

## Overview

Congressional investigations are a method by which both the House of Representatives and the Senate perform their oversight functions. Court decisions, laws, and legislative practice have shaped the form and function of these investigations and hearings over the years. This basic will review the history of congressional investigations, describe some more notable investigations from the last century, and discuss newly established investigatory committees and plans for investigations in the 118th Congress.

## History of Congressional Investigations

While congressional investigations and hearings make up a large part of Congress' work, there is no specific mention of this power in the Constitution. Instead, the congressional power to investigate is implied by an assertion in Article I that Congress possesses all legislative powers. Opinions by the Supreme Court, negotiations between the political branches, and congressional practice shaped the scope of Congress' investigatory power.

The first congressional investigation occurred in 1790 when Robert Morris, a financier of the American Revolution, asked Congress to investigate his handling of the young country's finances hoping to clear his name of accusations of misconduct. The House referred the request to a select committee, a practice which would become procedure for future investigations. The Senate asked President George Washington to select special commissioners to investigate and report their findings back to the senators.

The House has had the power to subpoena witnesses since 1795. After the passage of an 1857 law, the failure of a witness to answer "any question pertinent" to a congressional investigation would prompt an investigation by the Department of Justice, as well as potential fines and jail time. The Senate's first independent legislative inquiry began when the body passed a resolution in 1859 to create the Select Committee to Inquire into the Facts of the Recent Invasion and Seizure of the United States Armory at Harpers Ferry. Both chambers continued to conduct investigations, but Congress' oversight function was not recognized by law until the Legislative Reorganization Act of 1946, which required House and Senate committees to exercise "continuous watchfulness" over government programs or entities within their jurisdiction.

In addition to Congress' own actions, the role of congressional investigations has long been dictated and shaped by decisions and opinions of the Supreme Court. The case of *Kilbourn v. Thompson* (1880) set the precedent that a congressional inquiry must be "in aid of the legislative function," and subsequent court decisions reaffirmed that Congress must use these inquiries for "legislative purposes," avoiding the private affairs of individual citizens.

## Famous Congressional Investigations

Regular congressional oversight investigations and hearings often are not featured in the news, but some investigations over the past century have become famous.

The Teapot Dome Scandal in the 1920s involved the Secretary of the Interior, Albert Fall, who had allegedly leased the U.S.

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In order to meet our challenges we need to put aside the partisan bickering that has gridlocked Washington and come together to find common sense solutions.

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naval petroleum reserve at Teapot Dome to a private company via a secret agreement. The Senate Committee on Public Lands launched an investigation and eventually uncovered Secretary Fall's deals, which led to him being the first former cabinet member to go to prison for actions they took in office. As a result of this scandal, a few years later, the Supreme Court established Congress's right to compel witnesses to testify before committees in the case of *McGrain v. Daugherty* (1927).

Perhaps one of the most famous congressional investigations of all time occurred in 1973 and 1974 when the Senate formed the Select Committee on Presidential Campaign Activities, otherwise known as the Watergate Committee. Through this committee, the Senate investigated President Richard Nixon's presidential campaign, the break-in at the Watergate office complex housing the DNC, and "all other illegal, improper, or unethical conduct occurring during the controversial 1972 presidential election." The committee issued its final report, several new campaign finance laws were passed, and the investigation weakened the use of executive privilege.

Congress also conducts impeachment investigations when necessary. The House has investigated Presidents Andrew Johnson, Bill Clinton, and Donald Trump as well as various cabinet secretaries, Federal Reserve Board members, judges, and various officials. Unlike other congressional investigations, impeachment proceedings are explicitly laid out in the Constitution since they are an important part of the checks and balances between the legislative and executive branches.

## Investigations in the 118th Congress

In the rules package passed at the beginning of the 118th Congress, the name of the committee formerly known as the House Committee on Oversight and Reform was changed to the House Committee on Oversight and Accountability. The new rules also limited the ability of committee chairs to allow witnesses to appear remotely at committee proceedings, however, this only applies to witnesses appearing in a non-governmental capacity and in accordance with the regulations from the House Committee on Rules. Congressional staff may now take depositions when previously a Member of Congress had to be present. Additionally, the rules package placed new limits on the "Seven Member Rule," which allowed any seven members of the House Committee on Oversight and Accountability to make a request with the force of compulsion. This meant that the minority party, House Democrats currently, could essentially subpoena a witness without the consent of the chair. The new rules of the 118th Congress specify "that the chair of the Committee on Oversight and Accountability [must] be included as one of the seven members of the committee making any request of an Executive agency."

Along with the new rules, several new House committees and subcommittees were formed, each with specific oversight jurisdictions. First, the Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party will "investigate and submit policy recommendations on the status of the Chinese Communist Party's economic, technological, and security progress and its competition with the United States." The establishment of this committee was agreed to in a bipartisan vote, 365 to 65. Second, Congress established the Select Subcommittee on the Coronavirus Pandemic, similar to the Select Subcommittee on the Coronavirus Crisis in the 117th Congress. This new committee is charged with investigating and providing "legislative recommendations on the origins of the Coronavirus pandemic." Third, the House will be investigating issues that Rep. James Comer (R-KY) describes as "the border and fentanyl crises, pandemic relief fraud, botched Afghanistan withdrawal, [and] energy crisis" through the Select Subcommittee on the Weaponization of the Federal Government. The jurisdiction of this Select Subcommittee includes investigating intelligence and law enforcement activities, and the chair will have unilateral subpoena power. The select subcommittees on the coronavirus pandemic and on the weaponization of the federal government must issue final reports on their findings to the House by January 2, 2025.

Senators have also begun to disclose their potential investigations and hearings for the new Congress. As chairman of the Senate Committee on Health, Education, Labor, and Pensions, Senator Bernie Sanders (I-VT) has previewed his plans to issue subpoenas and is expected to issue one to Howard Schultz, the CEO of Starbucks. The Senate Committee on Health, Education, Labor, and Pensions has jurisdiction over public health agencies, the FDA, and federal health policy. Senator Ron Wyden (D-OR), who chairs the Senate Finance Committee, and Senator Sheldon Whitehouse (D-RI), the chair of the Senate Budget Committee have made similar comments about investigations that fall within the jurisdiction of their respective

committees.

## Links to Other Resources

- Congress.gov – [Overview of Congress's Investigation and Oversight Powers](#)
- Congressional Research Service – [Impeachment Investigations: Law and Process](#)
- House Committee on Oversight and Accountability – [Comer in WSJ: Get Ready for Republican Oversight](#)
- Just Security – [Setting the Board: Congressional Investigations and the New House Rules Package](#)
- Office of the Historian – [Investigations & Oversight](#)
- U.S. Senate – [About Investigations](#)