



Watchdogs Say Transparency Efforts Fall Short

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Thanks to a website launched in January, the public for the first time has a centralized location to track bills on the House floor. It's the latest step Congressional leaders have taken to open up the legislative process.

Speaker [John Boehner](#) (R-Ohio) called the site a "victory for open government." Leading government watchdog groups say it isn't nearly enough and fear lawmakers might actually be going in the opposite direction when it comes to transparency.

Exhibit A for those groups: the series of behind-closed-doors meetings held last year by the much-hyped Joint Committee on Deficit Reduction.

"Much of what the super committee was about was a fight between leadership versus the committees," said Daniel Schuman of the Sunlight Foundation. "Congress as a policymaking body is becoming weaker and weaker."

The super committee promoted this notion, which some say is part of a larger trend.

Many Capitol Hill offices have routine firewalls between press and senior aides, some markups are held behind closed doors and major bills are regularly dropped from leadership onto rank-and-file lawmakers with little notice — the 2010 health care overhaul being a notorious recent example.

Rep. [Barney Frank](#) (D-Mass.), for instance, doesn't allow his staff, other than spokesman Harry Gural, to talk to the press.

"The fact is, if it's something about policy, Congressman Frank is the best interview on the Hill," Gural said. "There's really no reason to be tying up the staff."

The media's acceptance of email statements instead of interviews has contributed to inaccessibility by some Hill offices, said Brad Fitch, president of the Congressional Management Foundation.

"Increasingly, I think Members of Congress are able to control precisely what was said and not be dinged by the reporter either in the story itself or harming an ongoing relationship," Fitch said.

But beyond being an inconvenience for reporters, watchdog groups say, secrecy and its first cousin, inaccessibility, are increasingly having an effect on legislative outcomes.

"When they used to do things behind closed doors, it was not so consequential. Now we're looking at much more important, much bigger bills, bigger spending items, big policy changes," said Leslie Paige of Citizens Against

Government Waste. “What used to be a little bit of horse-trading behind the scenes during appropriations has become much more of a pattern. And the super committee followed that trend.”

Like the CAGW, the Project on Government Oversight frequently calls on Congressional leaders to be more transparent. “In a way, it’s not surprising that process failed, but also in a way, it’s a bit deserved, and we are, if anything, pleased that won’t be held up as a model as we conduct business in Washington,” said Angela Canterbury, POGO’s director of public policy.

The two groups say they would like to see the new House website, docs.house.gov, include databases listing earmarks.

The CAGW, which disputes Congress’ assertion that it has stopped earmarking, intends to publish its annual pamphlet this spring that would list spending items that it deems to be earmarks.

“We hear news of an earmark moratorium, and what we find out, from our definition, that the transparency around earmarks has regressed,” Paige said, explaining that lawmakers no longer have to disclose whether they requested funding for a parochial project.

These groups are also calling on lawmakers to provide more transcripts and coverage for many of their closed-door meetings, including markups, conference committees and ad hoc panels such as the super committee.

Empowering Democracy

The House Administration Committee has scheduled a conference for Thursday aimed at examining ways Congress can provide more legislative data to the public.

Scholars, journalists, watchdog groups and stakeholders are invited. Nearly every expert, so far, agrees that unraveling the legislative minutiae in ways that make sense to the public is crucial to empower democracy.

“There are very ordinary people that Washington regards as unsophisticated, but they’re incredibly sophisticated in other realms of life,” said Jim Harper at the Cato Institute. “We’re making them unsophisticated by withholding data they could use.”

Rep. [Mike Quigley](#) (D-Ill.), a co-founder of the Transparency Caucus, said he intends to advance legislation this year that would make publicly available every report that federal agencies submit to Congress.

“Secrecy breeds distrust, but by opening up our inner workings to the American people, we allow the people who elected us to judge our actions and policies for themselves,” Quigley said.

The measure is intended to ensure that any report required by law to be issued to Congress and releasable under the Freedom of Information Act would be posted on a Government Printing Office website. Congress itself is exempt from FOIA.

At the opening of the 112th Congress, Boehner and his leadership team promised a more open House, with more debate and a better flow of information to Members and the public.

Besides the legislative tracking website, leaders have taken other steps to be more transparent with constituents. The House Rules Committee is broadcasting its hearings for the first time. Last December, the House Oversight and Government Reform Committee held a real-time public online markup of anti-piracy legislation. In the Senate, an Armed Services subcommittee held an open markup to consider its portion of the annual defense policy bill, something it hadn’t done in more than a decade.

“We are dedicated to making the activities of this Congress transparent, accessible and useful for people around the country,” House Majority Leader [Eric Cantor](#) (R-Va.) said earlier this month.

Democrats were skeptical a year ago — and remain so.

“Here’s the deal: They campaigned on a set of promises that they haven’t kept. When you look at the way they handled the extension of payroll tax cuts, it was a closed process,” said Rep. [Jim McGovern](#) (D-Mass.), a member of the Rules Committee. “They have this habit of coming to the House floor and talking about how open and wonderful everything is. And then we get this monstrosity of a rule. ... You scratch your head and say, ‘What planet are these guys on?’”

Only a couple of years ago, of course, Republicans were lodging the same sort of complaints about the way then-Speaker [Nancy Pelosi](#) (D-Calif.) was running the chamber.

The Case for Quiet

Some expert observers of Congress argue that a degree of secrecy actually helps lawmakers reach compromises that would have been impossible if worked out in the public arena.

In a Congressional Research Service paper from 2011, shortly after the super committee concluded its assignment, Walter J. Oleszek revisited this theme. He wrote: “Private discussions and meetings offer lawmakers a ‘sanctuary’ where their opinions and ideas can be raised and vigorously debated without concern about outside political repercussions.”

Sarah Binder, a Congressional expert and professor at George Washington University, agrees.

“Putting things behind closed doors facilitates compromise that might not be possible out in the public’s eye,” Binder said. “If our ultimate goal is to actually solve public problems, my approach is to give legislators the space they need in order to craft those deals.”