicating that consistent appearance at committee hearings is possible for a motivated senator. However, for every Sessions there was an Ensign; for every Kennedy there was a Chambliss—senators who failed to ask a single question or make a single statement at more than 75 percent of hearings.

Throughout the period studied, Democrats attended Senate Armed Services Committee Iraq oversight hearings at a significantly greater rate than their Republican counterparts. This finding lends credence to the contention that in today's political world, congressmen in the president's party cannot or will not adequately complete their oversight duties. Of course, some Republican senators, even those who wholeheartedly supported the war, amassed excellent attendance records. This indicates that even legislators of the president's party who agree with the administration's policies can have a role in oversight. On the whole, though, senators from President Bush's party appeared to take this oversight role less seriously than their Democratic counterparts. This may have played a part in the Bush administration's apparent lack of concern with congressional oversight of the Iraq conflict.

Attendance totals from 2002 to 2004:

Republicans	125/231	54%
Democrats	157/219	72%
Total	282/450	63%

Chairman Warner shied away from calling non-administration witnesses

During their tenures as chairmen, both Warner and Levin called high-ranking administration policymakers before the committee, a fundamental aspect of good oversight that should not be understated. But unlike Levin, Warner refused to call a *single* outside witness to testify in his fifteen open Iraq oversight hearings. The silence of outside perspectives was deafening. The committee was never exposed to alternative points of view or alternative strategies for conducting the Iraq War. Disagreements between witnesses rarely amounted to more than minor disparities regarding facts and figures, rather than fundamental disputes about the course of the war. Because they were all administration officials, no witness of Warner's ever recommended a future course other than what the administration prescribed. However, the Bush policy certainly was not the only option. By shielding the committee from a broad array of perspectives and thus silencing ideas the committee should have considered, Warner dealt the committee's oversight functions a fundamental blow.

Partisanship fluctuated, but never defined the hearings

Somewhat surprisingly, committee members' outright partisan overtures did not build up over the time period studied and crescendo immediately before the highly charged Kerry-Bush presidential contest. Instead, the committee's partisanship fluctuated throughout the period. In the shadow of the September 11 attacks and President Bush's dire calls for action, pre-conflict oversight was conducted in a subdued manner virtually devoid of partisan saber-rattling. This atmosphere continued into the immediate post-invasion period until the insurgency's growing strength and mounting American casualties triggered increasingly hostile relations between parties. Between late 2003 and early 2004, this partisanship reached new heights, occasionally distracting the committee from its important oversight work. However, the disturbing revelations from Iraq's Abu Ghraib prison dampened the committee's partisan mood and contributed to a new, relatively cooperative era. While committee members were not shy about expressing their policy views, most never descended into direct attacks on other senators or their party. Warner and Levin deserve credit for encouraging this atmosphere of bipartisan cooperation within the committee even when nasty partisanship ruled the political world.

The committee made little concerted effort to take on the executive

During the time period studied, no consistent effort to demand information or otherwise challenge the Bush administration ever developed. A few Democratic senators who voted against the war, such as Levin, Reed, and Mark Dayton (D-MN), did their best to challenge administration witnesses on their refusal to hand over relevant documents and keep Congress informed about the ongoing conflict. But without the support of the chairman and the rest of the committee, these efforts largely went for naught. Chairman Warner's extensive oversight of Abu Ghraib represented the lone exception to this rule, though Warner did not press the administration once it offered serious resistance. Generally, then, the Senate Armed Services Committee failed to assert its considerable powers in the foreign policy realm. Under the Constitution, it is Congress's responsibility to declare war, raise an army, and spend money. This committee, though, made no serious effort to search beyond the executive's hand-picked information in order to better understand how to wield its extensive constitutional powers.

Iraq oversight was not a complete disaster, but it was close

Poor attendance, a limited witness list, and failures to check the executive ensured that the Senate Armed Services Committee was little more than a bit player in the unfolding Iraq saga. Of course, there is no guarantee that a more aggressive committee would have improved outcomes in Iraq. Still, if Congress had taken more time to assess the president's war plan; if the committee had spent more effort to evaluate progress on the ground in Iraq; if the committee had insisted on receiving documents it had a right to consider, then the Bush administration would have at least been forced to recognize the power of a coequal branch of government. Instead, the executive found little resistance and charged ahead with policies that many would argue were flawed.

While this study found a surprising lack of outright partisanship in the committee hearings, it is difficult to avoid singling out party politics as a major factor contributing to oversight failures. Chairman Warner is not known as an ideologue, but he still was an active member of a Republican Party that had staked its election hopes largely on the appearance of success in Iraq. In most cases, with the notable exception of Abu Ghraib, Warner decided not to pay the political cost of questioning the Republican administration's handling of Iraq, even against the potential benefits of improved—and potentially lifesaving—policy. In this case, even a relatively moderate statesman like Warner had little incentive to substantially oversee the war policy of a same-party president. This is perhaps another indication that a legislature aligned with the president's party is less likely to rigorously oversee the executive during a time of war.

This case demonstrates that agreement in principle with an administration's policy does not eliminate a senator's oversight responsibility, because the details can be improved, even when a legislator agrees with the overall direction of a policy. Pro-war Republicans, who controlled the committee in 2003 and 2004 when fighting began in Iraq, could have attended hearings to review evidence and engage in dialogue about the conduct of the war, even while arguing that toppling Saddam Hussein was the right decision. Almost half of the time, they did not. They could have called witnesses from outside the executive branch, accepting or rejecting their arguments about alternative ways forward. They did not. They could have demanded and reviewed information that might have revealed some of the serious flaws of the Bush administration's war policy. They did not, until it was too late.

Nonetheless, the committee's oversight did have a few strong points during this period. Levin and Warner maintained a relatively cordial atmosphere within the committee, and ugly partisan bickering never completely took hold of the hearings. Further, Warner's extensive investigation into Abu Ghraib represented at least a step towards substantive oversight. On the whole, however, a steady stream of oversight failures more than outweighed these positives. Ultimately, the Senate Armed Services Committee's oversight of the Iraq conflict from 2002 to 2004 will not go into the annals of history as a model of good oversight. Instead, the committee failed in most important respects—and Americans have been paying the price.

ENDNOTES

¹ During the September 9 hearing, Levin similarly asked for a Department of Defense "lessons learned" document and tapes of the DOD's Iraqi TV programming. Warner backed him up on neither request.

² Rumsfeld initially claimed that the war in Afghanistan cost \$700 million per month. He later said, "I'm told now that the \$700 million a month burn rate on Afghanistan is low; that it's actually probably \$900 to \$950 [million]."

³ On rare occasions, witnesses did disagree with one another. However, I did not find a single instance where a witness took a position directly contradicting the Bush administration.

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