

Testimony

Select Committee on the Modernization of Congress

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Mr. Chairman, Mr. Vice Chairman, and Members of the Select Committee. On behalf of the Congressional Management Foundation (CMF), I wish to thank the Committee for inviting me to testify today.

My comments are rooted in CMF's unique history of working with Congress for the past 44 years, including my own 24-year tenure at CMF. We have always worked closely with staff on management and operational issues, including staff recruitment, retention, and professional development; managing constituent communications and engagement; adopting and using technology; and other inside-Congress topics that few outside the congressional campus ever consider. We were founded on the heels of the Obey Commission in the 94th and 95th congresses, we advised the Joint Select Committee on the Organization of Congress in the 102nd and 103rd congresses,¹ and we are pleased to be part of the illustrious cadre of civil society organizations supporting the work of this Committee as it continues into the 117th congress.

There is no more important relationship in our representative democracy than between Members of Congress and the constituents they represent. Effective governance of, by, and for the People depends on Congress knowing the needs and interests of their constituents. Members need to understand the impact of legislation on the People, explain their actions and congressional activities, and generate support for public policy. As emphasized in our recent report, *The Future of Citizen Engagement: What Americans Want from Congress & How Members Can Build Trust*, most importantly, they need to facilitate and generate trust in the individuals and the body making our laws and overseeing the entirety of the government. That the People currently have so little faith in Congress and government is alarming.²

CMF believes a significant part of the problem is that current communications between Members of Congress and their constituents are failing. Congress is inundated with emails and calls and are not adequately staffed to handle the onslaught of communication. Because of this, the People do not feel heard by Congress, nor do they feel that Congress is responsive to them. In fact, more than three-quarters of registered voters believed there is currently not an adequate system in place for the voice of the American people to be heard in Congress.³

It is impossible to build trust without good communication.

¹ "[Working in Congress: The Staff Perspective](#)," Congressional Management Foundation, 1994.

² See "[Congress and the Public](#)," Gallup historical data, and "[Responding to Voters' Dissatisfaction with Government](#)," Steven Kull, et. al. Program for Public Consultation, School of Public Policy, University of Maryland. January 2019.

³ "[Responding to Voters' Dissatisfaction with Government](#)."

The House of Representatives occupies a very important role in our republic. Through its close ties to the People, it is the body best equipped to understand and represent the People at the national level. Its Members are our leaders and decision-makers. As individuals, Members of the House of Representatives advocate for the needs and interests of their own constituents; collaborate and negotiate with their colleagues to provide for the common good; ensure that law and public policy are being implemented appropriately and continue to serve the needs of the People; and steer the nation through good times and bad. It is imperative that the House of Representatives have the capacity to engage the People; listen to them and ensure they feel heard; incorporate their voices throughout the work of Congress; and explain to them how and why Congress made the decisions it did in order to generate and maintain support and trust.

During the coming decade CMF will be investigating the current and historical role of the Congress in facilitating trust and communication, and envisioning ways to modernize the culture and processes to better meet the current and future needs of the country. To guide this effort, CMF has devised a specific set of principles that should serve as the foundation for engagement between Members of Congress and those they represent. We believe the platforms and processes used to enable democratic relationships and communication between Senators, Representatives, and their constituents should be designed around the following 10 principles:

1. Embrace and facilitate First Amendment rights.

The right to petition government for a redress of grievances is guaranteed in the First Amendment to the U.S. Constitution, and Congress has historically been the locus of this right, but it needs to be better understood. The current state bears little resemblance to the processes facilitated by colonial and early American governments, including Congress.⁴ The modern assumption that the right to petition and the right to free speech are synonymous—despite being enumerated separately in the First Amendment—may be inhibiting the relationship and trust between Members and their constituents by overwhelming Congress with speech without any expectation for transparency, substance, or due process. The freedoms of assembly (including through associations, nonprofits, and corporations) and speech also factor into communications to Congress. Yet the relationships among our First Amendment rights and how to implement them in our engagement with Congress must be more deeply explored, defined, and distinguished as we modernize Member-constituent engagement.

2. Prioritize constituents.

Senators and Representatives were elected by the people of a specific geographic location to represent those people in Congress. As a result, they prioritize the views and needs of their constituents above all others in their work. It is also considered poor form to engage with or assist other Members' constituents, so even committee chairs and party leaders usually ignore

⁴ "[Petitioning and the Making of the Administrative State](#)," Maggie Blackhawk, *Yale Law Journal*, Vol.127, University of Pennsylvania Law School, Public Law Research Paper No. 18-9, 2018.

communications and requests from non-constituents. There is no duty for a concern to be received by anyone in Congress other than a constituent's own Senators and Representative, and even they have complete discretion in what issues they pursue. As a result, modernization of congressional communications must prioritize a Member's constituents; provide new ways to allow engagement and input in legislative proceedings without the Member as filter; and/or revive the more formal, substantive, and transparent petition at the chamber level.

3. Identify the sender.

Anonymity in the public marketplace of ideas has value, especially when it is protecting minority voices from mob rule. The Federalist Papers were published anonymously under the pen name "Publius." To this day, there are still some questions about exactly which of the commentaries on the new U.S. Constitution were written by whom. However, when it comes to influencing legislators and public policy in a democracy, identity is essential, especially in an era of nefarious actors intentionally trying to influence our political processes by sowing dissent and doubt.⁵ One researcher, in 2018 testimony before the Senate Select Committee on Intelligence, said "In our estimate, today the automated accounts at the far left and far right extremes of the American political spectrum produce as many as 25 to 30 times the number of messages per day on average as genuine political accounts across the mainstream."⁶ Historically, petitions to Congress required that the petitioner and signatories be clearly identified, in part so they could be engaged as needed while their petition was being considered. There is no expectation for anonymity in court proceedings, where we seek redress of grievances under existing law, yet many now assume anonymity should be protected when seeking to shape legislation that could impact millions. Tools for engaging Americans in public policy and advocacy must ensure that Senators and Representatives—and possibly even the public—know with whom they are engaging.

4. Promote accessibility for all.

One of the fundamental issues in the practice of our representative democracy is who Senators and Representatives feel they represent. Do they represent all U.S. residents who are counted by the census, which includes both citizens and non-citizens? Is it citizens only? Those who are informed and engaged? Eligible voters? Actual voters? Those who vote specifically for the Senator or Representative? Some even wonder whether Members are beholden mostly to those who

⁵ Most notably, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence have independently confirmed Russian interference in the 2016 U.S. elections, including through extensive use of social media bots. An overview of the process, to date, in the Senate, including links to reports detailing their findings, can be accessed via an April 21, 2020 committee press release on the fourth report of five (<https://www.intelligence.senate.gov/press/senate-intel-releases-new-report-intel-community-assessment-russian-interference>). An overview of the process and findings by the House can be accessed through the committee's "Russia Investigation and Transcripts" web page (<https://intelligence.house.gov/russiainvestigation/>).

⁶ Testimony of Dr. John Kelly before the Senate Select Committee on Intelligence in an open hearing on August 1, 2018 and cited in "Report of the Select Committee on Intelligence, United States Senate, on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, Volume 2: Russia's Use of Social Media with Additional Views," First Session, 116th Congress (2019).
https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume2.pdf

contribute to their campaigns. Each of these populations are different, and Members decide for themselves who gets their attention and who does not. The view each Member has of who they represent drives their relationship with those they view as constituents, as well as with those they does not. In a modern democratic society, all should have a voice in the legislature. Modern methods of engagement should strive to ensure that all have equal voice in Congress, regardless of status, wealth, ability, distance, broadband access, ethnicity, race, sexual orientation, or gender identity.

5. Foster trust.

Trust between Members of Congress and those they represent—between Congress and The People—is the foundation of our democracy. If, as at present, either side is skeptical, dismissive, or mistrustful of the other side, democracy cannot flourish. Even worse, if the government is perceived as corrupt—as increasing percentages of Americans are inclined to believe⁷— trust in Congress and other institutions of democracy is undermined.⁸ Modern methods of engagement must facilitate activities and convey information that enhances trust on both sides and increases confidence in Congress, as an institution. Research from the Organization for Economic Cooperation and Development (OECD) indicates that “perceived government integrity is the strongest determinant in trust in government,” and “perceptions of institutional performance strongly correlate with both trust in government and trust in others.”⁹ Clearly, there is more to fostering trust in Congress than citizen engagement, but future tools and engagement opportunities must be built with trust in mind.

6. Aggregate and analyze input from stakeholders, individuals, data, and evidence.

Public policy has always been informed by range of relevant information sources, including Members’ own experiences and beliefs. At present, the predominant channel for information to flow to Members and staff is email, which is unwieldy to manage, sort, and extract insight from. New systems and platforms meant to facilitate and enhance congressional engagement with the public should support aggregation and disaggregation, parsing, and analysis of relevant information from a wide range of stakeholders, individuals, data, and evidence.¹⁰ Only in this way can Congress turn the vast amount of available data and information into knowledge that

⁷ [“Responding to Voters’ Dissatisfaction with Government.”](#)

⁸ “Report from the Commission to the Council and the European Parliament: EU Anti-Corruption Report,” European Commission, 2014. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf

⁹ [“Trust and its Determinants: Evidence from the Trustlab Experiment,”](#) Working Paper 89, Fabrice Murin, et. al. OECD, 2018.

¹⁰ The SIDE framework—the concept of ensuring that stakeholders, individuals, data, and evidence are all included and taken into account in the public policy process—was proposed by the [Subcommittee on Congressional Technology and Innovation](#) of the [American Political Science Association’s Congressional Reform Task Force](#). The concept was described in more detail by Marci Harris, Claire Abernathy, and Kevin Esterling, the co-authors of the subcommittee report (<https://medium.com/g21c/the-side-framework-fc125af9b508>), and further developed by Lorelei Kelly in a working draft of a paper entitled [“Civic Voice During COVID-19: A SIDE Event Playbook for Members of Congress and Their Communities,”](#) Beeck Center for Social Impact and Innovation at Georgetown University, 2020.

effectively informs public policy and provides our leaders with the wisdom they need to determine the best course.

7. Support Congress' role in democracy.

Article One of the United States Constitution grants specific power, authority, and responsibility to the U.S. Congress. How Congress carries out its role has changed over the years, as has society, but the fact remains that the Legislative Branch, as the First Branch of government described in the U.S. Constitution, holds an essential position in our democracy. Congress is designed to be more directly connected and beholden to the people than the other branches of government, a fact that is deeply embedded into our culture, practice, and expectations. Any changes to the relationship between Members of Congress and those they represent must be undertaken with a clear understanding not only of Congress' processes, people, and operations, but also its vital role in our democracy.

8. Prioritize content and quality over medium and quantity.

Conventional wisdom about grassroots advocacy is that what matters most is attention-grabbing volume to demonstrate broad support. Because it is now so much easier than in pre-Internet days to generate high volume, these tactics no longer work, if they ever did. They just sap the time, resources and hard drive space of Congress. Participation in the public policy process is not the same as voting in an election, where the majority rules. While any leader should assess the number of messages or the expertise of the signatories on any public policy question, one should also consider the substance and merit. Congress has always spent significant time and resources on communications and requests by The People, but with most of it now being mass form email campaigns, the time spent is largely administrative, not substantive. Our future communications methods should facilitate the substantive and minimize the administrative.

9. Allow for a range of different channels of communication.

Refinements to our thinking about how best to implement our First Amendment rights in our engagement with Congress may add new channels and processes and make changes to existing ones, but existing channels will not easily go away. No one-size-fits-all solution exists when it comes to communications between Members and those they represent. As a result of vast differences in geography, connectivity, age, income, and skill that exist in our nation, phone calls, emails, social media, postal mail, and in-person visits still need to be welcomed and facilitated. They may look different in the future, or they may become obsolete and unused by constituents in the face of better tools and practices, but it is not likely an option at this point to close off any form of Member-constituent engagement.

10. Align expectations to available resources.

Constituent input into the public policy process is the backbone of our representative democracy, but presently—as at various other points in our history—the volume of input is overwhelming Congress' ability to glean value and meaning from it. Part of the current problem can be

attributed to unrealistic expectations for congressional responsiveness, operations, and process that must be addressed if democratic communications are to improve. Congress does not have the capacity to process and understand the breadth of constituent sentiment and information it needs to maximize its effectiveness. Whether it's implementing different ways of collaborating with constituents, changing rules and laws to facilitate better practices, reorganizing Congress to better manage it, increasing congressional resources, or some combination of these, it is imperative that Congress figure out how to allow Americans to engage meaningfully and substantively in public policy and the legislative process without overwhelming the operations of Congress.

These 10 principles are what CMF considers the "fundamentals" of Member-constituent engagement. Examining how they were historically incorporated into the House's engagement with the People, looking to examples of legislatures internationally, and exploring the ways in which legislatures and civil society in the U.S. are facilitating them will help us better understand how to incorporate these principles into modern forms of engagement that result in a more responsive Congress and a more satisfied constituency. Our current methods of engagement are falling short of many of these principles.

The time for innovation, adaptation, and evolution may be at hand, as COVID-19 has forced Senators and Representatives, their staffs, and their constituents to try new ways of engaging and working together remotely. By focusing on a new framework for how Members of Congress think about and practice constituent engagement, the Committee can help create a Congress that receives robust engagement from informed and interested constituents. Where those who are typically disengaged are included. Where every engagement builds trust in Members of Congress and legitimacy in governance. Where staff spend less time on the administrative tasks of responding to advocacy campaigns and more time understanding constituent needs and responding to them through public policy and oversight.

Thank you.