



POGO Panel on Congressional Oversight
Theory + Practice: Why It's Important, and Best Practices and Tips

I. Why is Oversight Important

a. Constitutionally-based legal basis.

- i. Separation of powers among co-equal branches of gov't.** Oversight is a duty of Congress to ensure that the laws are being effectively implemented by the executive branch.
- ii. Oversight especially important when one party in control of executive and legislature.** Our government is not a British government where they have a Prime Minister that is the leader of Parliament's majority party. Our founders established three branches of government, none of which is subservient to the other. Abdicating from the duty of oversight is not a feature of a fundamentally healthy democracy.

b. Oversight is important to be effective.

- i.** Most of what staff do is legislative, but laws aren't always implemented as expected: unforeseen consequences, loopholes, waste, fraud and abuse, changing of the times.
- ii. So, if you want your legislative work to actually translate into laws that work,** you need to oversee the statutes and programs in your committee's jurisdiction, and see what's happening. That dive into "what's happening" is Who, What, When, Where, Why, How.

II. Process of an Investigation: FACT-BASED, BIPARTISAN

a. Handout refers 3 types of hearings: Experts, Report, Original Research. This describes an Original Research hearing, which is more work and time intensive than the others, but process & lessons apply to all.

b. Identify the issue

c. Do Fact Gathering

i. Do It Confidentially.

- 1. HOW:** No press releases on investigation, no subpoenas on website, no comment until you're done.
- 2. WHY:** Operate in good faith that you're truly trying to understand something you don't fully know right now. Conclusion may change from hypothesis.

ii. Public Sources

- 1. Gov't:** CRS, GAO, IGs
- 2. Private sector:** SEC filings, investor calls interpreting filings and other material, FINRA Broker Check for individuals in finance
 - a.** For property/small companies, check the website of Secretary of State to learn about the corporate filings of a

business entity, may or may not be legit, who else is involved; also, property ownership

3. Court cases – check PACER, Westlaw/LexisNexis
 4. News. Set up google news alerts for automatic checks.
- iii. Not Yet Public Sources
1. Request a briefing. Use questions to inform what kind of docs you want to see. Where is information located; what department(s); what jobs.
 2. Request docs. Follow up your request to get material in a timely way.
 3. In lieu of docs, request answers to a set of questions, or to fill in a chart so you can compare across investigative sources. Or where docs may not be accessible, like Switzerland.
 - a. Actually read those docs. How else are you going to know what happened?
 - b. Don't just read a few or cherry-pick. If you don't pay attention to context, you'll look foolish if what appears on the doc itself isn't what you think it is, e.g., later corrected, an isolated incident.
 - c. Collect these docs in one place, one server.
 4. Whistleblowers
 5. Hold interviews with both majority and minority. Can't have two separate sets of facts. Share copy of interview binder.
- d. Make Public "What Happened" in a Bipartisan Narrative
- i. Can you write a narrative, a chronology, of what happened? Can you discipline yourself to write it without adverbs or adjectives? Can you cite every sentence? You will have a more robust, persuasive report.
 - ii. Report, and/or Hearing.
 - iii. Publish key docs or exhibits in report or at hearing. Footnote your report.
 - iv. Put it in context.
- e. Make Recommendations
- i. Majority and minority may not always agree on recommendations, but if you've made it this far in process together, you might just find some common ground.
- f. Follow-Up
- i. Press a fix
 1. Bring parties in to meet with staff
 2. Change internal policies & practices
 3. Hopefully, you will have gotten commitments at the hearing and be able to press them
 - ii. Legislate
 - iii. Use investigative record in other ways to push for change, such as weighing in on a rule or other action.

III. Final Thoughts

- a. **Do Oversight.** This is important work, if it's done right, at the core of how government operates and Congress carries out its function independently from the executive.
- b. **Do It Right.** Put in the time, get the facts right, resist pressure from bosses, press office, etc. to rush things or get too far out over your skies.
 - i. You're doing this for your boss and don't want to take that person down a notch b/c of a self-inflicted wound.
 - ii. And you, personally, are putting your name on the work -- on request letters, in interviews, in the staff report. This is a small bar of people that do oversight work and they have long memories. Build a reputation for yourself as a smart, tough but fair person, and you will be effective, whether you're in the majority or minority (a circumstance that will change at some point).
 - iii. On important issues, I believe the truth of the matter, eventually, comes out. Investigations have to fight delays or even cover-ups. But press your oversight efforts to be the definitive ones that are accurate, and over time, they will be authoritative.