

## CONGRESSIONAL FELLOWSHIP REPORT

# Senate Subcommittee Probes Causes of Financial Crisis

Kevin Wack, *Congressional Oversight Panel*

The assignment before me was far more ambitious than any story I'd ever pitched to an editor. I wouldn't have dared to try, for fear of being laughed out of the newsroom. But I was now away from journalism, spending eight months as an APSA Congressional Fellow on Capitol Hill. I was told to think big.

"We're going to be investigating the causes of the global financial crisis," my new boss told me.

Okay—no problem!?! And if you need to reach me during my free time, I'll be out healing the sick and raising the dead.

It was early January 2009, a time of great anticipation in Washington. Would Obama be able to pass health-care reform? Climate change legislation? Pundits were predicting a historic flurry of major laws. But would the White House be able to change the hyper-partisan atmosphere in Washington, as the incoming president promised during the campaign?

Amid all the hope and hoopla, it was surprisingly easy to look past the fact that the nation was still in the midst of an epic economic mess. But just a few months earlier, we were all ready to start using our mattresses as ATMs. The federal government's takeover of Fannie Mae and Freddie Mac had been followed by the Lehman Brothers collapse, the shotgun marriage of Bank of America and Merrill Lynch, the bailout of AIG, a market panic that threatened even the safest lending, the decision to more than double the FDIC's insured deposit limit, and the \$700 billion bank bailout. All in the span of about a month.

By January, the emerging consensus was that our nation's financial regulatory system needed a major overhaul. But there were many divergent ideas about what changes should be made. Senator Carl Levin (D-MI),

who chairs the Senate Permanent Subcommittee on Investigations, asked the subcommittee's staff to take an in-depth look at what caused the crisis. The idea was that it would be impossible to find the right remedies without a thoughtful accounting of the past.

This is the just kind of in-depth work that the Permanent Subcommittee on Investigations has done, on issue after issue, for more than six decades. The subcommittee has a colorful history, which includes periods of both great triumph and scandal, as well as a set of rules and practices that make it unique among congressional oversight panels.

The subcommittee's forerunner was the World War II-era Special Committee to Investigate the National Defense Program. Established in March 1941, this panel was chaired until 1944 by senator Harry Truman (D-MO), and it came to be known as the Truman Committee. At the time Congress established this committee, Truman did not have a great deal of national stature. But as the Committee's investigations led to the exposure of waste, fraud, and abuse in defense contracting, Truman's profile grew. One committee inquiry probed waste in the construction of Army camps. Another led to a reorganization of the Navy's Bureau of Ships. A third prompted the creation of the War Production Board. President Franklin Roosevelt's decision to replace vice president Henry Wallace with Truman on the 1944 ticket has often been attributed to the respect that Truman earned from his wartime committee's work.

Ironically, the committee that helped fuel Truman's rise to the presidency also led to the creation of another Senate panel that caused him embarrassment after he reached the White House. The Permanent Subcommittee on Investigations was formed in 1948, the same year that the Truman Committee was disbanded, and the earlier committee's investigative expertise was absorbed into the new panel. But the subcommittee had a wider mandate than its predecessor—to investigate inefficiencies throughout the government. And under the chairmanship

of senator Clyde Hoey (D-NC), the subcommittee in 1949 and 1950 examined Washington lobbyists with cozy ties to government officials. These lobbyists became known as 5-percenters, since they often took 5% of the government contracts they helped win for their clients. Engulfed in the investigation were major general Harry Vaughan, a military advisor to the president, and Matthew Connelly, who was then Truman's presidential secretary. Connelly was a former investigator on the Truman Committee, and he eventually went to prison for tax fraud conspiracy.

In 1953, after the Republicans won control of the Senate, the subcommittee got a new chairman, senator Joseph McCarthy of Wisconsin. McCarthy used the perch to continue his ongoing campaign against suspected Communists. His chief counsel was Roy Cohn, a young lawyer who had made his name by successfully prosecuting Julius and Ethel Rosenberg. Also on McCarthy's staff in 1953 was a 27-year-old Robert F. Kennedy. The two ambitious upstarts clashed—"I think there was very deep animosity," the subcommittee's longtime clerk, Ruth Young Watt, later recalled—and Kennedy left the subcommittee after less than a year.

As it turned out, Kennedy may have departed just in time to avoid damaging his own reputation. In 1954, McCarthy staged hearings that looked at alleged Communist infiltration into the U.S. Army. The Army-McCarthy hearings, which started in April 1954, would help to hasten Joe McCarthy's downfall. "Televised nationwide, the hearings went on for 35 days and showed McCarthy to be inconsiderate and heavy-handed," senator Sam Nunn wrote in a 1986 article about the impact of the subcommittee's work. At a June 9, 1954, hearing, Army special counsel Joseph Welch famously dressed down McCarthy: "Have you no sense of decency, sir, at long last? Have you no sense of decency?" Within three months, a Republican senator from Vermont, Ralph Flanders, introduced a resolution of censure against McCarthy. The GOP-controlled Senate passed the measure in December 1954, and McCarthy's career

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went into a sharp decline.

When senator John McClellan (D-AR) became the subcommittee's chairman in 1955, he brought back Bobby Kennedy as his chief counsel. That year, the subcommittee sought to turn the page on the McCarthy era, issuing a report that found no evidence of Communist infiltration at two Army bases. Soon thereafter, the subcommittee turned its attention to organized labor and organized crime, areas where it would make a tremendous impact over the upcoming decade. In 1957, based on information developed by the subcommittee, the Senate established the Special Select Committee on Improper Activities in the Labor or Management Field, which was chaired by McClellan. That unusual step was reportedly taken because of concerns among labor leaders and Democratic senators that, because of the precarious Democratic majority in the Senate, the subcommittee could fall back into Joe McCarthy's hands.

The Special Select Committee was chaired by McClellan, and Kennedy stayed on as his chief counsel. Assembling a staff of unprecedented size, roughly 100 people, they spent three years investigating criminal influence over labor unions. The committee's effort was massive; more than 500 hearings were held, with more than 1,500 witnesses. Teamsters president Jimmy Hoffa, whose rise to power was suspected of being aided by organized crime figures, was among those called to testify. Those hearings have been credited with assisting the rise to national prominence of another member of the panel who later became president, senator John F. Kennedy (D-MA).

After the Special Select Committee was disbanded, the subcommittee in the early 1960s continued to investigate criminal organizations, apart from their involvement with labor unions. In 1962, a New York crime figure named Joseph Valachi became the first member of the Mafia to speak publicly about La Cosa Nostra's structure and operations. Valachi's story would be made into a book and a movie that starred Charles Bronson, but it also had a deep impact on how federal law enforcement agencies dealt with organized crime. Bobby Kennedy, who was by then attorney general, called Valachi's testimony the "biggest single intelligence breakthrough yet in combating organized crime and racketeering in the United States." As attorney general, Kennedy would go on to institute a number of transformative new law-enforcement tactics, including the use of tax information to investigate mob figures.

McClellan remained the Subcommittee's

chairman until 1973, when he was replaced by senator Henry "Scoop" Jackson (D-WA). But much of the subcommittee's history over the next two-plus decades would be dominated by senator Sam Nunn (D-GA) and senator William Roth (R-DE). They would trade off the chairmanship four times between 1979 and 1996. Nunn's achievements included investigations of the spread of chemical and biological weapons, abuses in a federal student loan program, and health-care fraud. Roth investigated offshore banking, fraud involving the commodities markets, and money laundering, among other issues. Roth's pursuit of financial misdeeds has been carried forward by successors from both parties. Since 1996, the subcommittee has been chaired by senator Susan Collins (R-ME) senator Norm Coleman (R-MN), and senator Carl Levin (D-MI), and all three have conducted investigations of complex financial matters. Collins' investigations included probes of mortgage fraud and day trading. Coleman, in addition to investigating Saddam Hussein's misuse of the United Nations's oil-for-food program, looked at abusive practices in the credit counseling industry. Levin investigated the collapse of Enron, offshore tax abuse and tax shelters, the role that U.S. banks played in helping former Chilean president Augusto Pinochet and other foreign leaders to hide their wealth, and speculation in the commodity markets.

Whenever the subcommittee conducts an investigation, the hearings and the written findings are not the ultimate goal. The ultimate goal is passing laws that might help remedy the problems documented during the investigation. And over the years, many pieces of important legislation have grown out of the subcommittee's investigations. The investigations of labor unions led to the passage in 1959 of the Landrum-Griffin Act, which contains a bill of rights for union members. The probes of the Mafia helped lead to the Organized Crime Control Act of 1970, which included the Racketeer Influenced and Corrupt Organizations provision. This measure, known as the RICO provision, gave prosecutors a powerful new tool for disrupting criminal enterprises. More recently, money-laundering investigations led by Levin helped produce provisions in the 2001 USA Patriot Act that put a greater burden on banks to verify the sources of their deposits. And two hearings that scrutinized the credit-card industry in 2007 helped pave the way for the landmark credit-card law signed by President Obama in May 2009.

Over the years, the subcommittee's juris-

diction has expanded, and today it has wide authority to launch probes of both government operations and the private sector. The areas within the subcommittee's sphere include: the efficiency of the federal government; the compliance of corporations and companies with U.S. laws and regulations; the relationship between private businesses and the public; energy trading; offshore banking; organized crime; and all other aspects of crime in the United States that affect national health, welfare, and safety. This wide jurisdiction is one characteristic that distinguishes the subcommittee from other investigative panels in the Senate, but it's not the only one.

Although it is part of the Senate Homeland Security and Governmental Affairs Committee, the subcommittee hires its own staff and develops its own agenda. It's significantly easier for the subcommittee to issue subpoenas than it is for many other investigative panels in Congress. Under the subcommittee's rules, its chairman has unilateral authority to issue subpoenas, after giving notice to the ranking minority member, as well to the chairman and ranking minority member on the full committee. The subcommittee also has a long history of bipartisanship. Members of the majority staff and the minority staff invite each other to interviews they're conducting as part of their investigations. And they share on a bipartisan basis all of the investigative documents they obtain.

But perhaps the subcommittee's most unusual trait is the amount of time and attention it puts into each investigation. Other investigative panels on Capitol Hill usually hold more hearings, and they generally conduct investigations relatively quickly. That approach has certain advantages; the House panel's hearings often get a great deal of media attention because they're held just as an issue is percolating in the public imagination. Of course, the Senate was meant to be more deliberative than the House, but the Permanent Subcommittee on Investigations can be slow moving even in comparison with other Senate oversight panels. As Elise Bean, the subcommittee's chief counsel, says, "We're usually the last ones out of the box, but we have also dug the deepest." This approach has allowed the subcommittee to carve out a niche as a rare place on Capitol Hill with the time and resources to conduct investigations that delve deep beneath the surface of complex issues. When the subcommittee issues its reports, they tend to become one of the most definitive sources

of information about the issue.

Today, the subcommittee's offices remain where they've been for decades—a high-ceilinged subterranean lair inside the Russell Senate Office Building. Unlike many offices on Capitol Hill, through which members shuffle as they jockey for more space, the place has a lived-in quality. Photos of Harry Truman and Joe McCarthy still adorn the walls, and staffers relish passing along tales—including a few of questionable veracity—about the place's history.

“That desk over there—that was Bobby Kennedy's.”

“The traditional happy-hour drink for our staffers is a Manhattan, since that was McCarthy's cocktail of choice.”

I arrived at the subcommittee as a fellow with the American Political Science Association's Congressional Fellowship Program. My previous job had been as an investigative reporter for the *Portland Press Herald* in Maine, and I was attracted to the subcommittee in large part because of my professional background. But I quickly learned there are some important differences between the job of an investigative reporter and that of a Hill investigator. Congressional inquiries are very serious business, and as a result people are generally willing to cooperate. During my eight months with the subcommittee, I participated in many long meetings with representatives of firms whose business practices we were scrutinizing. Nonetheless, virtually all of these sessions were quite cordial. Folks

politely accepted our requests for interviews, patiently answered our questions, and in many cases even arrived with detailed presentations. If I'd called the same people as an investigative reporter, I'd probably have gotten a curt “no comment.”

Subpoena power was another part of the job that took some getting used to. On the surface, drafting a subpoena is similar to writing a Freedom of Information Act request, something I did many times as a journalist. I might dash off a Freedom of Information request in less than an hour, and I often sensed that government agencies spent just as little time responding to them. Writing subpoenas was different. I participated in the drafting of several, and I was struck by how much time and attention went into each one. It often takes a lot of resources to respond to a congressional subpoena, and the subcommittee does not issue them lightly. When they do, they try to strike the proper balance between ensuring they will receive enough information to conduct a thorough investigation and causing an undue burden to the recipient. Investigative journalists tend to act like bulls in a china shop, which is as it should be—they're outsiders whose job is to hold power to account. Congressional investigators, on the other hand, are insiders who have significant clout of their own. And from what I observed, they understand the need to use that power responsibly.

Finally, it took me some time to adjust to the comparatively slow pace and teamwork

required by the subcommittee's investigations. As an investigative reporter, when I came across a promising lead, I had the opportunity to pick up the phone and pursue it. In Congress, I often wrote a memo and waited. This was sometimes frustrating, but it was obviously necessary. There's no room for freelancers in a congressional probe. There needs to be a single vision—and a central decision maker—especially in an investigation as potentially sprawling as our inquiry into the causes of the financial crisis.

When I arrived on the Hill in January, I hoped that I would still be on staff for at least the first hearing in the financial crisis investigation. That didn't happen. This article was written in August, at which point all the details of the subcommittee's work remained confidential, and a public hearing was still months away. Still, my eight months on Capitol Hill made for an enjoyable but unforeseeable ride. The Obama administration unveiled its proposal for financial regulatory reform. The U.S. economy began to show signs of life despite high unemployment and continuing problems in the credit markets. Congress established a bipartisan commission to explore the roots of the financial crisis—essentially a higher-profile panel asking the same questions as the subcommittee. All the while, the subcommittee methodically amassed a great deal of information about the causes of the meltdown. Financial reform was coming, and it was not too late to influence the outcome. ■

## CONGRESSIONAL FELLOWSHIP REPORT

# A Glimpse of History: Working for the House Majority Whip in the Early Days of the 111th Congress

Bryan W. Marshall, *Miami University*

### A FIRST DAY TO REMEMBER

The rapidity, duration, and intensity of it all caught me by surprise. Nearly at a full run, I dashed through a corridor and down a winding staircase to my first morning meeting. I took a place along a wall with a few other staff, but my eyes were fixed

upon the principals. Gathered around a vast table were the chairs, the majority leader, and my boss—the house majority whip.<sup>1</sup> The discourse was mostly heavy—President Obama's historic election, the burden of leadership, and the daunting task to balance politics and policy in order to deliver on the promises and hopes of the people who sent them. The immediate business was expanding children's health insurance and a stimulus package to turn

around an economy teetering on the brink. The majority leader was resolute. Congress would need to deliver bold actions in order to overcome the deep anxiety of the times and to build confidence for the long struggle ahead. The whip was equally resolute as he summoned back hard lessons from lost eras—Roosevelt's New Deal and Truman's Fair Deal. Congress could not allow mistakes of the past to be repeated. With a clear appreciation of history, the whip

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