



1992–1994 Investigation of the Justice Department’s Environmental Crimes Program

Debra Jacobson¹

From 1981 to 1994, Rep. John D. Dingell, D-Mich., chaired the Oversight and Investigations Subcommittee of the House Committee on Energy and Commerce (O&I Subcommittee or Subcommittee). During that period, the Subcommittee conducted numerous investigations that led to important changes that benefited the American public, such as improvements in the safety of the blood supply and of generic drugs, and reforms in government contracting and environmental enforcement programs. Below I discuss the Subcommittee’s high-profile investigation of the Justice Department’s environmental crimes program, the positive results to which it led, and why.²

A. Purpose and Results of the Subcommittee’s Investigation

The purpose of the Subcommittee’s investigation was to probe allegations that personnel at the Department of Justice’s headquarters in Washington D.C. (Main Justice) had undertaken activities and implemented procedures that had seriously impeded the effectiveness of the Environmental Protection Agency’s (EPA) criminal enforcement program. These allegations were significant because the EPA must rely on Department of Justice (DOJ) prosecutors to develop and litigate its criminal case referrals.

The Subcommittee’s inquiry involved two public hearings and nearly three years of staff work (from January 1992 to December 1994), including intensive review of thousands of pages of documents and staff interviews with agency officials.

The major issues investigated by the Subcommittee involved centralization of environmental prosecution decisions in Main Justice and mismanagement by the leadership of the environmental crimes program. As described in more detail below, the Subcommittee overcame much resistance in its efforts to determine the nature and extent of the problems in DOJ’s environmental crimes program, which proved to be significant. The investigation helped drive important reforms in the program, including DOJ’s revision of a counterproductive section of the U.S. Attorney’s Manual (USAM) and major management improvements.

One of the most significant investigatory results of the Subcommittee’s inquiry was its documentation of the facts surrounding the development and adverse effects of a controversial section of the USAM governing environmental criminal prosecutions. The Subcommittee’s findings were based on a review of more than 2000 pages of internal DOJ documents, interviews of U.S. attorneys and their staffs, and formal testimony at a November 1993 hearing. The

1. Debra Jacobson is former counsel to the Subcommittee on Oversight and Investigations Committee on Energy and Commerce, U.S. House of Representatives.

2. STAFF OF SUBCOMM. ON OVERSIGHT AND INVESTIGATIONS, H. COMM. ON ENERGY AND COMMERCE, 103RD CONG., DAMAGING DISARRAY: ORGANIZATIONAL BREAKDOWN AND REFORM IN THE JUSTICE DEPARTMENT’S ENVIRONMENTAL CRIMES PROGRAM (Comm. Print 1994) [hereinafter SUBCOMM. REPORT]. Ms. Jacobson was a co-author of this report. The case study also relies on the subcommittee’s hearing record. See *EPA’s Criminal Enforcement Program: Hearing before the Subcomm. on Oversight and Investigations, H. Comm. on Energy and Commerce, 103rd Cong. 103-63 (1993)* [hereinafter 1993 Hearing].

documents reviewed included all drafts of the January 1993 revision of the USAM as well as “all documents, including E-mail messages, interoffice memoranda, internal communications, notes and correspondence pertaining to the document or its development.”³ The documents revealed the details of an intense, three-year struggle between Main Justice and U.S. attorneys over the development of the controversial USAM section and documented the strong opposition of U.S. attorneys to the veto authority over indictments asserted by political appointees at Main Justice.⁴

The Subcommittee's role in spurring the elimination of damaging aspects of the USAM was one of its most important accomplishments. The Subcommittee's inquiry revealed that senior political appointees in DOJ's environment division had asserted in 1990 for the first time that a section of the 1988 USAM required formal approval by Main Justice (rather than mere consultation) before one of the 93 U.S. attorneys could bring an indictment in an environmental prosecution. Subsequently, this newly cited interpretation of the USAM was relied upon by Main Justice officials to second-guess, and in some cases even stymie, the prosecutorial decisions of U.S. attorney offices and line attorneys. Several days before the change in presidential administrations in January 1993, the deputy attorney general issued an amendment to the USAM that unambiguously changed the procedures for the handling of environmental criminal cases and clarified DOJ's clear intent to provide Main Justice with a veto power over indictments and plea agreements recommended by U.S. attorneys in so-called “priority” environmental crimes cases.⁵

It is noteworthy that the efforts of the environment division to centralize control of cases in Washington, D.C. (and to thereby curtail the authority of the U.S. attorneys) ran directly counter to the decentralization of power in the preceding years in nearly every other area of federal criminal law. Leading U.S. attorneys expressed concern that this new Main Justice pre-approval process was an open invitation to subvert the process of making balanced prosecutorial decisions on the merits of a case and provided well-connected defense counsel openings through which to end-run their offices. The director of the EPA's office of criminal enforcement strongly criticized these new procedures as “calling balls and strikes from center field.”⁶

In addition, the Subcommittee's November 3, 1993 hearing record revealed strong concerns that the January 1993 USAM amendments were likely to impede environmental prosecutions through cumbersome procedures and micromanagement. Witnesses expressed the view that they were not aware of any other area of criminal enforcement where a Main Justice component insisted on such “micromanagement.”

The Subcommittee's investigation spurred DOJ (in August 1994) to substantially revise the provisions of the USAM governing environmental criminal prosecutions (that had been issued in January 1993). In so doing, DOJ addressed the vast majority of concerns that the Subcommittee had highlighted in its investigation and in written communications with the department. The August 1994 revisions:

- Eliminated the authority provided to DOJ's environment division in the USAM to veto indictments and plea agreements proposed by U.S. attorneys' offices in environmental crimes cases. This change promoted a more balanced and efficient approach to decision-making in environmental prosecutions.
- Removed a USAM provision setting forth a procedure governing meetings between defense counsel and Main Justice officials. The Subcommittee's chairman and ranking Republican member had expressed strong concern to DOJ that this provision would encourage defense counsel to seek meetings with environment division management officials in Washington, D.C., thereby undercutting the authority of line attorneys and U.S. attorneys in their own jurisdictions.
- Eliminated a large number of procedural requirements, which experienced environmental prosecutors had identified as unduly burdensome.

3. 1993 Hearing, *supra* note 2, at 280; SUBCOMM. REPORT, *supra* note 2, at 80.

4. 1993 Hearing, *supra* note 2, at 42-62; SUBCOMM. REPORT, *supra* note 2, at 57-75, 80-84.

5. 1993 Hearing, *supra* note 2, at 422-32.

6. *Id.* at 420.

- Modified a USAM provision that had interfered with the ability of U.S. attorneys' offices to obtain legal support from EPA counsel and state and local prosecutors.

A second major accomplishment of the Subcommittee's review was documenting problems with senior management of DOJ's Environmental Crimes Section (ECS)⁷ and helping to spur the department to appoint an experienced environmental criminal prosecutor, Ronald Sarachan, to assume leadership of the section in the summer of 1994.⁸ This experienced environmental prosecutor replaced the ECS chief, who had been involved in a pattern of counterproductive and questionable actions that had the net effect of undermining environmental criminal enforcement efforts. The appointment of a new ECS chief was critical in helping to repair damaged working relationships between DOJ and the U.S. attorneys' offices as well as improve the relationship between the DOJ and the EPA's criminal enforcement program. This action also helped to restore stability in ECS itself.

B. Oversight Lessons

A large number of factors increase the likelihood of success of a congressional investigation generally, and did so for the environmental crimes investigation specifically. These factors include the credibility of the oversight review and the persistence of the Subcommittee in the face of resistance. Both of these factors played a major role in the success of the O&I Subcommittee's environmental crimes investigation.

1. Credibility of the Subcommittee's Investigation

The credibility of a committee investigation often can be assessed by asking a number of questions, including the following:

- Has the investigation been conducted on a bipartisan basis?⁹
- Is the committee focused on serious questions about the efficiency and effectiveness of existing government programs, the implementation of existing law, and/or the need for new laws (rather than a primary focus on scoring political points)?
- Does the committee's review reflect a thorough and balanced effort to assess the factual and legal issues?

In this case, all three of these questions can be answered in the affirmative.

a. Bipartisan Investigation

The Subcommittee's investigation "was conducted on a fully bipartisan basis," as emphasized by the Subcommittee chairman and the ranking Republican member, Rep. Dan Schaefer, R-Colo., in their letter transmitting the final staff report to the members of the Committee on Energy and Commerce.¹⁰ This point also was underscored by Rep. Schaefer in his opening statement at the Subcommittee's November 3, 1993 hearing.¹¹

One of the factors that may have encouraged the support of the ranking Republican member was an ongoing controversy about the handling of an environmental crimes investigation in his home state. As Rep. Schaefer noted at the 1993 hearing, "[t]he topic of the enforcement of environmental laws is particularly important to Colorado because of the controversy

7. SUBCOMM. REPORT, *supra* note 2, at 18.

8. *Id.* at 486.

9. If the investigation is not bipartisan, the burden in meeting criteria 2 and 3 is even higher.

10. SUBCOMM. REPORT, *supra* note 2, at III.

11. 1993 Hearing, *supra* note 2, at 5.

surrounding environmental crimes at the Rocky Flats plant”¹²—a former nuclear weapons facility located in Colorado.¹³

It should be noted that the bipartisan nature of this investigation was not unusual for the O&I Subcommittee during Chairman Dingell's tenure. In fact, this investigation “exemplified the strong bipartisan nature of the Subcommittee's most successful inquiries.”¹⁴

Various facts further underscore the bipartisan nature of the O&I Subcommittee's review. The Subcommittee's vote to issue a subpoena to obtain documents from Attorney General Janet Reno in March 1994 “received unanimous support from Republicans and Democrats alike,”¹⁵ and all the staff's investigative interviews involved both Democratic and Republican staff. Moreover, the investigation “proceeded in a collaborative manner over a timeframe that spanned both a Republican and Democratic Administration.”¹⁶ “Both Democratic and Republican members of the Subcommittee had been involved in efforts during the previous decade to create the EPA's criminal [environmental] enforcement program, and they worked together to assure that the program was continuing to operate effectively.”¹⁷

Finally, one of the major documents that precipitated the initiation of the O&I Subcommittee's inquiry was a letter from the Republican attorney general of Washington state (Ken Eikenberry) to the Republican U.S. attorney general (William Barr) strongly objecting to DOJ's handling of a specific environmental crimes case and to the treatment of attorneys in Eikenberry's office by the environmental crimes section in Main Justice. This letter was particularly noteworthy because a Republican state attorney general had no partisan interest in criticizing DOJ within a Republican administration.¹⁸

It is true that pursuing an investigation on a bipartisan basis involves substantial time and effort. Extensive consultation and coordination is required between majority and minority staff and members. It may be necessary to “tone down” statements or conclusions to accommodate concerns of the opposing political party.

However, the value of bipartisanship—particularly in high-profile, controversial investigations—cannot be overstated. For example, if the members of the opposing party believe that an investigation is politically motivated or unfair, they will criticize the investigation at public hearings and in the news media. Such action will greatly impede the ability of the investigatory committee to obtain cooperation from the subjects of the review and will undercut public support of any findings, conclusions, and recommendations emerging from the committee's review.

In contrast, bipartisan support can facilitate accomplishment of the goals of an investigatory committee. For example, in this case, the Subcommittee greatly benefited from the ranking Republican member's support for its staff interviews of DOJ line attorneys and U.S. attorneys and their staffs. The request for these interviews met strong resistance, but Rep. Schaefer publicly defended them at the Subcommittee's November 1993 hearing.¹⁹

The support of the ranking Republican member also was extremely valuable in achieving one of the major accomplishments of the Subcommittee: DOJ's extensive revision of the environmental criminal enforcement provisions of the USAM in August 1994. On June 27, 1994, Rep. Schaefer co-signed with Chairman Dingell a 12-page letter to Attorney General Janet Reno providing a detailed critique of the January 1993 USAM amendments.²⁰ At the time of this 1994 letter, DOJ had undertaken a revision of the controversial 1993 USAM provisions, and the bipartisan letter set forth a strong case for modification of those provisions based on extensive information obtained during the course of

12. *Id.*

13. *Id.* at 40-41.

14. SUBCOMM. REPORT, *supra* note 2, at 3.

15. *Id.* at 3.

16. *Id.* at 2. The programmatic problems in DOJ's environmental crimes program began during the tenure of Republican President George H. W. Bush and continued into the early years of the tenure of Democratic President Bill Clinton.

17. *Id.*

18. *Id.* at 14-15.

19. 1993 Hearing, *supra* note 2, at 5.

20. SUBCOMM. REPORT, *supra* note 2, at 424-35.

the Subcommittee's inquiry. As noted above, DOJ's August 1994 revisions addressed the vast majority of the concerns that the Subcommittee had highlighted.

b. Programmatic Focus and Long-Standing Leadership Role on Issue

If a committee investigation is viewed as a thinly veiled attempt to score political points, the impact of the inquiry will be greatly diminished. The O&I Subcommittee's investigation avoided this perception—and proved both credible and successful—in significant part because of the investigation's programmatic focus and the Subcommittee's long-standing leadership role in the area of environmental criminal enforcement. For more than a decade, the chairman and other Subcommittee members had demonstrated a strong personal commitment to ensuring the effectiveness of the environmental crimes program.

For years, the O&I Subcommittee had been at the forefront of assuring the availability of adequate legal authority and resources to deter environmental crimes and had been engaged in overseeing the implementation of the nation's environmental criminal enforcement program. In fact, Subcommittee hearings in the late 1970s and early 1980s had provided a major impetus for the very creation of the EPA's criminal enforcement program.²¹

Once the EPA's criminal enforcement program became operational, the chairman and other Subcommittee members worked to ensure that the agency's criminal investigators were provided adequate legal authority to perform their jobs in an effective manner. A 1982 Subcommittee report and a 1983 Subcommittee hearing were pivotal in spurring legislative and administrative action to provide EPA's criminal investigators with full law enforcement authority (*i.e.*, authority to execute search warrants, arrest violators, prevent ongoing illegal activity, and carry weapons to protect themselves).²²

Chairman Dingell also played a significant role in legislative action to provide additional resources for the EPA's criminal enforcement program. In addition, throughout the 1980s and early 1990s, the Energy and Commerce Committee was instrumental in efforts to strengthen criminal penalties in various environmental laws to provide adequate deterrence against serious violators (*i.e.*, the Hazardous and Solid Waste Disposal Act Amendments of 1984, the Superfund Amendments and Reauthorization Act of 1986, and the Clean Air Act Amendments of 1990).²³

Obviously, not all committee investigations will be grounded on such extensive foundations. In fact, a committee often will investigate issues that represent new areas of inquiry. In any case, the inquiry will have much more credibility if the committee is focused on substantive questions about the efficiency and effectiveness of existing government programs, the implementation of existing law, and/or the need for new laws.

A substantive focus will be reflected in a variety of ways, including the tenor and tone of any hearings. For example, if committee members' hearing questions are designed to elicit facts about deficiencies in the implementation of existing law or recommendations for new laws, the committee will demonstrate a sincere interest in improving the operation of government or in cutting programs that have failed to deliver results. Alternatively, if the focus of a hearing largely involves speeches or questions by members focused primarily on embarrassing political appointees or the opposing party, then the credibility of the investigatory committee is greatly diminished.

c. Thorough and Balanced Effort to Assess the Factual and Legal Issues

Even if a committee undertakes a substantive inquiry, it is essential that the staff findings and member statements are based on a balanced, meticulous assessment of the facts. This effort often will involve the synthesis of hundreds of pages of documents, hearing testimony, and staff interviews. The committee's critics will seize upon and highlight any misstatement of fact to undermine the committee's credibility, particularly in high-profile investigations.

21. *Id.* at 5.

22. *Id.* at 6-9.

23. *Id.* at 9-10.

An experienced staff director and experienced staff counsel and investigators are critical. By necessity, committee and subcommittee chairmen must rely on their staff to conduct the extensive legwork required by a lengthy investigation. A chairman typically has numerous competing responsibilities, including multiple investigations, legislative priorities, constituent work, and district visits. If the staff members have participated in previous, complicated inquiries, their investigative abilities will be much sharper.

A variety of tools can be used to facilitate a thorough and balanced fact-finding effort. The development of a chronology of key events can be extremely helpful in organizing the information from a large mass of documents. In the environmental crimes inquiry, the O&I Subcommittee developed such a chronology of events to clarify the roles and positions of various U.S. attorneys' offices and Main Justice officials regarding revisions to the environmental criminal enforcement sections of the USAM.²⁴

Ensuring checks and balances in the investigative process also can be very helpful. The general practice of the O&I Subcommittee was to seek to minimize the potential for misstatements of fact by involving a team of at least two staff members in the conduct of major investigations. This team approach (as well as the involvement of the Republican counsel in staff interviews) served to promote a balanced look during the fact-finding process. In addition, the Subcommittee's staff director approved and the chairman signed all written correspondence, and the staff director reviewed all written summaries and reports released publicly by the Subcommittee. Finally, congressional support agencies (e.g., Congressional Research Service (CRS), General Accounting Office, offices of inspectors general) can be extremely valuable in helping to supplement a committee's limited staff resources and to fill in gaps in committee staff expertise. For example, in the environmental crimes inquiry, O&I Subcommittee staff obtained critical support from an experienced constitutional lawyer in CRS's American Law Division. The CRS support was particularly important in developing strong legal arguments (and compiling historical precedents) to support the Subcommittee's right to obtain deliberative documents from DOJ and to gain access to staff interviews with DOJ attorneys.²⁵ Many of these arguments were cited by the Subcommittee chairman in correspondence with DOJ.²⁶

2. Persistence of the Subcommittee in the Face of Agency Resistance and Outside Critics

Another key element of a successful congressional investigation is the persistence of a committee in the face of resistance from outside parties. The fact that an investigation has important public policy goals does not mean that the investigation will be easy. In many cases, officials of an agency undergoing a committee review will create major roadblocks, and criticism by outside parties and the press can sometimes be intense. A committee chairman and staff must have a strong backbone to withstand the outside criticism, and a committee must be prepared to use a variety of tools and strategies to overcome resistance.

In the environmental crimes investigation, the intensity of the agency resistance and outside criticism was particularly strong. DOJ strongly opposed interviews of agency line attorneys by O&I Subcommittee staff,²⁷ and roughly a year of delay ensued before DOJ allowed interviews to proceed.²⁸ The department also vigorously resisted Subcommittee access to key internal agency documents.²⁹ In addition, during the course of the Subcommittee's review, DOJ issued a lengthy "Internal Review" of the environmental crimes program that unfortunately failed to scrutinize the program in an evenhanded manner and "discredited those who had called for reform in the management of the program, including... the Subcommittee itself."³⁰ The attorney general's decision to finally allow interviews of line attorneys and to release the withheld documents was precipitated by the Subcommittee's pursuit of the strategies discussed below.

24. 1993 *Hearing*, *supra* note 2, at 42-62.

25. *Id.* at 321-350.

26. *See, e.g.*, SUBCOMM. REPORT, *supra* note 2, at 299-301.

27. *Id.* at 2.

28. *Id.* at 129 n.425. DOJ did make exceptions to allow a few interviews during this period. *Id.* at 238.

29. *Id.* at 2.

30. *Id.* at 128-29.

In 1993, the O&I Subcommittee also faced significant efforts by the criminal defense bar and the news media to impede its investigation. “The Subcommittee was able to proceed only because of the steadfastness of the Chairman, the Ranking Minority Member, and the other members of the Subcommittee in the face of repeated attacks.”³¹

The major outside attacks began in August 1993, when former Attorney General Benjamin Civiletti argued in a public speech that DOJ’s decision to permit O&I Subcommittee staff interviews of DOJ line attorneys about closed criminal cases was constitutionally impermissible and an abrupt departure from “a time-honored Department of Justice policy.” Shortly thereafter, the Wall Street Journal published an editorial titled “General Dingell II” that centered on the Civiletti speech and provided a ringing endorsement of it.³²

“The attention focused by The Wall Street Journal on the Subcommittee’s investigation was notable for its intensity.”³³ During a two-and-a-half-month period, the newspaper published three editorials, entitled “General Dingell,” “General Dingell II” and “General Dingell III.” The articles personally attacked the chairman and the investigation and also personally attacked the Subcommittee staff—describing them as “interrogators,” “Dingell wolves,” and “Torquemadas-in-training.”³⁴

A number of other publications also attacked the O&I Subcommittee’s inquiry. For example, a conservative newspaper, the Washington Times, published 16 articles critical of the investigation between late June 1993 and June 1994. As stated in the Subcommittee’s final report, these articles “were notable for their factual inaccuracies.”³⁵

Finally, in the fall of 1993, the white collar criminal defense bar also launched an effort within the American Bar Association (ABA) to encourage resistance to the O&I Subcommittee’s review. During this period, the white collar crime committee of the ABA established an “Ad Hoc Committee on Department of Justice/Congress Relations” to develop policy recommendations on the question of congressional oversight of DOJ prosecutorial decision-making. According to an internal memorandum summarizing these developments, the Ad Hoc Committee was specifically aimed at “the Dingell problem” and planned to rely, at least in part, on former Attorney General Civiletti’s speech in conducting its review.³⁶

During the course of the environmental crimes inquiry, the O&I Subcommittee employed a number of investigative tools and strategies to overcome this strong resistance. The Subcommittee proceeded in a deliberate way to build a strong factual and legal foundation in its letter requests for interviews with line attorneys and in its document requests.³⁷ It was only after the Subcommittee established this foundation that it unanimously voted in March 1994 to issue a subpoena to Attorney General Janet Reno requiring the production of documents related to six closed criminal cases and other specified internal documents. As noted in the Subcommittee’s report, internal documents as well as the staff interviews were critical to the success of the environmental crimes inquiry.³⁸

Another strategy employed by the O&I Subcommittee involved coordination with the Senate confirmation process to help achieve its goals. This strategy required the Subcommittee to win the cooperation of the Senate Judiciary Committee, and in fact, a key Judiciary subcommittee delayed the confirmation of the nominee for assistant attorney general for environment and natural resources, Lois Schiffer, for several months until DOJ provided withheld documents and implemented key management reforms in the environmental crimes program. Ms. Schiffer had been serving as acting attorney general, and there was a strong administration interest in having her fill this position on a permanent basis. The Subcommittee’s involvement is highlighted in a February 25, 1994 letter from Chairman John Dingell to Senate Judiciary Chairman Joseph Biden. The letter emphasized:

31. *Id.* at 41-42.

32. *Id.* at 43.

33. *Id.*

34. *Id.* at 44.

35. *Id.* at 48.

36. *Id.* at 50.

37. The key correspondence is contained as an appendix to the subcommittee’s report.

38. SUBCOMM. REPORT, *supra* note 2, at 79-84.

Although as a general rule, I do not involve myself extensively in nomination issues, which are committed by the Constitution to the Senate, I have, from time to time, sought to assist the relevant Senate committee by bringing to its attention information developed in our Subcommittee's oversight and investigative work that may bear significantly on a particular nominee's suitability. In this connection, the Members of the Senate Judiciary Committee may be interested in learning about the ongoing environmental crimes inquiry being conducted by the Subcommittee and about certain developments in that inquiry.³⁹

Continuous, detailed follow-up on an issue also can be critical to success. In the environmental crimes inquiry, this approach proved to be pivotal in winning the battle to secure a major revision of the USAM. The November 2003 hearing record and follow-up letters were particularly important. In particular, a December 2003 letter to Leon Panetta, director of the Office of Management and Budget, stressed that the January 1993 USAM provisions on environmental criminal enforcement were inconsistent with the "reinventing government" initiative of the Clinton administration,⁴⁰ and a February 2004 letter to Chairman Biden criticized DOJ's endorsement of the same provisions at the November 2003 hearing. Moreover, as discussed previously, the June 27, 2004 joint letter on the USAM to DOJ from Chairman Dingell and Ranking Republican Member Schaefer⁴¹ was especially important because of its timing.

The O&I Subcommittee's final published report also provides an example of the benefits of detailed follow-up. The report reinforced the results of the investigation and was designed to ensure that DOJ would not repeat its mistakes in later years. It also detailed the deficiencies of DOJ's own self-evaluation.⁴² The report included the major correspondence with DOJ and other significant documents generated during the investigation, thereby highlighting the investigatory approaches employed by the O&I Subcommittee to overcome various challenges. As a result of this detailed record, some prominent congressional experts have utilized the Subcommittee's report as a resource to teach about congressional oversight.

In many cases, investigatory committees complete detailed inquiries but fail to issue detailed final reports. In fact, in the 1980s, six subcommittees investigated mismanagement and abuses in the EPA's Superfund program, but the O&I Subcommittee was the only subcommittee to issue a final report.⁴³ Although it is easy to simply move on to the next investigation and fail to issue a final report, the lasting impact of the investigation will be greatly diminished.

In addition, in a hotly contested investigation, an experienced chairman and experienced staff will be a huge asset. With past experience under their belts, the chairman and staff will have a foundation on which to develop creative strategies to counter outside opposition. With experience comes the knowledge that a committee cannot simply move from one hearing to the next and expect lasting results. The agency or entity under review needs to know that the committee's scrutiny will not end as soon as the hearing is over. Follow-up letters (and sometimes additional hearings) over a period of months or even years may be needed to accomplish the committee's goals.

Staff will be much more effective in dealing with outside agencies and parties if they know that their chairman will stand by them when the going gets tough in a well-founded investigation. Chairman Dingell's support was an essential asset to the staff in the environmental crimes inquiry.

One of the watchwords of investigations by the O&I Subcommittee was to "start with the end in mind." If a committee does not anticipate the likely challenges in an investigation and the avenues to overcome such challenges, it is unlikely to be successful.

39. *Id.* at 392.

40. *Id.* at 70.

41. *Id.* at 424-35.

42. *Id.* at 128-63.

43. The Superfund program was established by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. The purpose of this legislation is to manage the cleanup of the nation's worst hazardous waste sites and to respond to local and nationally significant environmental emergencies. The subcommittee's report on its Superfund investigations was issued in 1984. STAFF OF SUBCOMM. ON OVERSIGHT AND INVESTIGATIONS, H. COMM. ON ENERGY AND COMMERCE, 98TH CONG., INVESTIGATION OF THE ENVIRONMENTAL PROTECTION AGENCY: REPORT ON THE PRESIDENT'S CLAIM OF EXECUTIVE PRIVILEGE OVER EPA DOCUMENTS, ABUSES IN THE SUPERFUND PROGRAM, AND OTHER MATTERS (Comm. Print 1984).