



Congressional Oversight Training Seminars  
October 2006

## DOs and DON'Ts of an Oversight Hearing

### DO:

**Remember that oversight is Congress's constitutional right** – And it's also Congress's responsibility. Congress should be *checking* on executive institutions to keep the government *balanced*.

**Quality, not quantity of hearings** – Oversight hearings should be pervasive and focus on large problems. Effective government reform must also examine the less-sexy issues (e.g. arcane government contracting).

**Sell the proposed investigation to your Senator or Member** – There is no hearing if your boss isn't excited too—get them outraged! You are the filter and you know why this issue is important—highlight the important issues for the hearing in a way that will be salient to the masses. Popularize the issue and SELL IT.

**Research research research** – Make sure your Member or Senator knows what they're talking about. Check with government agencies, OMB, GAO, IGs, knowledgeable public interest groups, academics, whistleblowers, members of the press who are on the relevant beat or have background in the issue, the internet, and anyone else who might have useful information.

**Find the example** – As you research, research, research, keep an eye out for the example that will put a human face on the problem or otherwise make it tangible. Find the Department of Defense's \$640 toilet seat or the \$68,000 worth of dog booties purchased in response to Hurricane Katrina—these are the details that gather interest and make your hearing memorable.

**Pre-interview witnesses** – It will enable you to shape questions to get the most information out of your witnesses, *including government and corporate officials*, during the hearing. Pre-interviewing also prevents unexpected responses that might blindside the Senator or Member—with a pre-interview, you can have a response ready to (almost) every answer or surprise.

**Craft the opening statement carefully** – Your Member or Senator’s opening statement should address the major issues and concerns about to be revealed by the witness’s testimony. You should also be prepared to write opening statements for other members of the committee.

**Script the questions** – And anticipate the answers. While there will undoubtedly be some surprises in the hearing, you should be able to anticipate most of the testimony and be able to design questions that will get directly to what is at issue.

**Know the need for the Fire Alarm v. Police Patrolling** – There will be occasions for both. The fire alarm hearing is used to investigate when new information suddenly comes to light. Police patrolling—regular oversight of appropriations bills, etc—is also key for comprehensive congressional oversight.

**Choose a point person** – Someone on your staff should be the expert on the subject matter of the hearing. Whoever that is, put them next to the Member to feed the Member with responses to any unexpected answers that might come up during the hearing.

**Practice the hearing** – Government and corporate officials usually prepare to give testimony before their own “murder board” with a lobbyist or congressional liaison. You should be similarly rehearsed and prepared.

**Think carefully about timing** – Avoid putting the hearing near holidays or planned major news events—you’re not going to knock the State of the Union off the front page. Although the issue may seem urgent, it is often better to wait several weeks—or even months—to hold the hearing. With more time, the GAO may be able to put together a letter, testimony, or (with many months) a report to ground your concerns while you gather more information.

**Use the subpoena, but as a last resort** – Look for alternative and new ways to get information. Hopefully all of your sources will cooperate with your investigation, but if not, the subpoena is there as a last resort. Be sure to exhaust all of your resources, though, because otherwise the Committee chairman doesn’t want to hear about it.

**Use the Press!** – The press can be a great resource for additional information and may be able to guide you to sources that can help you frame the issue as a systemic problem. Leaks to the press over the extended period of time—especially if you develop a constant relationship with a particular reporter—can also create more interest for when the hearing happens. Moreover, change is unlikely unless you publicly “shame” the troubled agency or department. Why should the agency fix the problem if nobody knows or seems to care about it?

**Get out of the office** – Often whistleblowers will not be able to meet you in your office—you’re going to have to go to *them* if you want to get the crucial information for the hearing. And although the internet is a fabulous tool, sometimes you will have to get out of the office to get those hard-to-find interviews or documents.

**See if it’s a systemic problem** – While your office may not know, GAO, CRS, CBO, IG offices, and others probably do. Call them to see if they have any existing reports that address your concerns (it may be hidden in a report with a seemingly unrelated title) and if they don’t know, commission a report. Be sure to also check into older pieces of legislation that were supposed to have “solved” this or similar problems.

**Pick your witnesses carefully** – Focus on the witnesses who are credible for both addressing the big picture (when you need to educate the committee about the issue)—GAO, agency heads, and other higher-ups—and the particulars of the focused frame—the whistleblower, experts, and others more directly involved with the problem.

**Organize panels for maximum impact** – Consider the advantages and disadvantages of beginning the hearing with the government and corporate officials versus kicking it off with a whistleblower or someone else who will put a human face on the problem. In most cases you want to put the most newsworthy witnesses at the beginning and force the second panel of government and corporate officials respond to the first panel’s allegations. If you lead with the government and corporate officials, be sure to have them stay to respond to the second panel.

**Take good care of your sources** – While the whistleblower may have the best information and may be able to give the most sensational testimony, the whistleblower’s presence may focus the attention of the hearing away from the systemic problem in favor of criticizing the whistleblower. If the whistleblower is anonymous, keep them anonymous; there are little protections for whistleblowers and the whistleblower may risk retaliation for sitting on a panel or otherwise publicly criticizing an agency or department. An anonymous whistleblower’s primary purpose is to guide you to documents and information. Even if they are going to “go public” at the hearing, in some cases it may be best to keep the whistleblower a mystery up until the day of the hearing.

**Predict adversarial witnesses** – You’re going to have them. Know your stuff and plan responses to the witness’s testimony. Enable the Member to give a confident response and move on—do not allow the adversarial witness to sidetrack the hearing.

**Consider legislative solutions before or after the hearing** – While the goal of the investigative oversight hearing is to learn about the nature of the beast, the goal of the Congress is to figure out the proper way to reform the government for the better—to put the beast on a leash or fence it in, so to speak. While the problem may be the initial focus, the ultimate outcome should be a solution.

**Stay in touch with the players** – Follow-up with the witnesses to see if the problem is still occurring. The proposed solutions may not be working or they may not be implemented at all. It may take more than one hearing to solve the problem—keep up with it to see if an encore is necessary.

**Follow agency promises** – We’re all familiar with the ability to talk-the-talk without being able to walk-the-walk. Make sure that the agency is taking the proper steps and not just standing their ground in the troubled status quo. If they’re standing still, it may be time for another legislative solution—or another hearing.

**Conduct post-hearing oversight** – Conduct interviews with prepared questions afterwards. Like your tennis serve, an effective oversight hearing requires you to have a good follow-through. Good oversight does not end after the hearing.

## **DON’T:**

**Politicize the hearing** – The goal is not to simply bash the other side of the aisle. If the hearing is obviously politically motivated, the media and the public will not pay attention.

**Be afraid to pick up the phone** – Google is a great thing, but an actual employee can give you a better idea of what information is available, and much more quickly. A GAO employee may be able to direct you to a report that you would have missed. Also, IGs and GAO employees frequently have valuable information that might not have made it into the final version of the report—ask them about it!

**Rush it** – Wait until you have enough information for a hearing so that the committee can examine the issue in a comprehensive way. The goal of an oversight hearing is to discover information—a hurried hearing may result in too many questions that could have easily been answered beforehand if more time and effort was put into the preparation.

**Book it in the afternoon** – And especially not on a Friday. By the afternoon, most press deadlines have passed. On Friday, the hearing risks getting bumped off the news broadcast in lieu of another celebrity adoption. A congressional oversight hearing is newsworthy business—let it get the copy it deserves.

**Wait until the day of the hearing to get the news out** – A press release the day of the hearing should not be your first contact with the media. Give reporters enough time and information to do reporting *before* the hearing. Also consider running a story the day of the hearing to add energy—headlines work like a double shot of espresso.