

**LINDA GUSTITUS**  
**Interview #2: No “How To” Manual**  
**November 19, 2012**

*[The second interview begins with Gustitus explaining her role in establishing the Senate Employee Child Care Center.]*

**GUSTITUS:** It was at the Carroll Arms on the first floor and in a pretty limited space. For the outdoor play area, I’ll never forget this, it was terrible, there was a little back yard at the Carroll Arms and it was not attractive. We went and got leftover carpet remnants and put them down on the backyard. I remember that very clearly. That’s where it started. We went through several directors early on. Nancy Brown was the first one that we had and she was with us a year and a half as I recall.

**SCOTT:** How did it start?

**GUSTITUS:** Marge Baker, who worked for Senator [Howard] Metzenbaum, came to me and asked if I would work with her to get this started. Metzenbaum was willing and interested to be somewhat supportive. A staff person on the Judiciary Committee who I believe worked for Senator [Charles “Mac”] Mathias, Steve Metalitz, joined us, and it was the three of us who helped to start it. Senator [Dennis] DeConcini’s [D-AZ] wife at the time, Susan DeConcini, was really interested in it. She was into child development, and she wanted to jump in with both feet. She really helped with fundraising and getting support for it. We drafted a Senate resolution to approve the use of that space and the establishment of a work site daycare center. Susie had connections with Dr. [T. Barry] Brazelton, who was at that time the guru, the Dr. Spock—I don’t know who the Dr. Spock of this generation is, you would know that—but he was the baby specialist, the child development specialist. We got him engaged in terms of the use of his name peripherally, for support, and how important on-site child care was. We got the resolution through the Senate and got it established, but we had to do fundraising for it. The Senate wasn’t going to take it on. They were going to give us space. But we were raising money, with Susie. Susie did a lot of the fundraising work. I can’t remember where we went for the money. That was the first couple of years as I recall, and then the Senate eventually decided they had to take responsibility for it. They wanted to take responsibility for it. It was on their property so then it was associated with the Senate and it really had to be run well. That was great, because then they decided that location wasn’t very good, which it wasn’t.

**SCOTT:** Can you just say again where it was located originally?

**GUSTITUS:** The Carroll Arms was an old four- or five-story hotel and apartment building on C Street, between 1<sup>st</sup> and 2<sup>nd</sup> Streets, across from the Dirksen Building that had been converted to office space by the Senate. I think the Capitol Police were housed there at the time as well as some subcommittee offices. The child care center was on the first or basement floor in the back of that Carroll Arms building. But once the Senate took responsibility for the center, they moved us to the Immigration Building, I believe, which was a bigger, nicer building, but eventually they decided they had to build us a separate structure. So they purchased modular units and put them at the corner of Massachusetts Avenue and 2<sup>nd</sup> Street, on the east side of that parking lot. Those modular units may still be there, but the child care center eventually moved to a larger, permanent building.

**SCOTT:** It's over here. It's on C Street now.

**GUSTITUS:** It's on C Street?

The modular units were great. We were astonished. They tried to make it look nice. It was a lovely facility. And then they gave us outside play space. They took up part of that parking lot and gave us play space and we were thrilled. It was terrific.

**SCOTT:** Did you have a child there?

**GUSTITUS:** I did. I got involved in the beginning because I had my son for whom we had someone come to our home, which was very expensive. But it ended up that the childcare center didn't work out for me. So he was only there for one year. But I was the president of the board for the child care center for maybe two years.

**SCOTT:** Was there quite a demand at the time?

**GUSTITUS:** Yes, it was *the* time. We talked earlier a bit about women in the Senate and women becoming professional staff people and that was all just starting to happen in the '80s. Childcare became a thing that you just had to do. More key staffers were women, and they were getting pregnant and having children. What happened was, which was terrific because we had Susie DeConcini and the imprimatur of the Senate, we became the advocates government-wide for work-site child care. So people would come to us from GAO [Government Accountability Office] and GSA [Government Services Administration] and other agencies and would say, "We want to do work-site child care, too. How do we do it? What are the elements?" Our executive director became a major

player in trying to develop work-site child care for other agencies. It was really important that we did it.

**SCOTT:** The Library of Congress has one.

**GUSTITUS:** And the Library of Congress has one. It was the time, but Marge Baker actually had the idea and asked me to help her. We just jumped in, and it was great.

**SCOTT:** Now the day care, particularly the infant room, has a list, a waiting list that is more than 100 children long because they are fairly restricted in space there. Their growth is limited and the demand is, as you can imagine, through the roof. There are so many people here now with children, so many working couples here.

**GUSTITUS:** We really became an advocate for work-site child care. With work-site child care, people are able to go over to the childcare center during the work day for their children's birthday parties. People could go over if there was something going on, a little play they were doing, or a special program, or if they just wanted to see their child at lunch time. Also, say there is a snowstorm, the sickest feeling is that you can't get to your child. Here you can at least always be with your child. We really developed a program of promoting work-site child care, which is how it ended up then that we promoted it to other agencies and it really caught on in other agencies. It really helped to have the Senate take the lead on that.

**SCOTT:** To have the support of the institution.

**GUSTITUS:** Even though it wasn't really the Senate at the beginning, they had to be pushed into it. I think those first couple of years we raised money to fund it.

**SCOTT:** That's just for the operations?

**GUSTITUS:** For the operations. They gave us the space but we paid the salaries. It would be interesting to ask Mrs. Green [about] that.

**SCOTT:** Is there anything we didn't talk about last time when we met that you would like to add now?

**GUSTITUS:** No, we covered a lot! [Laughs]

**SCOTT:** One thing I thought we could pick up with this time is where we left off with the battle for the legislative veto because you mentioned that that was really important as something that happened when you just came into the Senate. Maybe we could talk a little bit about that today. It looks like Senator Levin was one of the leaders of the movement to get this legislation through.

**GUSTITUS:** He was. There were Republicans who supported it.

**SCOTT:** It was bipartisan, wasn't it?

**GUSTITUS:** But Senator Levin was one of the few Democrats who took it on. It was viewed a little bit like heresy, because Democrats liked giving programs to the agencies and saying "Go do good with it."

He sounded a cautionary note at every level in terms of the agencies, because his own experience had been that he saw them run amok. Legislative veto was to him, it's actually one of the reasons that he ran for office. This was unusual for a Democrat to come in and want to rein in the agencies. It was a major motivating factor for him, I think, because of what HUD had done—I said that earlier—in Detroit. The HUD housing programs had really done tremendous damage to the neighborhoods in Detroit. So when he came in he wanted to do legislative veto. Elliot Levitas was a member in the House who was supporting it. It was viewed as something kind of extreme. That and sunset. There were two pieces of legislation that were these "let's rein in government" and one was legislative veto and one was sunset.

Legislative veto provided that if an agency issued a rule, Congress would have a certain amount of time in order to reject or veto the rule. The law gives the agency the authority to run the program and in running the program they can issue regulations about how to do things in the program. But the legislative veto would say Congress has another say in the matter. When you issue the regulation we can come in, and, if we don't like it, we can veto it.

Sunset is where you literally withdraw—the authorization for a program literally ends—in 10 years. Every single federal program. The sunset legislation that was proposed and that Senator Levin supported would have ended all of the programs in 10 years, and those 10-year terms would be staggered among the programs. But every program would have to be reauthorized, which many people saw as mind boggling in terms of just the work of Congress in having to do that.

**SCOTT:** That was one of the objections that I noticed. Senator [Joe] Biden [D-DE] was one I found who issued a minority view on the legislative veto legislation saying that the Senate will just be consumed with this process in terms of our staff resources and in terms of the amount of time we have to allow for debate on the Senate floor.

**GUSTITUS:** That was the fear. But it actually didn't pan out that way with the legislative veto. But I think it would have for sunset, because you would have to reauthorize those programs. But the issue with legislative veto was just that whole threshold question of whether Congress should have another bite at the apple and be able to stop a regulation. But the other issue was whether if you had a legislative veto, whether it should be a one-house or two-house legislative veto, meaning, could one house on its own say, "No, you can't issue that regulation." Senator Levin initially supported that, which was a pretty extreme view.

**SCOTT:** That only one house—

**GUSTITUS:** Correct, that one house could stop a regulation. [But he soon drafted his own version of a government-wide bill that required passage of a joint resolution of disapproval, which we called legislative review. A joint resolution requires approval by both houses and the president. This was in the fall of 1979, and it was reported out of the Governmental Affairs Committee the following year. He also offered it as an amendment to the FTC authorization bill in early 1980, and the Senate passed it.]

The one-house or two-house legislative veto was questionable, because here you've had a law that has been passed by both houses and signed by the president, constitutionally as you are supposed to do. The agency then issues a regulation under its executive branch authority and now you are saying, "No, either the House or the Senate [or both houses without the concurrence of the president] could stop that regulation." In 1983 the Supreme Court ruled in *Chadha*<sup>1</sup> that the legislative veto is unconstitutional but that legislative review, that is, a joint resolution of disapproval signed by both houses and the president is constitutional. So *Chadha* was the ballgame on that in terms of not allowing a one or two house legislative veto. Rules would be delayed for 90 days and during that period of time Congress could review the rule and they could pass a joint resolution of disapproval. But you have to have the full legislative process. Senator Levin supported a government-wide joint resolution of disapproval on any regulation that was issued.

I was explaining before how this came about was that at the FTC there were these rules that were issued that were very poorly received by the industries that were affected

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<sup>1</sup> *Immigration and Naturalization Service v. Chadha* 462 U.S. 919 (1983)

by them. Those industries really wanted to go after the FTC and shut it down, and they used the legislative veto as a way to do that. On that FTC authorization bill in 1979 Senator Levin offered his legislative review provision with Senator Dave Boren [D-OK], and though controversial, it was adopted. [The House had passed a one-house legislative veto, and in conference the conferees and subsequently both houses agreed to a two-house legislative veto.]

**SCOTT:** And then it was struck down with *Chadha*, is that what happened? We can come back to this if we want to look into this.

**GUSTITUS:** [Yes, that FTC two-house legislative veto was struck down as a result of the *Chadha* decision.]

**GUSTITUS:** I so clearly remember how powerful it was for a liberal Democrat like Senator Levin to be telling Wendell Ford [D-KY], who was the chairman of the Commerce Committee at the time and in charge of the FTC law authorization,<sup>2</sup> how important legislative veto was, and because of the respect that people had for Senator Levin, they had to take him seriously. They couldn't just dismiss him. He had a lot of influence in that respect.

**SCOTT:** Was there any push back against Senator Levin being a freshman and having this kind of influence on this particular piece of legislation? In previous eras freshmen senators had been seen but not heard. That was the tradition. Of course it's always changing but I wonder if you ever encountered any sort of resistance to him taking the lead on something like this, particularly if it's controversial, as a freshman member?

**GUSTITUS:** No, I don't think so. He was very well respected and he always did his homework. In advance people always knew that this was his position that he really came in as a New Democrat, as I said, like Paul Tsongas did, which was to be more disciplined about the programs that you establish, to do more oversight, to be more careful with how you spend money, not just throw money at problems, and to really try to rein in what he termed the "unelected bureaucracy" of the executive branch. I think there was a lot of respect paid to him because he was up front about it.

The unions were very, very, very unhappy with him, especially on the sunset legislation because the unions liked the regulations. They liked what OSHA was doing. They liked what the Labor Department was doing. They were really unhappy that he was supporting sunset legislation and that he was supporting legislative veto and regulatory

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<sup>2</sup> Wendell Ford chaired the Consumer Subcommittee of the Commerce Committee in 1979.

reform in general. Cost benefit analysis was the other big piece of this, that you do cost benefit analysis of regulations. But they respected him on everything else and he was on their side on so many other issues that he was able to walk a line where they accepted that this is who he is. He was straightforward and up front about it. They worked with him on it. Not with the legislation on that particular legislation, but they accepted that from him and worked around it.

**SCOTT:** What did the more traditional liberal Democrats think about this? About the New Democrats, folks like Levin and Tsongas? Did it create any tensions within the caucus?

**GUSTITUS:** Well, Wendell Ford to me is a good example, or Biden's comments. They took a different view. They thought that these were extreme positions. But they'd also heard a lot of anger from their own constituents about stupid regulations. Business was upset at a lot of it. These were the days when OSHA issued some extreme regulations. I remember [George] McGovern [D-SD] came and testified at a regulatory reform hearing and talked about how Hubert Humphrey [D-MN] owned a little pharmacy in Minnesota, that's where he started. He had a twisting staircase into the basement where he had to go get things. The OSHA inspector came and when he came down he bumped his head on a stair, on a low-hanging stair, and the OSHA inspector said, "You have to fix this because you'll bump your head every time." Humphrey said, "No, if you bump your head the first time you won't do it the second time." McGovern told that story, which was full of common sense and practicality and that was the juxtaposition of what people were experiencing in terms of overregulation and the cost of regulation. There was some sympathy even amongst the liberal Democrats to the over extension of authority by regulatory agencies. It was a huge issue in the late '70s, early '80s.

**SCOTT:** Do you want to say anything more about the sunset legislation?

**GUSTITUS:** I was remiss. I didn't do my research. I should go back and talk about that, too. We actually brought that up for vote in the Governmental Affairs Committee. It was seriously considered.

**SCOTT:** Let's come back and talk about that next time.

**GUSTITUS:** The sunset legislation was really quite important even though it didn't go anywhere. That whole concept that we would even think of reauthorizing all these programs every 10 years, it's pretty dramatic.

**SCOTT:** It is.

**GUSTITUS:** It shows you the extent to which people were really upset about the scope of the federal government in business and personal life.

**SCOTT:** When you started in 1979, you were a legislative assistant with Senator Levin, is that right?

**GUSTITUS:** Yes.

**SCOTT:** And in the next Congress, beginning in 1981, is that when you moved to the subcommittee?

**GUSTITUS:** Yes, essentially that is right.

**SCOTT:** That was the first time in 26 years that the Senate changed from a Democratic majority to a Republican majority in 1981. How did you feel that shift on Senator Levin's staff? Was it a big change for you? Were you as surprised by the election as some people were?

**GUSTITUS:** Oh my god, it was an earthquake of major proportions. That night was horrible.

**SCOTT:** Where were you that night?

**GUSTITUS:** We had a Levin staff party at the administrative assistant's house. We were all there. Nobody saw it coming. We knew it was going to be a tight election, but it was a sea change. It was the election of 1980. It was huge. All of these people who lost, John Culver of Iowa, Birch Bayh of Indiana, all of these well respected, really powerful important members of the Senate were out. [Ronald] Reagan was in. But losing the Senate was totally unanticipated. I think was it seven senators who lost? I was shocked. I had just gotten the job as staff director of the subcommittee in July. I went away for two months as a hiatus. I said I wanted to take a special trip, which I did, I took two months to go to Europe. I came back then in November. So I had November, December and I was thinking those would be great times to be in the majority. I came back the first week of October, so for one month I was the—well we were the majority staff director until January. It was just shocking, devastating. People couldn't get their arms around it really, for a while. That was huge.

Then all of a sudden I wasn't the majority staff director. I had had all these dreams and these plans for hearings and what we were going to do. We had been working

on government-wide debarment and suspension issues and all of a sudden I wasn't the staff director and Susan Collins was the staff director for Senator [William] Cohen [R-MN]. So things changed dramatically. And we didn't have the money and the staff also.

**SCOTT:** Why did you move to the subcommittee? You were an LA. Why did you decide to take a position with the subcommittee?

**GUSTITUS:** As a legislative assistant, it sounds really impressive and exciting. You are in a cubby hole in an office. [Laughs] You are at the beck and call of the floor, you have to respond to whatever is on the floor. You are not in charge. You are really at the mercy of the floor, the senator, the office. You are meeting with a lot of constituents and doing mail and handling multiple issues, which I thought was wonderfully exciting when I first took the job. I could have stayed there.

But, I am a lawyer and I wanted to advance and the person who Senator Levin had as the staff director of the subcommittee was there only for two years, a year and a half. There was an agreement that he would leave and the job came open. I just thought, why not? I'm a lawyer. I like to do legal kind of work, investigations and doing committee hearings, that's more exciting. I'd be my own boss and I'd have a different office. There were lots of different elements to it. It was great because he was willing to hire from within. It was a bit of a risk because I was only 30 and taking on a subcommittee. I hadn't had a subcommittee; I hadn't done anything on the subcommittee before. I hadn't done oversight before. But I had handled the FTC legislative veto and in that capacity that previous year I had been an important player.

I had certainly been important for Senator Levin in representing his views in these staff meetings. You can handle those staff meetings either in a passive way, or you can be aggressive and say "This is where my boss is at. This is what we need. This is how we are going to get there." Or come up with a compromise. I was fairly aggressive because I knew what his position was so clearly. I knew exactly what he wanted and how important it was to him. I had a lot of authority in dealing with that FTC legislative veto. I was his expert, but I became an expert in the Senate on legislative veto.

With that as a base, it was really that legislative veto experience that made Senator Levin aware of the fact that I could handle something fairly significant. That's why he was willing to take a risk and put me in as the staff director. We got along so well. It was so easy. We had such a great working relationship.

**SCOTT:** When you were in these meetings discussing something like the legislative veto, how many other women would have been in the meeting?

**GUSTITUS:** There were two other women. One was Amy Bondurant, who was Ford's staff person, general counsel or counsel to his Commerce [sub]committee, who was responsible for the FTC authorization bill. She was a strong person. She was there, yes. I think Ford also had a woman who was a staff director for several years. Susan Collins was Senator Cohen's staff director. Women were really becoming visible at that time.

**SCOTT:** The Subcommittee on Oversight of Government Management, what did you know about the subcommittee before you joined? Did you know much about it? Had it been particularly active?

**GUSTITUS:** They had had a couple hearings. When I was on the personal staff, they were a group of people who seemed—the staff—like adult professionals who came in and did serious things. That seemed more impressive to me than what we were doing as legislative assistants. [laughs] I said, "I'd rather be in that group." [both laugh] I wasn't involved in any of their specific hearings, I just watched it from afar, but they seemed like they were really serious and knew what they were doing and doing important work.

**SCOTT:** You took a two-month hiatus to take a trip to Europe? Why?

**GUSTITUS:** I did. I started in February of '79 with Senator Levin and worked '79 and then about July of '80 was when his staff director left and I applied for the job. I was given the job. But my husband and I had never been to Europe and really wanted to do that. He was in between jobs and I was in between jobs, potentially because I was leaving my legislative assistant position. So I said I wanted the two—it may have been two and a half months—to do a grand tour. "Grand tour." We rented a little, itty-bitty car and drove all over Europe [both laugh] for two and a half months. That was fabulous. And then when I came back, I was ready to do the job.

**SCOTT:** You said you had put a plan in place: "These are the things I would like to investigate."

**GUSTITUS:** I had some ideas. Debarment and suspension was one. I had worked in the Justice Department in the civil fraud unit. One of the frustrations was some of these people who defrauded the government were coming back and doing work for other agencies. I decided to look at that, it was something that had bothered me. So when I got an opportunity with the subcommittee, I learned that we didn't have government-wide debarment and suspension. I learned that if you did a horrible thing for the Department of

Defense and you were sued or penalized, they had their debarment and suspension list, you could go tomorrow to the Department of Agriculture and get a contract. I thought that didn't make sense since we should share information. That was the first hearing that we really did—government-wide debarment and suspension. It was a successful hearing. Cohen liked the idea also. It was funny. It was our work, we had done all this work, and then the hearing happened when he was the chair. I always, in the back of my mind, I felt I was running the hearing. It was my issue but it wasn't, that had changed. I couldn't really control the hearing as I had anticipated, as I had thought I was going to be able to do. But Senator Cohen and Susan [Collins] were great on the issue.

**SCOTT:** How did Senator Levin and Senator Cohen work together as ranking and chair?

**GUSTITUS:** Very well. They gave each other a lot of freedom and respect. We gave them field hearings up in Maine, they gave us field hearings in Michigan whenever whoever was in charge. It was a gentler time, a much gentler time. It was also easier for us because the issues were waste, fraud, and abuse, which everybody can get behind, trying to end waste, fraud, and abuse. The factor was whoever was president. For those eight years—to Cohen's credit, Reagan was president—we were going after the Reagan administration. He was one of the lead spokespeople against Nixon in the Watergate hearings. He was a very straight shooter, which is why Maine kept electing him. They were so proud of him. And so was Levin. I think both of them were pretty straightforward, honest, commonsense people so it made the relationship really easy.

**SCOTT:** Is it important that the ranking and the chair have a strong, close relationship? That they see eye-to-eye on things? How does that relationship affect the way that the committee moves forward?

**GUSTITUS:** I think the better their relationship is, yes, the more powerful the committee can be. But that doesn't mean—for me, [Joseph] Lieberman [D-CT] and Susan Collins had a strong relationship, but their politics were similar. That doesn't mean it was necessarily good for the Democrats, that there was that close relationship, because Lieberman was really more aligned with some of the Republican Party interests than the Democratic Party interests. The closeness might work for what the chairman and the ranking member want, but that might not necessarily be the best public policy.

**SCOTT:** What is the relationship between these subcommittees under Governmental Affairs and the main committee? How much of the work that you were doing needed to be reviewed by the staff director of the full committee, for example?

**GUSTITUS:** Everything in Congress depends upon individuals, personalities. So a full committee chair can have one attitude. Committee chair A can have one attitude toward subcommittees and committee chair B can have a completely different attitude toward subcommittees. A lot of that depends upon the personality of the chair and it can also depend upon the personality of the subcommittee chairs and who has got power. The chair of a full committee obviously has more power, officially.

But there are also “boutique,” press-loved subcommittee chairs who end up having power because of who they are. A request from somebody like that may be treated differently than a request from a “vanilla” kind of subcommittee chair who doesn’t really get the press, nobody really cares that much about, to be honest. So much of that is personality as to how things happen. But there is also tradition and custom. For a chair to go against tradition and custom is a challenge but it depends upon what their ego is like and how much power they have, and the difference between the votes, how close are the votes in the committee. Even then it’s not just Democratic votes, it’s are those Democrats real Democrats or are they Ben Nelson [D-NE] Democrats who are more closely aligned with Republican interests? It’s so circumstantial and personality based.

Essentially there are two types of committees. There’s the full committee where the committee chair keeps all the staff at the full committee, and has all the staff at the full committee and the full committee staff staffs the subcommittees. That’s the Armed Services Committee. Senator Levin and Senator [John] McCain [R-AZ] hire and fire all of the majority and minority staff people, respectively, on the Armed Services Committee and then they assign staff to work with subcommittee chairs. So you can be the subcommittee chair of the Nuclear Sub subcommittee, but the staff people who are working for you are hired and fired by the committee chair. You can see how much more power the chair keeps when it’s their staff. That is a very controlled situation.

In Governmental Affairs the chairs of the subcommittees hire and fire their own staff so they have a lot more independence. A lot, it is dramatic. In Governmental Affairs the full committee has their full committee staff and the subcommittee chairs each have their staff and the ranking people have their subcommittee staff. Things don’t have to be reviewed by the full committee, but the full committee, the chair, can come and say, “Wait a second. This is really out of line.” But I don’t think it ever happened to us. The other way the chair controls the subcommittees is through money. Under Senator [William] Roth [R-DE], the subcommittees had significant pools of money to do their work. When Senator [Fred] Thompson [R-TN] became chair he pulled a lot of that money up to the full committee and the subcommittees were made less powerful because the size of their staff was reduced. Members can complain and fight about it, but

basically he does get to call those shots. Again, it's relationships, it's ego, and self-confidence on the part of the full committee chair as to what he or she wants to do.

**SCOTT:** The way that you just explained how you would staff subcommittees, is that established by tradition with each committee or does that depend upon how the chairman wants to run that committee in terms of how they staff it, in terms of if they are staffed by the chairman and ranking or by the members of the subcommittees?

**GUSTITUS:** It's tradition, but at some point somebody started the tradition.

**SCOTT:** I wonder if you know if that model that is established has changed?

**GUSTITUS:** I think a chairman of the Governmental Affairs Committee could try to do that. But the Governmental Affairs Committee isn't an attractive committee for most members. They don't want to be on that committee. A lot of this delegation of authority to the subcommittees is to attract good members to the committee. It's just the inducement, one of the ways you can induce somebody to come on the committee. Lots of people want to be on the Armed Services Committee. They'll take whatever they can get, basically, just to be on the Armed Service Committee. I don't know how the Finance Committee—Judiciary probably runs more like the Governmental Affairs Committee where the subcommittees have their own staff. I know they do. That's how it used to be, at least when I was here.

**SCOTT:** In the 1960s, for example, in the battle over civil rights legislation we know that the subcommittees could work relatively independently.

**GUSTITUS:** Right, Senator [Edward] Kennedy [D-MA] had his own staff, he had Justice [Stephen] Breyer. So the Judiciary Committee worked like the Governmental Affairs Committee and that was probably just by custom and practice also.

**SCOTT:** It's interesting to me that when you first came to the Senate, in spite of the fact that Governmental Affairs wasn't the sexiest of committee assignments, there were a number of notable members who served on the committee. Were these members active on the committee? Did they have a particular interest [in the issues]?

**GUSTITUS:** Governmental Affairs used to be a terrific committee because of the quality of its members—Ed Muskie [D-ME] was on it, [Charles] Chuck Percy [R-IL], Abe Ribicoff, Charles Mathias [R-MD], Sam Nunn [D-GA], Jacob Javits [R-NY], one of the great senators.

**SCOTT:** Scoop Jackson [D-WA], who died in 1983.

**GUSTITUS:** Scoop Jackson, Tom Eagleton [D-MO], [Al] Gore [D-TN] was on the committee for a while. We had terrific members. Part of it was because they got committees. Like this Nuclear Proliferation subcommittee, what a weird subcommittee to have on Governmental Affairs.

**SCOTT:** It's not clear why that would be there.

**GUSTITUS:** Because some member, it may have been Scoop Jackson, I don't know who it was, wanted to look into that. So at that point that chair decided, "Yes, you can. We'll add that." The title of that subcommittee was Nuclear Proliferation, Federal Services, and the District of Columbia, this ridiculous amalgamation of issues. But it's probably what that member wanted and so they created that subcommittee for them.

I think Muskie used it, for budget, but he was actually on the Budget Committee. When Ribicoff was there, Ribicoff was a very well respected senator. He took over as Governmental Affairs [chairman], here's the one thing that happened. It had a huge pool of money. What happened was they combined—and I don't know when this happened, you'd have to look this up, it was just before Ribicoff, I think—they combined the District of Columbia Committee and the Post Office Committee. In the House those were separate committees and I think they were separate here. What happened was, they combined them and put them in Governmental Affairs. With it came a lot of money. It's a committee that sits there with a pretty big budget. That's what makes it attractive. Ribicoff came in and I don't know if at the front end he wanted to do regulation but he did this major study on the regulatory framework of federal government. That was a perfect place for him to do that.

Money is an attraction to Governmental Affairs. And anybody who knows anything would know that you have unlimited jurisdiction in Governmental Affairs. Some of these junior members, I just don't think they know what they are doing. When Susan Collins came, she wanted Governmental Affairs because she knew what you could do with it. You get staff immediately and you can have jurisdiction over any issue in the federal government. You have to do the work, it's oversight, and that's another factor for people. Instead of just having the legislation come through, with oversight you have to dig and hunt, investigate, work. For the right member, Senator Levin was one, Cohen was one, Collins, it's just a terrific place to be.

**SCOTT:** Did Senator Levin want that assignment?

**GUSTITUS:** Yes. What happened [was] Senator Ribicoff wanted him on the committee. He said, “I will come if I can get an oversight subcommittee” because he wanted an oversight subcommittee. That’s how they created that committee, Subcommittee on Oversight of Government Management, for Senator Levin.

**SCOTT:** I can see why it would be a draw, as you say, because of the money that is available and because you have broad jurisdiction of all kinds of things that you could look into. But on the other hand, it seems that if you are a Democrat while there is a Democrat in the White House that there could be some political drawbacks to that approach, that you could be seen as someone who is challenging the “leader” of the party. By uncovering something that might reflect poorly on the president, you are somehow weakening the president as well. Were those conversations that you had, was there talk about that in the committee?

**GUSTITUS:** I think that’s a factor for everybody. If you are going up against your own administration you are asking yourself, “Is this meritorious? Is this really worth it? Is it important enough to take on my own president or my administration?” I think that is always a factor. Hopefully people come down on the side of, “It’s our constitutional responsibility. We’re not only partisan but we are a separate branch of government. This is what we have to do.” But when you think about the committees, here’s the other thing with Governmental Affairs, a lot of people pick—and this is especially true in the later years—people pick committees by how much money they can raise from those committees for their political campaigns.

**SCOTT:** And Governmental Affairs probably didn’t bring in much money?

**GUSTITUS:** If you are on Appropriations, if you are on Armed Services, if you are on Finance, Energy, those are big money-raising—those have huge constituencies that care about all that legislation that goes through there. Governmental Affairs doesn’t have that. People don’t contribute to people because they are on the Governmental Affairs Committee. It just doesn’t happen. That is another factor.

**SCOTT:** What was your relationship like with Susan Collins in those first years when you were both staff directors on this subcommittee?

**GUSTITUS:** We were both young women. I think we both respected each other professionally. Oddly enough people might not realize this with Susan, but she has got a lot of fun in her. She’s a good spirit. We got along well as friends.

She was always very political. She was always protecting Senator Cohen. She was more partisan than I was. I have never been a strong partisan. I've always been against people who don't use common sense. I don't see myself as a real partisan. Susan was pretty aware of partisan elements and cause and effect. But we had fun. We had a really good time. We were close. Both staffs were pretty close. We felt really good about the work we were doing. We didn't have too many issues about claiming credit, or anything like that. We both had great bosses, terrific bosses, and we were both very close to our bosses. When we spoke, we spoke for our bosses. It was never a question of, "Are you out in front of your boss?" No. I knew Susan had a direct line to Senator Cohen. She knew I had a direct line to Senator Levin. We had fun. We were young women in positions of power. It was a pretty great time.

**SCOTT:** How do you plan for a hearing or an investigation? Do the two of you sit down and talk about the types of things, let's say early in a Congress, that you'd like to look into? How does it work?

**GUSTITUS:** There are two different types of committees. On most subcommittees the chair pretty much decides what the committee is working on and tells the minority that. "Those are going to be the hearings and that's how it works." There is one subcommittee where it doesn't work that way, by rule, and that is the Permanent Subcommittee on Investigations, because in the rules of the subcommittee itself it says that the ranking member can conduct his or her own investigation. There is built-in authority and permission for the ranking members to do their own investigations, which is what makes that subcommittee just such a terrific subcommittee and so attractive to people.

But the way we worked at OGM we called it, Oversight of Government Management, was pretty much like PSI. Because of the relationship and the confidence we each had in the quality of our work between the majority and minority, each side did its own investigations. We couldn't go to the level of subpoena, nor can you as a minority on PSI. But we would develop an issue and bring it forward and if Senator Cohen was chair and liked it, we would both work on it. It was a very collaborative operation.

The big thing we did was a Competition in Contracting Act, which was to try to stop sole source procurement and wasteful spending in the federal government, largely in the Department of Defense. Both Levin and Cohen loved that issue because we were saving government money. It was the right thing to do. I think Cohen initiated it, but we were both deeply involved in it. We were always trying to come up with examples and sharing information. It was very collaborative.

**SCOTT:** I'm always interested to know how staff [identify] a particular issue. It seems to me there could be any number of issues that you look into—

**GUSTITUS:** Especially with open-ended oversight, it is.

**SCOTT:** How does that work?

**GUSTITUS:** It's a really good question. Several different ways. First of all, your chair can come to the staff and say, "I was just meeting with these constituents" or "I was just meeting with these people and they are really upset about X, Y, and Z. I want you to look into it and see if there is something there." That's one way you can do it. As staff director, on numerous occasions, I would come and say, "I am so upset about this particular issue and I think we really should look into it." If Senator Levin agreed we'd go look into it and see if there is anything there.

The *Wall Street Journal* and *New York Times* have great investigative reporters. Unfortunately those staffs are down a fair amount right now. But they would uncover some terrific issues and there would be an opening there to follow up and to not just let it sit out there as a reported story. You had to do something about it. We would take an issue that some wonderful *Wall Street Journal* investigative reporter had uncovered and I would bring it into Senator Levin and say, "I think we should follow up on this" and we would do it that way.

And then sometimes things would happen back in your own state that you just couldn't ignore. You just had to have more than an individual constituent response. We had seven people back in the '80s commit suicide because they couldn't get their Social Security disability payments in time. It was tragic. It was horrible. That whole program was a mess. There was a drumbeat around the country. Given the impact of that in Michigan, this was so visible, we decided we had to look at the Social Security disability program. Senator Cohen had similar experiences in Maine and so we spent a considerable amount of time delving into the Social Security disability program. Again, it was pretty much both of us because we would both be looking for examples. It was good work, it's exactly what we should be doing. Then we had the Levin-Cohen disability reform act that we eventually got enacted into law. So oversight issues can come from the members themselves, the staff bring in issues, reporters bring in issues, and constituents bring in issues.

**SCOTT:** If it comes from a reporter, do you try to establish a relationship to learn about—

**GUSTITUS:** Yes! For good oversight, developing relationships with reporters is absolutely critical for a whole bunch of reasons. First of all, they may have done a whole lot of work in an area, so they know a lot. Secondly, people may be willing to talk to a reporter and they won't talk to Congress. They don't trust us, or they are afraid we'll publicize it, or there will be some negative consequence to it. So we'll use a reporter to try to identify people whom we can talk to. And then the reporter becomes the person who says, "You can trust this member. Can I give this member your name because they want to look into it further? Let me tell you that this is a member that you can trust." Thirdly, they are the people whom you want to use to publicize what you find. You want to have them understand the issue, you want to bring them along, so that when the time comes that you want to report, they've got a background on it and they think it's interesting and they are willing to do a story on it. That relationship is really, really important. Mostly with Governmental Affairs, when you are doing oversight, it's investigative reporters whom you are working with.

**SCOTT:** I guess it would be good for them as well because having a relationship with you gives them an in to stories that might be really important.

**GUSTITUS:** If they have done a really good favor for you, like connect you to a really great witness and introduce you to the witness, you will try to find some special angle for them that only they have. You'll try to be especially attentive to something. It's a two-way street. You massage each other. It's very important. The fourth branch of government is so important to the way we work.

**SCOTT:** How do you establish relationships—given that you are new to this position—how do you establish relationships with reporters?

**GUSTITUS:** I will answer that question, but what is so interesting about the way that Congress works is that you take somebody like me, I've never done oversight, never run a committee, never managed staff, nothing, and I get to be put in that position. There is no training. There is nothing. Each person is just out there. And if you are smart you ask questions and advice, but you can have somebody who thinks that is embarrassing to do that and they are struggling and making these things up. You wouldn't promote somebody in an agency to head an office if they didn't have qualifications and experience, or weren't trained. Have you been through a training program or had experience in this office? No, here in Congress we don't have any requirements for who gets to run these committees. I find that it has a huge impact.

When I talk to people about oversight, to the people in the executive branch, they expect us up here to be as uniformly professional as they are. To a large extent that is

true. Members don't usually or intentionally pick bad people to run their committees, but they can and it's happened. It's stupefying for people from outside to see somebody who doesn't even have the decorum of a staff director or know how to follow due process or how to work relationships. Nobody told me this is how you run oversight and investigations. This is how you do it. This is how you go get witnesses, this is how you approach the agencies, this is how you develop a relationship with the press. Nobody even said the press is important. You pick it up, of course, but nobody says you really want to reach out to some press people and develop a relationship, so it's all just by the back of your hand. At least it was for me.

What happens is that they come to you because if they hear that you are doing something you start to get a reputation so that they might come to you and ask you what is going on. Or you pick up the phone and you can call any reporter and just say, "I'm with the Senate Subcommittee on Oversight of Government Management. I saw your article, I'm really interested. Is there more there? What did you leave out? I'd like to see if Senator Levin would be interested in this. Do you want to come in and talk about it?" They are very approachable. They love to be approached. There's no problem with that. [Scott laughs] Everybody loves to have an inside relationship. That's the great thing about working in the Senate. Everybody responds to your inquiries, for the most part. One of the things that I just loved and appreciated about the position of being a staff director of an oversight subcommittee is I could call almost anybody in the whole country at any level and get a response. One, because they are going to be afraid that we're going to, but two, they don't want us to be misinformed.

**SCOTT:** Let's go back to this question of how someone does learn when they come into a new job here. How did you learn what to do on that subcommittee when you first started? Did you seek out advice from people who had been there before? What did you do?

**GUSTITUS:** I did talk to a couple of people who had been staff directors and asked them how do you do things. But it wasn't very clear, there was no "how to" manual. A lot of it was really instinct. I had a little staff and they had been working for the previous staff director so they had some kind of rhythm. I probably spent the first couple of months going with their rhythm and continuing with their work. Once you start to get a sense of that, then you see where you think things could be improved and the issues that you want to move towards. I had to fire somebody early on. I had an unfortunate situation where I really did not get along with the top counsel whom I inherited. We had to work through that. You have to have a certain level of self-confidence. You have to trust your own judgment and instincts. But there wasn't much there. And a budget? And money? No one really tells you much about that. Most of that

happens, you have a chief clerk so that person has had experience and knows the budget and the money and that helps a lot. We had a terrific chief clerk for many, many years.

**SCOTT:** How important is the non-designated staff on the committee?

**GUSTITUS:** So important.

**SCOTT:** Partly because they have that institutional knowledge, they tend to be the long-term staff.

**GUSTITUS:** There is a whole infrastructure in the Senate that is the non-designated employees who just know how this place works. Did you ever see that TV show, “Yes, Minister”?

**SCOTT:** No.

**GUSTITUS:** It was a British TV show. It was terrific. It was a little 30-minute comedy series where they followed the deputy minister who was non-political and then he’d deal with the minister who came in [laughs]—how he manipulated that minister was so funny! And what he’d put up with. The limits he had with respect to that minister were just terrific. That’s kind of like the non-designated people here just a little bit. They know how the whole system works, how to get things, how to get rooms reserved, and all of that. Documents, records, reports, how to deal with GPO [Government Printing Office], all of that.

**SCOTT:** You rely heavily on them at least in the beginning.

**GUSTITUS:** Oh, yes. They are very, very important because if they are good, and most of them are I suppose, they broker the relationships between Republican and Democrat. They have to work with both. The chief clerk has to put up the little sign for each member for the Republicans and the Democrats and give them their documents and their papers. They are the medium through which everybody can relate. So they are important.

**SCOTT:** What was the typical day for you like, in this early 1980s period when you were the minority staff director?

**GUSTITUS:** Do you know where my office was? It was in the other apartment building. Not the Carroll Arms.

**SCOTT:** The Immigration Building?

**GUSTITUS:** No, it was another old apartment building that faced the park. I think it was called Senate Courts. Anyway, the office was the porch of that apartment. My office was glassed in as a porch of this apartment. The one bedroom was where three people had their desks and there was a little living room area where the chief clerk and an intern had their desks. I had this little porch, which was where my office was. It was just, the offices were so unimpressive. [Scott laughs]

**SCOTT:** This was just before the Hart Senate Office Building opened. Space is always an issue in the Senate, but particularly at this time it was bad.

**GUSTITUS:** I guess the typical day would be to come in at 8:00. You have to have read the newspaper cover to cover every morning before you get to work. I didn't ever read it at work, I always read it before I got to work. When I got to work I would just scan the *New York Times* or the *Wall Street Journal*. You have to do that. Greet the staff, check in on what was going on with the staff. A lot of it was checking out hearings or something that we'd have going on in the committee. We'd have weekly staff meetings with Senator Levin or I would have to go talk to him about something. We didn't have TVs then. We had squawk boxes. That was a big deal. So you'd always turn on your squawk box and follow the floor. So it's just voices.

**SCOTT:** And you get to know everyone's voice.

**GUSTITUS:** And you get to know everyone's voice. Someone would say, "Who is that?" "That was Senator so-and-so." You just know, "That was Senator [Ted] Stevens [R-AK]." It's kind of in the background. You are not listening to the news. You didn't have CNN. It's just a completely different atmosphere now. Even having the TV on of the floor is different than having the squawk box because you can't see who is down on the floor. Now you could say, "Oh my god. Senator Levin is going to go talk to that senator." You can see when somebody is doing something. "What's he going to say to her?" We didn't have any of that. Working until about 6:00, probably.

**SCOTT:** I did wonder about the hours.

**GUSTITUS:** I probably left home at 7:30 in the morning and got home at 7:00 at night.

**SCOTT:** One question I often ask Senate staff is how you manage the time between your personal life and professional life. Sometimes, particularly with people

who have to respect the floor [schedule], but with others as well, there is such a push and people tend to be so driven who take these positions anyway, that sometimes the personal life can take a back seat. I wondered for you how you've done it.

**GUSTITUS:** It's such an important question because obviously it's the quality of your life. I did a couple of different things. First of all, the member you have is really important. Some members are oblivious to your personal life and they don't care. It's true, they just don't. They keep their staff here morning, noon, and night, and they don't care. If the Senate is in session and they have to be here, then you have to be here, even though it may not be your issue. It is ridiculously demanding. Other members are more sensitive.

Fortunately, I had a senator who was more sensitive. When I didn't have kids I almost didn't think about it. I just did what I did and it was fine. Once I had kids, and this is probably one of the worst feelings you can have, you want to be in two places at the same time. You're just always torn. It's always, "I want to be there with my kids" or "No, I want to be here with this meeting because it's really important." That was that awful, awful feeling.

Eventually what I did, after my son was probably two or three, I decided to work four-fifths time. I reduced my salary to four-fifths and that allowed me to come in Monday at noon and go home Friday at noon. I got to leave the office at 6:00. That was the set up for four-fifths time. I think that's how we left it. What it did was, because I had cut my salary, I felt really good about leaving at 6:00 because I felt I had paid for it. If instead, it had been, "Keep your salary and yes you can go at 6:00," that wouldn't have quite worked. I would see all these other people working and then I would have felt, "No, I should be working too." Taking the salary hit was really helpful to me emotionally because then I could walk out at 6:00.

The good news was that Senator Levin would almost always be the person who would say, "Don't you have to be home with your kids? Isn't it 6:00 now?" He was really, really respectful. There were many nights when that didn't happen, because we had a hearing the next day and I had to be there. But that was okay because that was different and I was choosing that. I still, for the most part, I had the understanding that I could have walked out at 6:00 if I wanted to. That was great. I did that for five, six years, I guess where I worked four-fifths time.

The other piece to that is that you basically do the same amount of work in four-fifths time that you do full time. What happens is that I didn't take lunch. I never took lunches anyway. When I came to the Hill I thought, "Oh my god, I'm going to be a

legislative assistant for a senator. I'm going to go out to these lunches and these receptions. Oh my god, is it going to be fun!" That is just such a hoot! Grabbing a tuna fish sandwich and shoving it in your mouth before the next person comes in to talk to you. That's the reality. The other idea was just ridiculous! I don't know where I got that idea. [laughs] But I was immediately disabused of that idea. I didn't even have coffee or anything. I just worked straight through.

It actually hurt, affected my relationship with my staff because I was so concentrated. I just felt like I could never stop and talk to them very much. So I instituted on Thursday nights—because I wasn't there Friday nights—I instituted cocktails Thursday night at 5:30. Come hell or high water you had to be in the office and have cocktails with me at 5:30. So I could sit back and talk to them and we could have fun. That actually worked. Yes, it worked. It was really important to do that. Otherwise, I was like a machine. That was intense.

I think the office didn't skip a beat and I did everything I did and maybe more because you are so intense because you know you are going to leave at six. That did help a lot. Then after that I think that helped because we were in the minority also, during that time, a good chunk of it.

**SCOTT:** I think the Democrats gained the majority in the 1986 election.

**GUSTITUS:** I think that helped too.

**SCOTT:** You did this, in other words, while your son was small. And then when he went to school—

**GUSTITUS:** That helped. Then I did go back to full time at some point.

**SCOTT:** Did you propose the 4/5 to Senator Levin? Where did you come up with the idea?

**GUSTITUS:** I don't know.

**SCOTT:** Did you know anyone else who was following that model?

**GUSTITUS:** I don't think so. I know I didn't want to take a whole day off. I knew I wanted to be in the office every day. I was doing a nursery—in my neighborhood there is a cooperative nursery where parents have to help one morning a week. We took Fridays. I must have taken Friday morning off then, instead of Friday afternoon. That was

another factor, I needed a half day to do that. Then just getting the kids off—getting RJ off—on Monday was important. It worked.

I don't remember—I remember at some point feeling I had to have more time for the kids. I just had to, even leaving at 6:00, 6:30, I didn't get home until 7:00. That's late for the kids, really late.

**SCOTT:** What about the other women that you worked with? Were these conversations that you had with other professional staff? Or does that tend to be something that people don't want to discuss?

**GUSTITUS:** I don't remember many conversations with staff about it. Susan didn't have kids. She wasn't married. Her general counsel was at some point. But by that time we had started the Senate child care center. She put her kids in the Senate child care center and she was eternally grateful. Another woman on the staff didn't have kids. My chief clerk was a woman but she was a grandmother, she was older, her kids were grown up. Elise Bean whom I hired, who is now the staff director at PSI, she had kids but she used the House child care center. At the time I was doing it, I don't remember having any conversations like that. Certainly not of the people I was working with. I don't think I worked with people who had little kids at the same time that I did. It's not my memory.

**SCOTT:** Did you take a lot of work home?

**GUSTITUS:** No, this was the other thing that I did. I am also really grateful that I made this decision. I did not go home and hit home and then begin working on something while the kids were around. While I was home I made the concerted effort that until they fell asleep, I was not doing work. Period.

I would get phone calls from Senator Levin and I'd take that call. But I did not take work home. That was really, really important psychologically for me. My kids to this day appreciate that. They have both told me, "When you were home, you were with us." I'm so glad I did that. It kind of worked in a funny way because I hear all these stories of these wonderful families who have these big policy discussions with their kids at the table and that's how those kids learned politics. I was exactly the opposite. In a way it was kind of bad, I think. We talked about what they did. I transformed from this political person to talking about what was going on with the kids and everything. I don't know if that was good, but that was a decision that I made.

**SCOTT:** Your husband, did he work in politics? He was working as a community organizer?

**GUSTITUS:** He was a community organizer, but he worked from home. That was really good. This is an interesting thing. He had his office at home—this is as the kids got older—when they came home from school at 3:00, 3:30, their perception of him was that he wasn't there for them after school, because he would be in his office working. They would see me as being more present because when I was there, I was there versus him who was there but he was working there. That's an interesting thing on perception for kids, how just being there physically, if you are not really there emotionally, they get it.

**SCOTT:** Was it helpful to have a spouse who was home, on the premises?

**GUSTITUS:** Hugely helpful. It was so helpful. That's their perception but they just had so much benefit from him being there. He would get the snack for them and they could then go outside and do all sorts of things. It was really, really important. That's a big issue for two-parent working families. You have to be able to work it out so maybe somebody has to sacrifice a little bit. We had a family who lived across the street and they were two powerhouse parents. They were never, ever home for their kids. They were both big travelers for their jobs and everything. I always thought if you are going to have kids, then one of you has to say, "I don't travel in my job." You just have to make some kind of accommodation, I think. I don't mean to lecture, but it's not life as usual. There are factors you have to take into account.

**SCOTT:** At least until they reach a certain age. It changes when they get older, doesn't it?

**GUSTITUS:** You know, as they get older, I'm not so sure that's totally true. There is so much going on when they are in junior high school, so many emotional issues and self-image issues. Just think when so many kids go off track. It's in junior high school and the beginning of high school because of all those self-image issues that they are presented with. It's important at every step of the stage.

**SCOTT:** Interesting. What are some of the steps that the subcommittee would take to pursue a particular line of inquiry? Not every issue would rise to the level of investigation, for example. Do you start, sometimes if you see something in the *Wall Street Journal*, would you start with a letter or a phone call to someone there?

**GUSTITUS:** Okay. I want to just go back to children one more second, and that is on maternity leave. When I was here, I got six weeks of maternity leave—no three weeks of maternity leave and then I had to take three weeks of vacation and sick leave. I

had a cesarean section. It was a ridiculously small amount of time. I literally worked the day before I went in for my delivery. My water broke that night and I went into labor. I think I was back on the job in maybe three weeks, four weeks [later]. It was ridiculous.

The most important thing that we can do for women is to give them more maternity leave. Guilt-free maternity leave. Then with my daughter, I took three months off. Nobody should ever take less than three months off with their baby. The concept of maternity leave back then was just taking hold. It was even questionable if you took vacation. "I guess you are entitled to vacation leave with maternity leave." That was a big change that has happened.

**SCOTT:** When our office opened in 1975, they had a secretary whom I believe in 1976 was pregnant and about to have a baby. We are under the secretary of the Senate in terms of administration and it was up to the historian at the time, Richard Baker, to ask the secretary of the Senate, "What is our maternity leave policy?" And there wasn't one in 1976.

**GUSTITUS:** We didn't have one either, I was the first one on the staff.

**SCOTT:** It's interesting to think about the fact that members' offices in some ways were just oblivious to this issue, either because women who were in the positions weren't asking, or maybe they were older. It's still unclear to me why this hadn't come up.

**GUSTITUS:** Yes. Working women were pregnant back then.

**SCOTT:** The interesting thing is that the secretary of the Senate granted maternity leave for this particular woman in the office, who happened to be the secretary at the time, and then she didn't come back. She decided to stay home.

**GUSTITUS:** That's what men always used to say about maternity leave.

**SCOTT:** I think today, this may have been the case then as well, that it's up to the member's office. The members and the committee staff directors have the power to determine—

**GUSTITUS:** Except we had that law we passed—

**SCOTT:** FMLA.

**GUSTITUS:** Right, which applied these statutes to Congress—remember we were exempt from all those statutes?

**SCOTT:** Right. But in this case, it's unpaid. As it is today, for some people even in the Senate, it's unpaid leave.

**GUSTITUS:** It's not guilt-free. Not offering any paid maternity leave in 2012—that's pretty shocking. You're right, that can be unpaid.

Anyway, I wanted to note that. It doesn't sound like we've come too far then, does it? I did get three weeks, I believe.

So you asked me, how do we start an investigation?

**SCOTT:** And how do you decide whether or not something warrants a full investigation? What are the other options? If you or Susan wanted to look into something, how do you start and are there cases where it might not rise to the level of full investigation?

**GUSTITUS:** You start with any press reports that have been out there, any CRS [Congressional Research Service] reports, any GAO [Government Accountability Office] reports, and any IG reports.

**SCOTT:** IG is inspector general?

**GUSTITUS:** Inspector general. You're going to look at anything that's ever been done on that issue. You get a sense of, is it an issue that is still live and serious? Out of those reports there will be people who stand out. You might go talk to the IG. Or you'll go talk to the GAO or whoever. You'll call them in and ask them to walk you through what they know. And then in those reports, people who are key players, you might start by talking to them. You'll also ask for documents. There are two things that you'll need for investigations, documents and people. It depends upon how serious your investigation is as to whether you do it on a volunteer basis or whether you use subpoena. The more serious the issue is, the more reluctant they are to give you information, the more you have to move toward subpoenas. If it's just more of a gentle investigation, you can just do it by talking to people and they'll give you information and it's more information for Congress than it is digging, trying to figure out what really went wrong. By looking at all of that, you really do get a sense of whether there is something serious there or whether it's going to be handled on its own.

You have a couple of alternatives at that point. You can either decide, “It’s a really serious issue, let’s do a full blown investigation. Let’s really get into it.” Or, “There’s something there but we’re not sure what it is.” We could ask GAO if they hadn’t done an investigation, we could send it over to GAO and ask them to look at it. You can have somebody else. Or you can send a letter to an inspector general and say, “Would you look at it and report back to us.” Or you can decide to send a letter to the agency and say, “We’ve looked at this. We’ve looked at these reports. There are a lot of questions. These three are outstanding. Would you respond to us as to how you answered these questions in light of these reports?” You can do it by going back and forth with the secretary, inviting the secretary in, or lower, the person who is in charge of the program, it doesn’t have to be the secretary, and say, “Explain to us how you are addressing this issue.” You can do it by that. You can also just do all your work and issue your own report. You can say, “We’ve looked at all these things and we make these following recommendations.” Or you can do the full blown investigation and hearings.

If you do it right, you’ve really learned everything there is to know by the time you do the hearing. Not many members do it that way. A lot of members use the hearing to learn and even then they don’t listen so they don’t quite learn what they are supposed to learn. But the hearing, to me, is the opportunity to present your findings in a way. It’s to tell the story. You have done all this work. You have uncovered all this information. Now you are bringing everybody in who is a player and you are telling the story to the public. You are also holding people accountable who have done wrong and you are hopefully figuring out how to get a fix. Either the person who has done wrong says, “You’re right, this program has gotten off kilter. We’ve got to fix it and I’m going to do x, y, and z.” That’s one way the hearing can end. Another is that the head of the program says, “You’re just wrong.” And then you are in a battle of who is right and who is wrong. And then you just have to try to get more information. Or you can just decide, the program people can say that they did the best they could and that’s the way the statute reads and then you say, “We’ve got to fix the statute and we are going to order you to do x, y, and z.” Then you have to introduce legislation and amend the program. You can either do it by conversation with the agency, if they agree, and you can get them to change their ways. Or you can do it by a report with recommendations, or you can really do it by legislation where you say, “You have to do it now, this way.”

**SCOTT:** Which of these approaches do you think you most often took?

**GUSTITUS:** I’d say we used all of them at different times. On the big issues, the Competition in Contracting Act, we found all these horrible practices of the way agencies contracted for goods and services and so we just changed it and insisted that they not use

sole source contracts in certain situations. For the Social Security disability program we had to have legislation for that.

We did a lot of legislation as a result of our hearings. We looked into sweepstakes solicitations. This is a really good example of how a hearing can happen. My father was solicited. He was 80-something years old. He got into these sweepstakes. This was back when you would get these sweepstakes solicitations that said, "You have definitely won a million dollars and if you buy this ring your odds will be better." Or magazine subscriptions, American Publishing Company. I was really upset at what they were sending my dad and how my dad was sending them money on certain things and buying subscriptions. It was really crazy.

So I looked into it a little bit and found that the postal service was doing a major investigation into it for mail fraud, misuse of mails, and states attorney generals were getting complaints all over the place of senior citizens who had been abused by these practices. AARP had it as one of their big issues. It was an issue not just for my father, it was an issue for a lot of people. We went to Senator Levin and said, "I think we should investigate sweepstakes." He said, "Yes, let's do it." We did a big hearing on sweepstakes solicitations. We subpoenaed a lot of their information about how they did these solicitations. We got a lot of their e-mails. When Susan became senator, she picked up on it. We lost the Senate. It flipped again, the Senate flipped again. We didn't do the hearing. Susan picked up on it also and long story short, we had a big hearing with all the heads of these horrible companies that did these solicitations and we had victims and we ended up with legislation that said you can't tell people they've won if they haven't won. The type has to be so [big]—we got very specific. You have to have a disclaimer at three different places. It passed and we eliminated all those horrible solicitations.

**SCOTT:** That must be really satisfying to work on something like that.

**GUSTITUS:** It was. That one was terrific. It started with my Dad and we did it. That was another example of legislation. The IRS [Internal Revenue Service] seizure policy, we had so many investigations. There were various outcomes. For the big programs that were seriously flawed, we had to do legislation.

In other ways, we did reports. One of the things that Elise Bean, who is now the head of PSI, does, which we started when I was the subcommittee staff director, is doing reports in addition to hearings. What happens is when you have a hearing, you have just so much time. You have just so many witnesses, so many documents you can display and walk through. But in preparation for that hearing you've got a mountain of information and you have so many examples. You could tuck that into the hearing record, but then

somebody's got to plow through it. We got in the practice of putting into a report, a majority staff report, all of our findings and our key documents and we would release that at the time of the hearing, the day before the hearing, and then we'd have the hearing. So we'd give that to the press maybe 24 hours, 48 hours before the hearing and they could read through it and understand. Then we'd do the hearing. That helped a lot for people to understand it, and to give them the whole picture of everything that we had collected. You can also do a report after the hearing with findings and recommendations.

What happened with those reports was, when we got into big money laundering investigations, Merrill Lynch and Enron and all that, other agencies could use that for their investigative purposes. The U.S. district attorney, the southern district of New York, any place else, states attorney general, private litigants who wanted to sue a bank could use all of that. It was very effective to gather that information and get it in a product that was useable by a lot of other people so you didn't have to come to our offices and plow through our files.

**SCOTT:** I'm going to stop it there.

**[End of the Second Interview]**