

Asking Better Questions at Oversight Hearings

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Why Ask Good Questions at an Oversight Hearing?

- Get information to solve a problem.
- Help the public understand an issue.
- Hold responsible parties accountable.
- Strengthen legislature's effectiveness.
- Attract leadership notice.
- Impress the media.
- Impress your voters.





Constitutional Basis of Oversight Hearings

“A legislative body cannot legislate wisely or effectively in the absence of information.”
--McGrain v. Daugherty (1927)

“It is the proper duty of a representative body to look diligently into every affair of government It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents.”
--Trump v. Mazars (2020)

Purpose of Oversight Hearings

- Oversight hearings seek to:
 - discover facts & establish what happened;
 - compile evidence;
 - hold parties accountable for their actions;
 - produce policy reforms.
- Oversight hearings ideally spend 80% of the time on the problem and 20% on the solution.



Goals of Oversight Questions

- Establish facts.
- Provide evidence.
- Explain what happened & its significance.
- Hold a party accountable.
- Create a foundation for reforms.



Common Question Constraints



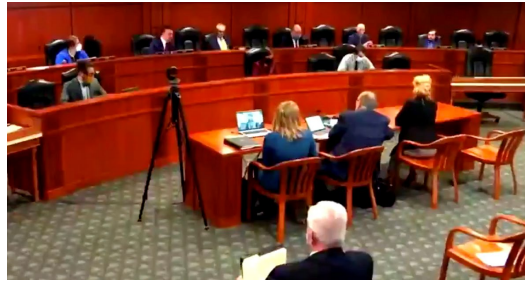
- Limited time unless prior arrangement.
- Your question may have already been asked.
- Hostile witness.
- Misleading or unexpected answers.
- Lack of preparation.



Keys to Better Questions

- Preparation. Preparation. Preparation.
- Formatted questions that set you up for success at a hearing.
- Charts, hearing exhibits, props.

Witness Preparation

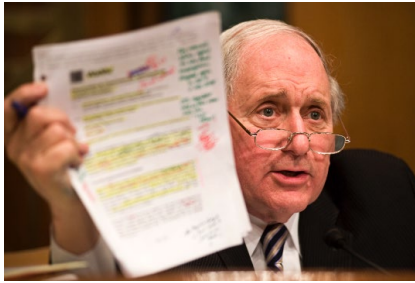


- Ask staff to meet with each witness.
- For top officials, may need to meet with staff.
- At meeting, test key documents & questions.
- Determine if witness is friendly or hostile.
- If friendly, offer advice on testimony & issues.

Legislator Preparation



- Legislator-staff meeting(s) before hearing.
- Understand purpose & goals of hearing, for both chair and ranking minority member.
- Prepare at least 3 questions.
- Review any chart, document or prop.
- Discuss what you want to achieve and the importance & purpose of each question.



Using Formatted Questions

- One question per page so you can change the order.
- Start with subtitle identifying main subject.
- Set stage for the audience.
- Highlight actual question and include any needed info.
- Indicate how the witness is likely to answer.
- Provide a followup question (with likely answer).
- Attach any referenced chart, document, or exhibit.

Example of Formatted Question

Question for Chris Green Incriminating Email and Phone Calls

Q: Chris Green, please turn to Hearing Exhibit 20 in the exhibit book. [Copy attached.] This is an email that you wrote on January 1, 2021, right after the events we are concerned about. In the second sentence, you write: “John Brown just called in with the information.” Did I read that accurately?

A. Yes.

Q: Doesn’t this email show you were immediately informed of the events in question?

A. Witness will say no recollection of John calling or of the email.

Q: The email shows not only the date, but also the precise time it was sent: 11am.

The timing is right after the events in question took place, isn't it?

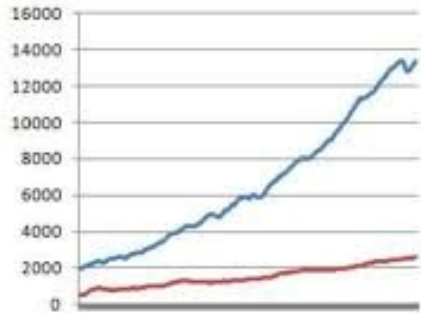
A. Should say yes. May want to press the point if witness won't admit.

Q: Isn't it true your cell phone records also show a call from Susan, the person to whom your email is addressed, about 10 minutes after this email? Do you remember getting that phone call?

A. Witness will say doesn't remember that phone call.

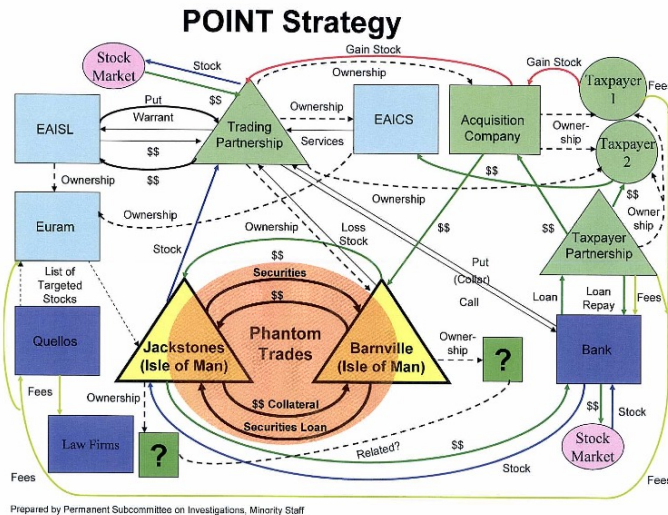
Q: My time is up, but it is troubling that you can't recall, not only your own email, but the call from John that triggered it and the call with Susan right after it. As far as I'm concerned, that's three strikes in a row.

Charts, Exhibits, and Props

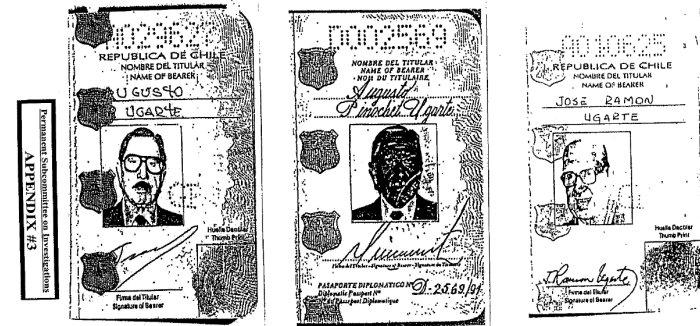


- Use a chart to make a main point in a visually powerful, factual way.
- Use a hearing exhibit to provide proof of a primary fact.
- Use a prop to dramatize a main point and attract public & media interest.

Examples of Hearing Charts



Pinochet Account Identification



Riggs Bank Miami

Riggs Bank London

Citibank New York

Prepared by the Permanent Subcommittee on
Investigations, Minority Staff

JP Morgan Chase: “Enron loves these deals as they are able to hide funded debt from their equity analysts because they (at the very least) book it as deferred rev[enue] or (better yet) bury it in their trading liabilities.”

– Internal Chase email (11/25/98), Bates MAH 2129

Tax Haven Bank Secrecy Tricks

- Code Names for Clients
- Pay Phones, not Business Phones
- Foreign Area Codes
- Undeclared Accounts
- Encrypted Computers
- Transfer Companies to Cover Tracks
- Foreign Shell Companies
- Fake Charitable Trusts
- Straw Man Settlers
- Captive Trustees
- Anonymous Wire Transfers
- Disguised Business Trips
- Counter-Surveillance Training
- Foreign Credit Cards
- Hold Mail
- Shred Files

Prepared by the U.S. Senate Permanent Subcommittee on Investigations, July 2001

Permanent Subcommittee on Investigations
EXHIBIT #104



During the Hearing

- Ask staff to bring copies of questions.
- Upon arrival, get staff briefing on hearing tone, witnesses, developments.
- Ask staff advice on questions to ask.
- If a key question has been asked, have staff update your question with a followup.

Sample of Useful Questions



- Recite facts on what happened – did I get that right?
- Ask about a document or specific quote – did I read that right?
- Recite facts and ask: Does that trouble you?
- Ask if a chart shows a fact or trend (test beforehand).
- If witness made changes: Good to see those changes which show both recognition of the problem & willingness to change.
- If friendly witness: What went wrong & how can we do better?
- Ask for commitment to work with staff or make specific change.

What If You Have to Improvise?



- Get help from staff.
- Identify key issue or gap. Ask for a question.
- Always useful to clarify the facts.
- Remember repetition is your friend.
- Consider donating your time to another.

Some Recommendations



- Be respectful.
- Don't try to surprise a witness.
- Avoid questions you don't know the answer to.
- Listen to answers carefully and clarify if needed.
- Attend fewer hearings, do more homework.
- Know what you're trying to accomplish.

Legislative Oversight



- Investigations can find the facts.
- Investigations can correct disinformation.
- Investigations can bridge divides.
- Investigations can produce change.



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Thank you for your time!

For more information:

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Levin Center's Inside Oversight materials

<https://law.wayne.edu/levin-center/online-tutorials>

Series 3, Tutorial 3: "Designing Effective Hearing Questions"

