

## **PERMANENT SUBCOMMITTEE ON INVESTIGATIONS HISTORICAL BACKGROUND**

### **A. Subcommittee Jurisdiction**

The Permanent Subcommittee on Investigations was originally authorized by Senate Resolution 189 on January 28, 1948. At its creation in 1948, the Subcommittee was part of the Committee on Expenditures in the Executive Departments. The Subcommittee's records and broad investigative jurisdiction over government operations and national security issues, however, actually antedate its creation, since it was given custody of the jurisdiction of the former Special Committee to Investigate the National Defense Program (the so-called "War Investigating Committee" or "Truman Committee"), chaired by Senator Harry S. Truman during the Second World War and charged with exposing waste, fraud, and abuse in the war effort and war profiteering. Today, the Subcommittee is part of the Committee on Homeland Security and Governmental Affairs.<sup>1</sup>

The Subcommittee has had eleven chairmen: Senators Homer Ferguson of Michigan (1948); Clyde R. Hoey of North Carolina (1949–1952); Joseph R. McCarthy of Wisconsin (1953–1954); John L. McClellan of Arkansas (1955–1972); Henry M. Jackson of Washington (1973–1978); Sam Nunn of Georgia (1979–1980 and 1987–1994); William V. Roth of Delaware (1981–1986 and 1995–1996); Susan M. Collins of Maine (1997–2001); Norman B. Coleman of Minnesota (2003–2007); Carl M. Levin of Michigan (2001–2002 and 2007–2014); and Robert J. Portman of Ohio (2015–present).

Until 1957, the Subcommittee's jurisdiction focused principally on waste, inefficiency, impropriety, and illegality in government operations. Its jurisdiction then expanded over time, today encompassing investigations within the broad ambit of its parent committee's responsibility for matters relating to the efficiency and economy of operations of all branches of the government, including matters related to: (a) waste, fraud, abuse, malfeasance, and unethical practices in government contracting and operations; (b) organized criminal activities affecting interstate or international commerce; (c) criminal activity affecting the national health, welfare, or safety, including investment fraud, commodity and securities fraud, computer fraud, and offshore abuses; (d) criminality or improper practices in labor-management relations; (e) the effectiveness of present national security methods, staffing and procedures, and U.S. relationships with international organizations concerned with national security; (f) energy shortages, energy pricing, management of government-owned or controlled energy supplies, and relationships with oil producing and consuming countries; and (g) the operations and management of Federal regulatory policies and programs. While retaining the status of a subcommittee of a standing committee, the Subcommittee has long exercised its authority on an independent basis, selecting its own staff, issuing its own subpoenas, and determining its own investigatory agenda.

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<sup>1</sup> In 1952, the parent committee's name was changed to the Committee on Government Operations. It was changed again in early 1977, to the Committee on Governmental Affairs, and again in 2005, to the Committee on Homeland Security and Governmental Affairs, its present title.

The Subcommittee acquired its sweeping jurisdiction in several successive stages. In 1957—based on information developed by the Subcommittee—the Senate passed a Resolution establishing a Select Committee on Improper Activities in the Labor or Management Field. Chaired by Senator McClellan, who also chaired the Subcommittee at that time, the Select Committee was composed of eight Senators—four of whom were drawn from the Permanent Subcommittee on Investigations and four from the Committee on Labor and Public Welfare. The Select Committee operated for three years, sharing office space, personnel, and other facilities with the Permanent Subcommittee. Upon its expiration in early 1960, the Select Committee’s jurisdiction and files were transferred to the Permanent Subcommittee, greatly enlarging the latter body’s investigative authority in the labor-management area.

The Subcommittee’s jurisdiction expanded further during the 1960s and 1970s. In 1961, for example, it received authority to make inquiries into matters pertaining to organized crime and, in 1963, held the famous Valachi hearings examining the inner workings of the Italian Mafia. In 1967, following a summer of riots and other civil disturbances, the Senate approved a Resolution directing the Subcommittee to investigate the causes of this disorder and to recommend corrective action. In January 1973, the Subcommittee acquired its national security mandate when it merged with the National Security Subcommittee. With this merger, the Subcommittee’s jurisdiction was broadened to include inquiries concerning the adequacy of national security staffing and procedures, relations with international organizations, technology transfer issues, and related matters. In 1974, in reaction to the gasoline shortages precipitated by the Arab-Israeli war of October 1973, the Subcommittee acquired jurisdiction to investigate the control and management of energy resources and supplies as well as energy pricing issues.

In 1997, the full Committee on Governmental Affairs was charged by the Senate to conduct a special examination into illegal or improper activities in connection with Federal election campaigns during the 1996 election cycle. The Permanent Subcommittee provided substantial resources and assistance to this investigation, contributing to a greater public understanding of what happened, to subsequent criminal and civil legal actions taken against wrongdoers, and to enactment of campaign finance reforms in 2001.

In 1998, the Subcommittee marked the fiftieth anniversary of the Truman Committee’s conversion into a permanent subcommittee of the U.S. Senate.<sup>2</sup> Since then, the Subcommittee has developed particular expertise in complex financial matters, examining the collapse of Enron Corporation in 2001, the key causes of the 2008 financial crisis, structured finance abuses, financial fraud, unfair credit practices, money laundering, commodity speculation, and a wide range of offshore and tax haven abuses. It has also focused on issues involving health care fraud, foreign corruption, and waste, fraud, and abuse in government programs. In the half-century of its existence, the Subcommittee’s many successful investigations have made clear to the Senate

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<sup>2</sup> This anniversary also marked the first date upon which internal Subcommittee records generally began to become available to the public. Unlike most standing committees of the Senate whose previously unpublished records open after a period of twenty years has elapsed, the Permanent Subcommittee on Investigations, as an investigatory body, may close its records for fifty years to protect personal privacy and the integrity of the investigatory process. With this 50th anniversary, the Subcommittee’s earliest records, housed in the Center for Legislative Archives at the National Archives and Records Administration, began to open seriatim. The records of the predecessor committee—the Truman Committee—were opened by Senator Nunn in 1980.

the importance of retaining a standing investigatory body devoted to keeping government not only efficient and effective, but also honest and accountable.

## **B. Subcommittee Investigations**

Armed with its broad jurisdictional mandate, the Subcommittee has conducted investigations into a wide variety of topics of public concern, ranging from financial misconduct, to commodities speculation, predatory lending, and tax evasion. Over the years, the Subcommittee has also conducted investigations into criminal wrongdoing, including money laundering, the narcotics trade, child pornography, labor racketeering, human trafficking, the opioid crisis, and organized crime activities. In addition, the Subcommittee has investigated a wide range of allegations of waste, fraud, and abuse in government programs and consumer protection issues, addressing problems ranging from unfair credit card practices to health care fraud. In the 115th Congress, the Subcommittee held six hearings and issued six reports on a wide range of issues, including online sex trafficking; the shipment of illicit opioids through U.S. postal mail; the Department of Health and Human Services' care of unaccompanied alien children; the federal infrastructure permitting process; sanctions compliance and the nuclear agreement with Iran; and the pricing of prescription drugs.

### **(1) Historical Highlights**

The Subcommittee's investigatory record as a permanent Senate body began under the chairmanship of Republican Senator Homer Ferguson and his Chief Counsel (and future Attorney General and Secretary of State) William P. Rogers, as the Subcommittee inherited the Truman Committee's role in investigating fraud and waste in U.S. Government operations. This investigative work became particularly colorful under the chairmanship of Senator Clyde Hoey, a North Carolina Democrat who took the chair from Senator Ferguson after the 1948 elections. Under Senator Hoey's leadership, the Subcommittee won national attention for its investigation of the so-called "five percenters," notorious Washington lobbyists who charged their clients five percent of the profits from any federal contracts they obtained on the client's behalf. Given the Subcommittee's jurisdictional inheritance from the Truman Committee, it is perhaps ironic that the "five percenters" investigation raised allegations of bribery and influence-peddling that reached right into the White House and implicated members of President Truman's staff. In any event, the fledgling Subcommittee was off to a rapid start.

What began as colorful soon became contentious. When Republicans returned to the majority in the Senate in 1953, Wisconsin's junior senator, Joseph R. McCarthy, became the Subcommittee's chairman. Two years earlier, as Ranking Minority Member, Senator McCarthy had arranged for another Republican senator, Margaret Chase Smith of Maine, to be removed from the Subcommittee. Senator Smith's offense, in Senator McCarthy's eyes, was her issuance of a "Declaration of Conscience" repudiating those who made unfounded charges and used character assassination against their political opponents. Although Senator Smith had carefully declined to name any specific offender, her remarks were universally recognized as criticism of Senator McCarthy's accusations that Communists had infiltrated the State Department and other government agencies. Senator McCarthy retaliated by engineering Senator Smith's removal, replacing her with the newly-elected senator from California, Richard Nixon.

Upon becoming Subcommittee Chairman, Senator McCarthy staged a series of highly publicized anti-Communist investigations, culminating in an inquiry into Communism within the U.S. Army, which became known as the Army-McCarthy hearings. During the latter portion of those hearings, in which the parent Committee examined the Wisconsin Senator's attacks on the Army, Senator McCarthy recused himself, leaving South Dakota Senator Karl Mundt to serve as Acting Chairman of the Subcommittee. Gavel-to-gavel television coverage of the hearings helped turn the tide against Senator McCarthy by raising public concern about his treatment of witnesses and cavalier use of evidence. In December 1954, the Senate censured Senator McCarthy for unbecoming conduct. In the following year, the Subcommittee adopted new rules of procedure that better protected the rights of witnesses. The Subcommittee also strengthened the rules ensuring the right of both parties on the Subcommittee to appoint staff, initiate and approve investigations, and review all information in the Subcommittee's possession.

In 1955, Senator John McClellan of Arkansas began eighteen years of service as Chairman of the Permanent Subcommittee on Investigations. Senator McClellan appointed a young Robert F. Kennedy as the Subcommittee's Chief Counsel. That same year, members of the Subcommittee were joined by members of the Senate Labor and Public Welfare Committee on a special committee to investigate labor racketeering. Chaired by Senator McClellan and staffed by Robert Kennedy and other Subcommittee staff members, this special committee directed much of its attention to criminal influence over the Teamsters Union, most famously calling Teamster leaders Dave Beck and Jimmy Hoffa to testify. The televised hearings of the special committee also introduced Senators Barry Goldwater and John F. Kennedy to the nation, as well as led to passage of the Landrum-Griffin Labor Act.

After the special committee completed its work, the Permanent Subcommittee on Investigations continued to investigate organized crime. In 1962, the Subcommittee held hearings during which Joseph Valachi outlined the activities of La Cosa Nostra, or the Mafia. Former Subcommittee staffer Robert Kennedy—who had by then become Attorney General in his brother's administration—used this information to prosecute prominent mob leaders and their accomplices. The Subcommittee's investigations also led to passage of major legislation against organized crime, most notably the Racketeer Influenced and Corrupt Organizations (RICO) provisions of the Crime Control Act of 1970. Under Chairman McClellan, the Subcommittee also investigated fraud in the purchase of military uniforms, corruption in the Department of Agriculture's grain storage program, securities fraud, and civil disorders and acts of terrorism. In addition, from 1962 to 1970, the Subcommittee conducted an extensive probe of political interference in the awarding of government contracts for the Pentagon's ill-fated TFX ("tactical fighter, experimental") aircraft. In 1968, the Subcommittee also examined charges of corruption in U.S. servicemen's clubs in Vietnam and elsewhere around the world.

In 1973, Senator Henry "Scoop" Jackson, a Democrat from Washington, replaced Senator McClellan as the Subcommittee's chairman. During his tenure, recalled Chief Clerk Ruth Young Watt—who served in this position from the Subcommittee's founding until her retirement in 1979—Ranking Minority Member Charles Percy, an Illinois Republican, became more active on the Subcommittee than Chairman Jackson, who was often distracted by his

Chairmanship of the Interior Committee and his active role on the Armed Services Committee.<sup>3</sup> Senator Percy also worked closely with Georgia Democrat Sam Nunn, a Subcommittee member who subsequently succeeded Senator Jackson as Subcommittee Chairman in 1979. As Chairman, Senator Nunn continued the Subcommittee's investigations into the role of organized crime in labor-management relations and also investigated pension fraud.

Regular reversals of political fortunes in the Senate during the 1980s and 1990s saw Senator Nunn trade the chairmanship three times with Delaware Republican William Roth. Senator Nunn served from 1979 to 1980 and again from 1987 to 1995, while Senator Roth served from 1981 to 1986, and again from 1995 to 1996. These fifteen years saw a strengthening of the Subcommittee's bipartisan tradition in which investigations were initiated by either the majority or minority and fully supported by the entire Subcommittee. For his part, Senator Roth led a wide range of investigations into commodity investment fraud, offshore banking schemes, money laundering, and child pornography. Senator Nunn led inquiries into federal drug policy, the global spread of chemical and biological weapons, abuses in federal student aid programs, computer security, airline safety, and health care fraud. Senator Nunn also appointed the Subcommittee's first female counsel, Eleanor Hill, who served as Chief Counsel to the Minority from 1982 to 1986 and then as Chief Counsel from 1987 to 1995.

Strong bipartisan traditions continued in the 105th Congress when, in January 1997, Republican Senator Susan Collins of Maine became the first woman to chair the Permanent Subcommittee on Investigations. Senator John Glenn of Ohio became the Ranking Minority Member, while also serving as Ranking Minority Member of the full Committee. Two years later, in the 106th Congress, after Senator Glenn's retirement, Michigan Democrat Carl Levin succeeded him as the Subcommittee's Ranking Minority Member. During Senator Collins's chairmanship, the Subcommittee conducted investigations into issues affecting Americans in their day-to-day lives, including mortgage fraud, deceptive mailings and sweepstakes promotions, phony credentials obtained through the Internet, day trading of securities, and securities fraud on the Internet. Senator Levin initiated an investigation into money laundering. At his request, in 1999, the Subcommittee held hearings on money laundering issues affecting private banking services provided to wealthy individuals, and, in 2001, on how major U.S. banks providing correspondent accounts to offshore banks were being used to advance money laundering and other criminal schemes.

During the 107th Congress, both Senator Collins and Senator Levin chaired the Subcommittee. Senator Collins served as Chairman until June 2001, when the Senate majority changed hands; at that point, Senator Levin assumed the chairmanship and Senator Collins, in turn, became the Ranking Minority Member. In her first six months chairing the Subcommittee at the start of the 107th Congress, Senator Collins held hearings examining issues related to cross-border fraud, the improper operation of tissue banks, and federal programs designed to fight diabetes. When Senator Levin assumed the chairmanship, as his first major effort, the Subcommittee initiated an 18-month bipartisan investigation into the Enron Corporation, which had collapsed into bankruptcy. As part of that investigation, the Subcommittee reviewed over

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<sup>3</sup> It had not been uncommon in the Subcommittee's history for the Chairman and Ranking Minority Member to work together closely despite partisan differences, but Senator Percy was unusually active while in the minority—a role that included his chairing an investigation of the hearing aid industry.

two million pages of documents, conducted more than one hundred interviews, held four hearings, and issued three bipartisan reports focusing on the role played by Enron's Board of Directors, Enron's use of tax shelters and structured financial instruments, and how major U.S. financial institutions contributed to Enron's accounting deceptions, corporate abuses, and ultimate collapse. The Subcommittee's investigative work contributed to passage of the Sarbanes-Oxley Act, which enacted accounting and corporate reforms in July 2002. In addition, Senator Levin continued the money laundering investigation initiated while he was the Ranking Minority Member, and the Subcommittee's work contributed to enactment of major reforms strengthening U.S. anti-money laundering laws in the 2001 USA PATRIOT Act (Patriot Act). Also during the 107th Congress, the Subcommittee opened new investigations into offshore tax abuses, border security, and abusive practices related to the pricing of gasoline and other fuels.

In January 2003, at the start of the 108th Congress, after the Senate majority party again changed hands, Senator Collins was elevated to Chairman of the full Committee on Governmental Affairs, and Republican Senator Norman Coleman of Minnesota became Chairman of the Subcommittee. Over the next two years, Senator Coleman held hearings on topics of national and global concern including illegal file sharing on peer-to-peer networks, abusive practices in the credit counseling industry, the dangers of purchasing pharmaceuticals over the Internet, SARS preparedness, border security, and how the former Iraqi President Saddam Hussein had abused the United Nations Oil-for-Food Program. At the request of Senator Levin, then Ranking Minority Member, the Subcommittee examined how some U.S. accounting firms, banks, investment firms, and tax lawyers were designing, promoting, and implementing abusive tax shelters across the country. Also at Senator Levin's request, the Subcommittee investigated how some U.S. financial institutions were failing to comply with anti-money laundering controls mandated by the Patriot Act, using as a case history Riggs Bank accounts involving Augusto Pinochet, the former President of Chile, and Equatorial Guinea, an oil-rich country in Africa.

During the 109th Congress, Senator Coleman held additional hearings on abuses associated with the United Nation's Oil-for-Food Program and initiated a series of hearings on federal contractors who were paid with taxpayer dollars but failed to meet their own tax obligations, resulting in billions of dollars in unpaid taxes. He also held hearings on border security issues, securing the global supply chain, federal travel abuses, abusive tax refund loans, and unfair energy pricing. At Senator Levin's request, the Subcommittee held hearings on offshore tax abuses responsible for \$100 billion in unpaid taxes each year, and on U.S. vulnerabilities caused by states forming two million companies each year with hidden owners.

During the 110th Congress, in January 2007, after the Senate majority shifted, Senator Levin once again became Subcommittee Chairman, while Senator Coleman became the Ranking Minority Member. Senator Levin chaired the Subcommittee for the next seven years. He focused the Subcommittee on investigations into complex financial and tax matters, including unfair credit card practices, executive stock option abuses, excessive speculation in the natural gas and crude oil markets, and offshore tax abuses involving tax haven banks and non-U.S. persons dodging payment of U.S. taxes on U.S. stock dividends. The Subcommittee's work contributed to enactment of two landmark bills, the Credit Card Accountability Responsibility and Disclosure Act (Credit CARD Act), which reformed credit card practices, and the Foreign

Account Tax Compliance Act (FATCA), which tackled the problem of hidden offshore bank accounts used by U.S. persons to dodge U.S. taxes. At the request of Senator Coleman, the Subcommittee also conducted bipartisan investigations into Medicare and Medicaid health care providers who cheat on their taxes, fraudulent Medicare claims involving deceased doctors or inappropriate diagnosis codes, U.S. dirty bomb vulnerabilities, federal payroll tax abuses, abusive practices involving transit benefits, and problems involving the United Nations Development Program.

During the 111th Congress, Senator Levin continued as Subcommittee Chairman, while Senator Tom Coburn joined the Subcommittee as its Ranking Minority Member. Under their leadership, the Subcommittee dedicated much of its resources to a bipartisan investigation into key causes of the 2008 financial crisis, looking in particular at the role of high-risk home loans, regulatory failures, inflated credit ratings, and high-risk, conflicts-ridden financial products designed and sold by investment banks. The Subcommittee held four hearings and released thousands of documents. The Subcommittee's work contributed to passage of another landmark financial reform bill, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. In addition, the Subcommittee held hearings on excessive speculation in the wheat market, tax haven banks that helped U.S. clients evade U.S. taxes, how to keep foreign corruption out of the United States, and Social Security disability fraud.

During the 112th Congress, Senator Levin and Senator Coburn continued in their respective roles as Chairman and Ranking Minority Member of the Subcommittee. In a series of bipartisan investigations, the Subcommittee examined how a global banking giant, HSBC, exposed the U.S. financial system to an array of money laundering, drug trafficking, and terrorist financing risks due to poor anti-money laundering controls; how two U.S. multinational corporations, Microsoft and Hewlett Packard engaged in offshore tax abuses; and how excessive commodity speculation by mutual funds and others were taking place without Dodd-Frank safeguards such as position limits being put into effect. At the request of Senator Coburn, the Subcommittee also conducted bipartisan investigations into problems with Social Security disability determinations that, due to poor procedures, perfunctory hearings, and poor quality decisions, resulted in over one in five disability cases containing errors or inadequate justifications; how Department of Homeland Security state and local intelligence fusion centers failed to yield significant, useful information to support federal counterterrorism efforts; and how certain federal contractors that received taxpayer dollars through stimulus funding failed to pay their federal taxes.

During the 113th Congress, Senator Levin continued as Chairman, while Senator John McCain joined the Subcommittee as its Ranking Minority Member. They continued to strengthen the Subcommittee's strong bipartisan traditions, conducting all investigations in a bipartisan manner. During the 113th Congress, the Subcommittee held eight hearings and released ten reports on a variety of investigations. The investigations examined high risk credit derivatives trades at JPMorgan; hidden offshore accounts opened for U.S. clients by Credit Suisse in Switzerland; corporate tax avoidance in case studies involving Apple, Caterpillar, and a structured financial product known as basket options; online advertising abuses; conflicts of interest affecting the stock market and high speed trading; IRS processing of 501(c)(4)

applications; defense acquisition reforms; and bank involvement with physical commodities. At the end of the 113th Congress, Senator Levin retired from the Senate.

## **(2) More Recent Investigations**

During the 114th Congress, Senator Rob Portman became Subcommittee Chairman with Senator Claire McCaskill serving as Ranking Minority Member. Under the Chairman and Ranking Member's leadership, the Subcommittee held six hearings and issued eight reports addressing range of public policy concerns. Investigations examined the impact of the U.S. corporate tax code on cross-border mergers acquisitions; online sex trafficking; the federal government's efforts to protect unaccompanied migrant children from human trafficking; consumer protection in the cable and satellite television industry; terrorist networks' use of the Internet and social media to radicalize and recruit; the U.S. State Department's oversight of a grantee involved in political activities in Israel; and efforts by Medicare and private health insurance systems to combat the opioid epidemic. The Subcommittee also initiated the first successful civil contempt proceedings to enforce a Senate subpoena in twenty years. The Subcommittee's long-term investigation of online sex trafficking culminated in a final report and hearing on January 10, 2017, at the start of the 115th Congress.

During the 115th Congress, Senator Rob Portman remained Subcommittee Chairman with Senator Tom Carper serving as Ranking Minority Member. Under the Chairman and Ranking Member's leadership, the Subcommittee held six hearings and issued six reports on a wide range of issues, including online sex trafficking; the shipment of illicit opioids through U.S. postal mail; the Department of Health and Human Services' care of unaccompanied alien children; the federal infrastructure permitting process; sanctions compliance and the nuclear agreement with Iran; and the pricing of prescription drugs.

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