

LINDA GUSTITUS

**Staff Director, Subcommittee on Oversight of Government Management and of the
Permanent Subcommittee on Investigations,
and Chief of Staff, Senator Carl Levin,
1979-2003**

Oral History Interviews

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Linda Gustitus

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Preface

By Katherine A. Scott

Linda Gustitus's first introduction to Congress came in the summer of 1966 when she interned in Congressman John B. Anderson's [R-IL] office. She returned as a paid intern a few semesters later, and those experiences left her with a positive impression of both Washington, D.C., and the legislative process. After graduating from Oberlin College, Gustitus moved to Chicago and started working as a community organizer, where she met her husband. She became a newspaper reporter, got married, and then began law school, but transferred to Wayne State University Law School in Detroit, Michigan, when her husband accepted a job there. Gustitus became active in local Detroit politics, and it was there that she first met Carl Levin, then chairman of the Detroit City Council.

After law school, Gustitus returned to Chicago where she worked first for the Fair Employment Practices Commission and then as a prosecutor for the Cook County states' attorney's office. When her husband was offered a job in Washington, D.C., Gustitus jumped at the chance to return to D.C. She began working as a trial attorney at the Justice Department in the civil fraud division, gaining keen insight into the relationship between the executive and legislative branches.

In the fall of 1978, senator-elect Carl Levin hired Gustitus as a legislative assistant. During her first year on Senate staff, she was Senator Levin's point person on his signature issue: the legislative veto. In 1980 Gustitus became the staff director of the Governmental Affairs Subcommittee on Oversight of Government Management. For the next twenty years she worked as majority and minority staff director, investigating a wide-range of topics including Enron, sweepstakes solicitations, the Social Security Disability Program, defense contracting, and campaign finance reform. Gustitus later served as staff director of the Permanent Subcommittee on Investigations (PSI) and briefly as Senator Levin's chief of staff.

During her more than twenty years on Governmental Affairs, Gustitus became an expert on the process and procedure of effective congressional oversight. In this four-part interview, she conveys the important role Congress can and should play in providing oversight of the executive branch, arguing that congressional oversight is "not intended, under the Constitution, to be political oversight. It's intended to be institutional oversight." She explains the role of journalists and whistleblowers, the subpoena power, the appropriate use of documents, the role of investigators, the challenges of conducting investigations with a small staff, and how well-planned hearings can shape public opinion.

In addition to oversight, Gustitus gained intimate knowledge of how the Governmental Affairs Committee and its subcommittees operate, the role of the chairmen and staff, and the unique features and design of PSI. She also observed great institutional change within the Senate, having joined the staff at a time when women began to play increasingly prominent roles throughout the Senate. As a founder of the Senate Child Care Center, she discusses the challenges faced by two-working-parent households in the modern era and the evolving role of women in the Senate during the last quarter of the twentieth century.

After retiring from the Senate in 2003, Gustitus served on the Wartime Contracting Commission, gaining perspective on the work of outside commissions. Alarmed by the allegations of torture at Abu Ghraib prison in Iraq in 2004, she helped found and served as president of the National Religious Campaign Against Torture, which advocates for ending the use of torture. Her years of experience inside Congress helped her to demonstrate how citizen activists can effectively pressure Congress and the president to effect change.

About the interviewer: Katherine (Kate) Scott is a historian in the Senate Historical Office. A graduate of the University of Washington, she received a M.A. in history from the University of New Mexico and a Ph.D. in history from Temple University. Scott is the author of *Reining in the State: Civil Society and Congress in the Vietnam and Watergate Eras* (University Press of Kansas, 2013) and various book chapters, including “A Safety Valve: The Truman Committee’s Oversight during World War II,” in Colton Campbell and David Auerswald, eds., *Congress and Civil-Military Relations* (Washington, D.C.: Georgetown University Press, 2015). She lives in Rockville, Maryland, with her husband and two children.

LINDA GUSTITUS
Interview #1: Eye on Washington
September 24, 2012

KATE SCOTT: Welcome Linda. Thank you for joining us.

LINDA GUSTITUS: Happy to be here.

SCOTT: It is September 24 and this is our first interview. I thought we could start with some basic biographical information. Where did you grow up?

GUSTITUS: Okay. I grew up in Rockford, Illinois, which is a town of about 150,000 people, 90 miles north of Chicago. It was a tool and die manufacturing town. It was very conservative when I grew up there. I was the middle of three daughters of a couple where my father was an All-American football player. A big personality. He basically raised the three of us as boys.

SCOTT: Is that right? In what ways?

GUSTITUS: We fished, we put on the worms. We even dug for the worms in the yard at night. We played sports. We didn't play football, but we were expected to [play sports] and we wanted to. We were a very athletic, physical outdoor family. I think he never saw any limits to what we could do. We were always equals to him in a sense of where we could go, and he hoped that we went further than he went. He was a foreman in a factory. He also coached a semi-pro football team called the Rockford Golden Eagles. On the side he ran an equipment repair business for all the high school athletic equipment. I would help him repair football shoes and cleats and do all sorts of very oily, messy things, and all these big football players would come over to the house to pick up their shoes. I was raised in a very male-oriented family even though we were three girls, my mom and three girls. But my dad was, for me, the role model.

SCOTT: What did your mom do?

GUSTITUS: My mom was a homemaker, as most women were at that time, in the 1950s and 60s. She was smart and cared very much about grammar and writing, and English, good English. She played kind-of second fiddle to my dad but not in a demeaning way, more in a "oh, let him have the limelight, I enjoy it also" kind of way.

SCOTT: Did she attend college?

GUSTITUS: No, she didn't go to college. My dad did go to college. He graduated because he was an All-American football player. So he went on a scholarship, a football scholarship to St. Ambrose [University]. But his parents were so poor, he got a scholarship to Grinnell College but it would cost \$50 more, \$50 period, to go to Grinnell and my grandfather said, "You can't go there because that's too much." They were poor, really, really poor. They were the ones, my father always said, who got the Thanksgiving baskets from the church, you know, at Thanksgiving time.

SCOTT: Was church a part of your—

GUSTITUS: Church was a part of my upbringing, not because of my parents. My parents were not religious, at all. But they sent us to a little local Lutheran church for Sunday school just to get us started. Truly, they never went to church. But I loved church. I was a big church person all through my high school years. It was a big part of my life. I was a church leader. I gave sermons. But, I gave it up as soon as I went to my first year of college and took the first year of Western Philosophy. That changed my whole life.

SCOTT: Really? Interesting.

GUSTITUS: It did, very much. My Lutheran church was very strict about who Jesus was, that if you sin you go to hell and if you aren't baptized you go to hell. Once I got to college, that didn't really make sense to me. But now I'm a strong Unitarian Universalist, which is more of a humanist kind of religion.

SCOTT: That is interesting that you have come back around to it. You attended college in Ohio. What made you do that?

GUSTITUS: As I say, Rockford was really conservative. And I mean my government teacher was scolded for giving us *Time* magazine because it was so edgy, lefty. I think we had more cells of the John Birch Society than any other town. It was one of our things of renown—that we were that conservative. I had an older sister who was four years older than I am, although she is now deceased. For some reason, and nobody can quite figure it out, she ended up being an intellectual on her own. She just started to read and got into classical music and poetry and everything like that. She went to Cornell College in Mt. Vernon, Iowa, and because she was such a good academic, she was offered and took up the opportunity to go to the London School of Economics her junior year abroad. We had never heard of the London School of Economics. Seriously, this is so far afield from my family and our culture. But, she went to London for her year abroad. This was when you took the ship to London instead of [flying] and this is when we had one phone call with her an entire year because it was so expensive.

SCOTT: Of course she didn't come back for holidays.

GUSTITUS: She did not come back. Christmas was the phone call. Anyway, she got exposed to so much at the London School of Economics, including leaders from all around the world. I was a junior in high school when she went, and I was a senior when she came back. She told me there are two schools I should go to, either Reed College or Oberlin College. Those were her criteria. I adored her and followed everything she said so those are the two colleges I applied to, the only two schools I applied to. My parents knew nothing about college, they were completely uninvolved. Not in a mean way, they just thought it was all our responsibility. I applied. I never went to visit Oberlin. Nothing. Now, you know, everyone goes ga-ga over visiting schools. No, no, no. The first time I saw Oberlin was when my parents took me there. That's how I ended up at Oberlin.

One of the life changing events for me was when I was a senior in high school and I was the editorial editor of my school newspaper and I got a press pass to hear and see Lyndon Johnson's Air Force One fly into greater Rockford airport. It was 1964, and President Johnson was running for president after Kennedy's assassination. All the press people came off the plane. I was there as this little high school student—I was completely dazed by the whole thing. George Reedy, who was Lyndon Johnson's press secretary, saw me and just kind of took me under his wing for about whatever time it was, maybe 35-45 minutes that they were there. He introduced me to all the press guys—mostly guys—and they had little typewriters, portable typewriters, and they were doing their stories and everything. I got so affected at that point. My sister had always been talking politics and public policy and political philosophy. I just said, "I want to go to Washington, D.C. I want to work in Washington, D.C. I want to be part of this." That is when—it wasn't an epiphany exactly—but it was something that really excited me and I got a vision that it was so exciting, that that's where I would like to go.

SCOTT: What year was this, again?

GUSTITUS: Nineteen-sixty-four.

SCOTT: It was the [presidential] campaign.

GUSTITUS: That's why Johnson was in Rockford. He was campaigning.

That was high school. So then I ended up going to Oberlin. With my thought of Washington, D.C., in the background, in October of that year, my freshman year—I was a government major—they posted a little sign on the board that said two students are

eligible to go to Washington, D.C., for a weekend in October—I forget the dates—and go to Georgetown University to a big international conference on the Atlantic Alliance. I knew nothing about the Atlantic Alliance, and I thought if I wrote a paper on the Atlantic Alliance I could maybe get an all-paid trip to Washington, D.C. So I did, I wrote this paper on the Atlantic Alliance. This other guy and I were probably the only two people who wrote the paper and tried to go! It wasn't a big topic at the time. I submitted my paper and I got picked. As I say, it was probably by default, there weren't that many people. We got bus tickets and got to stay at the Key Bridge Marriot and went to this big conference at Georgetown. People were from all over Europe, since it was about the Atlantic Alliance.

SCOTT: They were primarily students?

GUSTITUS: No, they weren't actually. A lot of them were foreign affairs officers. They were serious people and they presented their papers. I remember that at some point I had to present my paper, which felt ridiculous and I just barely remember doing that. I was in Washington, D.C., and Georgetown and all those people who were dealing with these big issues of how Europe and the United States relate to each other. That was another reinforcing moment of how much I really liked government and Washington, D.C., and public policy.

SCOTT: This is probably 1965?

GUSTITUS: That was '65 because I graduated high school in '65.

SCOTT: This is an exciting time, too. The anti-war movement wasn't yet too hot in '65 and Washington was a pretty exciting place to be. Politics weren't quite yet divided on that issue.

GUSTITUS: Right. So then I heard from somebody else at school that you could be an intern in Congress. Congress was always where I wanted to be. I was most intrigued by Congress. My member at the time was John. B. Anderson. If you'll remember, he was one of the first independents who ran for president. Eventually, remember? He proposed the gas tax. That was way, way back when. So I applied to be an intern that summer with him and got accepted. So as soon as school was out, I came to Washington, D.C. Now again, unlike helicopter parents now and how much attention we pay to kids—if my kids were going to New York City I'd want to know where they are, what their apartment is, what's the neighborhood—my parents thought it was great I was going to go work for the congressman; they thought it was terrific. They didn't take me

here, they never visited me here, they never saw where I was, there was no e-mail, no pictures home, nothing.

SCOTT: How did you get here?

GUSTITUS: I guess I got here by the bus. That's what I'm thinking. Bus or train, maybe the train. I found an apartment, a furnished apartment on my own. Lived by myself. It was so loose. But I did it. I was here for two months, probably was the length of the internship, and worked in Congressman Anderson's office.

SCOTT: What did you work on?

GUSTITUS: Mostly I did secretarial or administrative type work. I was front desk, I answered some letters. He had an extremely conservative administrative assistant at the time, really conservative. He probably reflected the district at the time, but I was shocked at how conservative the administrative assistant was. I didn't think that John B. Anderson was that conservative. He was a decent man, and I liked him. But his administrative assistant was vehemently anti-U.N. At some point he said something about "U Thant should be assassinated." He said something horrible about that. I was just shocked. I was pretty—confident is not quite the word—maybe just naïve. I just said what I thought. I would take him on.

SCOTT: Really?

GUSTITUS: I just thought that's what you did, you engage in these things. That was a good summer. It was a good introduction to Congress. It reinforced my love for it. I can't really explain except that I really liked it.

SCOTT: Did your ideas about Washington live up to the reality of Washington?

GUSTITUS: I think so. I say that because it was exciting. People were going back and forth to vote. Going outside between the House and the Capitol and in the tunnels. I thought it did live up to my expectation. I was never, in that internship, really involved in anything super substantive or watched a bill progress or a piece of legislation that was meaningful succeed. That was a very short period of time anyway. But, I knew that this was where the action was, that this was where things were being decided and people's futures were being shaped. Yes, it did live up to that.

SCOTT: Did you have a good sense of your own personal politics at the time? Did you feel like you were decidedly a Democrat?

GUSTITUS: I always knew I was a Democrat.

SCOTT: Did that come from your family background? Were your parents Democrats?

GUSTITUS: My father ended up being a Republican, although he was a common sense, moderate, liberal Republican. My dad was basically somebody who just had a lot of common sense. What's going on now, he couldn't even begin to understand it, that you don't come to the table and talk and do what's best. That you don't ask what makes sense. That's where he came from.

The boss of the company that he worked for was a strong Republican. He adopted that. He ended up being an alderman in Rockford, Illinois, after he retired. They really wanted him to be mayor of Rockford but my mother didn't want him to run for mayor. At that late stage she didn't want him to do that. But, yes, he was a Republican.

My sister was almost socialist, not in an extreme way, but because she thought it made sense—to share wealth to help everybody. There was that drumbeat from her and then going to Oberlin, pretty liberal.

SCOTT: I wanted to ask you, what was it like going to Oberlin in the mid-'60s?

GUSTITUS: It was the four years of the most intense transformation in a college campus, I think, probably in the history of college campuses. That's my guess. We literally went from a very conservative social situation where you had girls' and boys' dorms, we had family style dinners, we had to dress for dinner. Girls had to wear skirts, boys had to wear jackets and ties.

SCOTT: Each night?

GUSTITUS: Every night. We had 10 to a table. It was very restrictive and from some people's perspective—to me it was orderly and I loved it, I just loved it—uncomfortable and unnecessary. I really see myself as a kind of social conservative but on budget and fiscal issues very, very liberal. I'm kind of an odd mix. I liked the sit-down dinner, the order and all of that. By the time I left we had co-ed dorms, no sit-down meals, no dress code whatsoever. In four years. We had cafeteria style. We started with students who had no role in the governance of the school and ended up with the school putting some students on, it was called a 4-4-2 committee that I was involved [with], to have some kind of involvement in policy for the school. That was a huge transformation

in the school itself. It was also the four years of, well, Kent State was later but this was where it all started with huge anti-war demonstrations. At Oberlin, which is a very small school, small community, the students surrounded a recruiter's car and almost turned it over. It was a big deal. The politics were intense.

There was also the introduction of drugs. Drugs just started to get into the campus. Everybody was doing marijuana. But also LSD was huge at that time. That was this very popular thing, at least for the government major types. Probably the science people were—we also had a big conservatory of music—they were more conservative. But for those of us who were in government and the social sciences, it was more edgy. And the pill for contraception was just coming into popularity. Contraception just hit. The pill was coming into vogue in a big way, more accessible. So there was a huge sexual revolution. There was an Ob-Gyn person in Cleveland whom everybody could go to and get a prescription for birth control. All of that really hit between '65 and '69.

SCOTT: That is a huge transformation.

GUSTITUS: It was a huge transformation.

SCOTT: I know that on other campuses, the transformation from in *loco parentis* to co-ed dorms and things like that came as a result of a lot of upheaval and demonstrations on campus. Was that the case at Oberlin as well?

GUSTITUS: Yes. We went after the president of the college, and I think he eventually resigned. He was an accursed person to the students who did not like him. There were a lot of us for whom the classroom wasn't what was happening. You didn't care so much about the classroom. It was really what was going on socially and politically, that was really the focus. Let's say this: we had to graduate so we had to do the work. But the real action was what was going on on campus, in general.

SCOTT: While you were getting your government degree, were you thinking ahead to getting that law degree? Did you already have a sense that you wanted to get a law degree so that you could come and work in Washington? Did you know what the next step was?

GUSTITUS: I think so. I was thinking a little bit about law, but it wasn't clear. I was mostly thinking about the Foreign Service. I wanted to go into the Foreign Service, which is counterintuitive if I was so interested in Congress. It was more that I wanted to travel. I wanted some opportunity to go abroad. I didn't go abroad while I was in college. Instead of going abroad, in my junior year I went back and worked for John Anderson

again, [during] the second semester of my junior year. I was pretty unhappy at Oberlin and I wanted to get out. A very easy option for me was to go to Washington again and work for John B. Anderson. I did that for a semester.

SCOTT: And that was 1968?

GUSTITUS: Yes.

SCOTT: A very tumultuous time in Washington.

GUSTITUS: Very tumultuous.

SCOTT: Were you here when [Dr. Martin Luther] King was assassinated?
[Senator Robert] Kennedy?

GUSTITUS: Yes.

SCOTT: What was that like, to be here at that time?

GUSTITUS: I don't think I was here when Bobby Kennedy was--that was in June, right?

SCOTT: Right, that might have been too late for you.

GUSTITUS: I think that was too late.

SCOTT: But you were here when King was assassinated?

GUSTITUS: I can't remember. We had this poverty town. Jesse Jackson had brought that—I forget what they called it—poor people were camping out. I can't remember if that coincided with the King assassination or not. I may not have been here when he was actually assassinated because it may have been when we were on break. It was in April, right?

SCOTT: Right, April [4], I think.

GUSTITUS: That may have been Easter break that week because I think I was in Florida with my parents when that happened.

SCOTT: Nevertheless when you came back things would still have been smoldering.

GUSTITUS: Yes. I don't know if it was unique for us. I think the whole country was feeling the same. [But it may have been after King's assassination that we had what was called Resurrection City in Washington, D.C., which was a large number of demonstrators and poor people camped out on the mall to advocate for programs for people.]

SCOTT: You mentioned that you were unhappy at Oberlin. Why?

GUSTITUS: It was so intense. I shouldn't have gone to Oberlin, I don't think, in the first place. It wasn't a match for my personality. The idea espoused at Oberlin was that you should be who you want to be. But the real message in those years was you had to be a radical leftie who was angry at everybody. I didn't really match that. I was opposed to the war, but I wasn't as aggressive. I marched with Dr. [Benjamin] Spock and all these people but not with the vehemence or the level of anger that a lot of the leadership carried, I thought. You had to dress a certain way. You had to have a green vinyl book bag and you had to have blue jeans and a blue work shirt. It was sort of—

SCOTT: That's counterintuitive—

GUSTITUS: It was counterintuitive. And there were other people who didn't let that affect them, and they did what they wanted to. But I was sensitive to that kind of thing so I ended up feeling very constricted, like I had to be like that. I wasn't grown up enough in my own self to fight it in a way that would have been healthy. I got overwhelmed by it. I really didn't like being that way and I'm not a drug person at all. I didn't like drugs. It wasn't a good match for me. I never really got that connected with my professors like I really should have, in part because of this political turmoil. The academics for me were not enough. I didn't pay enough attention to the academics. I'd love to go back and do it all over again.

SCOTT: What was the second internship like with Anderson? Was it different in any way?

GUSTITUS: It was different. I was here for three months. I was paid. I was more of an employee. I was older. They gave me more responsibility. I would go cover a hearing or handle an issue in terms of constituent responses, or represent Congressman Anderson in some very minor event. It was more real.

SCOTT: Did you work on any issues in particular that stick in your head?

GUSTITUS: Not that I remember, no.

SCOTT: When you came that time, did you also have to find your own apartment and things like that?

GUSTITUS: Oh yes. Nobody helped me. I had to find my own. I ended up living in a basement apartment in Glover Park where my bedroom was a converted coal bin. It was pretty grungy [both laugh]. I wouldn't let my kids go into an apartment like that. Somehow it was fine for me.

SCOTT: It was furnished.

GUSTITUS: It was furnished.

SCOTT: The congressman's [office] didn't help you make any of the arrangements?

GUSTITUS: No.

SCOTT: I think things have changed a bit in that case. There might be a little more support on site now from the office to help interns find something.

GUSTITUS: There was no support whatsoever on that. It was all on your own.

SCOTT: At the end of that internship, did you leave with the sense that you definitely wanted to come back? It hadn't changed your view of Washington?

GUSTITUS: I still loved Congress. I also loved the city. I've always just loved the city. I'm not a New York City person. I don't like huge skyscrapers. I love the 10-story limit, or whatever it is now, although they are working to defeat that now. It has such an openness. It's so livable. Rock Creek Park, it's just beautiful! That was the other part about it. Back then it was a very slow city.

SCOTT: Is that right?

GUSTITUS: Oh my god. It was like a small southern town where at 10:30 everybody was home. There were few clubs. There were nice restaurants, but everything closed up around 10:30. It was very conservative, very serious.

SCOTT: People have mentioned in the past that even as late as the late '60s and early '70s this did feel like a southern city in the sense that there was a lot of racial tension, there was still a great deal of segregation just by practice. Did you have a sense for that then?

GUSTITUS: I think the town has always had such huge racial issues. I think there is always a racial tension in D.C. Even now, I think the politics are complicated in D.C. because of race. I think that's real. But we didn't have that whole club scene, or young restaurant scene. All these theaters, plays, we just didn't have anything like that.

SCOTT: There is a vibrant art community here now.

GUSTITUS: Very vibrant. It really is competitive with New York. No, it was much more quiet.

SCOTT: So what then? To finish out your government degree you just went back and finished that final year?

GUSTITUS: I did go back and finish my year although I had missed a couple courses so I had to take some summer school courses. I was going to go to summer school at Harvard. My girlfriend and I were going to go to Boston and I was going to go to summer school and finish up two or three courses at Harvard. Two courses, I guess it was. But then we were in Boston, or we were on the Cape and it was just about before I was supposed to start summer school there and we said, you know what, we're not ready for this. I'm not ready for this. Long story short we decided to camp, to get a car and camp all the way across Canada to the West Coast and then go all the way down the West Coast to Los Angeles.

SCOTT: Wow!

GUSTITUS: And take the summer to do that, take three months to do that. My parents, that was their graduation gift to me was this old station wagon. That's what we did. That was in 1969. It was just an incredible time. People hitchhiked then. We would pick up hitchhikers all across Canada and had wonderful times with meeting new people. One unbelievable experience after the other in a time when there was this whole "love child" concept. We were all going to have a better society and everybody loved each other. That whole trip was part of that. We had just great experiences picking up hitchhikers and camping with them. Somebody whom we had just met at one campsite

gave us their apartment in San Francisco for a weekend. They were going away for the week. Just one thing after the other. It was a very unusual time.

SCOTT: Did you get a different perspective from the Canadian travelers about the United States? Different ways of thinking about American politics? Were you talking about politics with them?

GUSTITUS: Not too much. My girlfriend wasn't a political person. She was a singer. We met a lot of people from Europe actually, they were touring Canada. I have remembrances that there were a fair number of Europeans whom we came in contact with. If anything, my memory would be that we all thought the Vietnam War was terrible and the U.S. government was just completely wrong and we should get out of it. And nobody liked [President] Richard Nixon.

SCOTT: I was going to ask you—

GUSTITUS: No. It was just, "How could he ever possibly have been elected?" It was almost like preaching to the choir, everybody felt the same, all these young people. We all felt the same way that it was just a mess. Government was a mess and Nixon was a terrible person to be president.

SCOTT: Did that change at all your thinking about your goal to come to Washington and work for Congress?

GUSTITUS: No, not at all. If anything it was that fix it mentality. No, I never got into "oh, it's such a mess. I never want to participate." No.

SCOTT: Was the 1968 presidential election your first chance to vote in a presidential election? Was that your first time?

GUSTITUS: I guess so.

SCOTT: Do you remember voting in it?

GUSTITUS: Where would I have been? I would have been on campus. I do not remember voting on campus but it would have been my first. I'm almost positive that I voted because I followed that election.

SCOTT: Were you involved in any way? Any get out the vote kind of activities?

GUSTITUS: No. I may have been, but I don't remember.

SCOTT: While you were at Oberlin, were you going home every summer? Or the summers that you weren't interning in Washington?

GUSTITUS: Yes.

SCOTT: Did you ever have political conversations while you were at home with your parents, given that they had a different perspective?

GUSTITUS: Yes, it was the only—well not the only thing, there were also a few other issues—but mostly my parents and I got along really, really well. But the Vietnam War-Nixon era we had a couple really bad fights. My father was really angry at my anti-war views. He had served in World War II. I don't think he could get his arms around opposing the president as vehemently as people opposed Nixon. And he hated stories from Oberlin about the demonstrations. As a matter of fact he told me at one point that he had called the Oberlin administration and said, "If my daughter is in one of those I want her out. I'm going to take her out of college. If I see her in one of those—" They never communicated that to me, the college didn't. But my father was really against the demonstrations and it was a complete turn-off for him to see the Abby Hoffmans of the world.

I've gone back and listened to some of the rhetoric that Abby Hoffman and others were using, and it was really offensive. And somehow as young people we felt we had to be supportive of the Abby Hoffman types, or Jerry Rubin, and those guys. But when I go back and listen to what they said—and I just did it about six or eight months ago—I was astounded at the language they used. They swore. They used really horrible language. It was outside the political dialogue—well now unfortunately it probably isn't. From my dad's perspective and my mom's, they were just appalled at what was happening. We, however, all thought that it was hip, that we were on the right side of things.

SCOTT: Did your father have an opinion about the Vietnam War policy itself? Or was his defense of it more about the president?

GUSTITUS: I think he trusted the president. And there were soldiers over there. It was the Cold War. I think he just trusted the president. I think the more he got entrenched in doing that the more he opposed the demonstrations because they were so offensive to him. They had to be wrong. The message got lost and it was more, which side do you want to look like or be like. What's more attractive to you? It was divisive for a lot of people. And remember, at that time, guys were being drafted. They had to

make all these horrible decisions. Do they fight in this horrible war that they don't believe in? Do they try to become COs [conscientious objectors]? Or do they go to Canada? Those were all real-life decisions for those people. We were all touched by that. We all knew when people's draft numbers were up.

SCOTT: Looking back, would you consider yourself an activist at this time?

GUSTITUS: I would say I was a modest activist. I would go to Cleveland, there would be buses to Cleveland, for demonstrations. Dr. Spock had a big demonstration there and I would go to that or if there was a really big one in Washington. But I didn't participate in the demonstration of the recruiter car. I didn't like it. I didn't feel it was fair to the man in the car. It was over the top to me. A radical group did a play at school that I was supposed to be in where they were really very abusive about the president of the college. I didn't feel comfortable in that either. That was too much for me. I would say that I was a moderate demonstrator.

SCOTT: A participant, but not perhaps the most radical.

GUSTITUS: Not just perhaps, clearly not. Way into the middle. But I was sick about the Vietnam War.

SCOTT: You graduated then in 1969 from Oberlin?

GUSTITUS: Yes.

SCOTT: At what point did you decide to go to law school? Did you apply during your senior year of college?

GUSTITUS: Right after college I moved to Chicago, after we did that big trip, I was in Los Angeles until October. So that trip went from July to October. I came back and I moved to Chicago. I was going to apply to the Foreign Service. I took the big Foreign Service exam and then I was in Chicago waiting for my oral interviews and the rest. In the interim I met my now husband who was an executive director of a Saul Alinsky community organization in Northwest, D.C. Do you know Saul Alinsky?

SCOTT: No, I don't.

GUSTITUS: He's the father of community organizing, one of the people President Obama followed when he was young. And that's who my husband followed. Alinsky-style organizers went into neighborhoods to try to empower people by getting

them to identify what really matters to them in their communities and then helping them organize to try to effect the change that they want. For example, they might work on a new elementary school.

SCOTT: Or economic issues.

GUSTITUS: More jobs. A big thing in Chicago at the time was getting rid of slum landlords, really, really bad landlords. My husband was the executive director of one of those Saul Alinsky type community organizations.

SCOTT: Here in Washington?

GUSTITUS: In Chicago. I was in Chicago but I had to get a job while I was waiting to see what the Foreign Service was going to do. I ended up, long story short, working for him—Bob—as his administrative person in the community organization office as a secretary. I saw a whole different type of society and work—that was an awakening of a political opportunity, situation. I had never seen working in an organization like that with normal people, not the radical student kids who are always mad and angry and demonstrating. But really working class and lower income people who were wanting to get things from the government and were fighting for them. I learned all about the Chicago political system and Mayor Daley and the ward bosses. That was the first education I had on politics at the street level, how elections were conducted in Chicago. How it all worked, the graft, the paybacks. So that was really interesting to me. I worked with Bob there.

I did get accepted into the Foreign Service and I was thrilled. It was so much what I wanted to do at that point in time because I was hoping to go to Germany and to Europe. I don't know why I thought I would get that position! [Scott laughs] Then Bob said to me, and I got convinced by it, that the real action was in the streets in the United States. He said the Foreign Service was kind of frou-frou stuff. What really mattered was in neighborhoods like the one we were working at in Chicago. I had fallen in love with him at the time so that argument had more power than a neutral person. I ended up not doing the Foreign Service.

I stayed and worked with him for another year or so. Then I worked on an unconventional newspaper in Chicago. Unconventional newspapers were a big deal then. There was *The Seed* in Chicago, which was considered an “underground” newspaper. There were others. Then there was this thing called sea-level newspapers, which included the *Phoenix* in Boston and now the *Chicago Reader* in Chicago. We had one that we started, a couple of us, called the *Chicago Daily Planet*. *The Reader* came out after us.

There is a whole other story about why the *Planet* didn't make it and the *Reader* did, but I ended up working on the *Chicago Daily Planet* for a year. It was just in the back of my mind that I've got to do something more intellectually challenging. I really should go to law school. It was about two or three years after college that I went to law school.

SCOTT: What kind of stories were you working on at the *Daily Planet*?

GUSTITUS: The stories were great, they were interesting political stories about Chicago or the art scene. We were really big in the art scene. I agreed to be the business manager so I was the advertising person. I sold all these ads. I ended up in the rock and folk world a lot. I could go to concerts for free because I was selling ads. It was an interesting little bit where I did that for a year or so. Mostly we were trying to do a few investigations. *The Seed* was the super-druggy counterculture newspaper. We were trying to be the alternative newspaper to the big papers where we could give an assessment more mainstream than *The Seed* and more candid than the big newspapers.

SCOTT: Like an alternative voice, but authoritative at the same time. Real investigative journalism.

Do you want to say something about why the *Reader* made it and the *Planet* didn't?

GUSTITUS: No, it's too long of a story.

SCOTT: You decided to apply to law school. Did you think about any—

GUSTITUS: No, I didn't think about anything except that I wanted to do it as easily as possible in Chicago because I wanted to keep working. I ended up applying to DePaul, which had a downtown campus, easy to get to. It was an okay law school. It was mid-level, I guess, at the time. My grades at Oberlin hadn't been that great. I didn't do a really good job as I should have. They were Bs.

SCOTT: There was a lot of distraction.

GUSTITUS: A lot of distraction. I was an unhappy person for the most part. I even had to talk my way into getting into DePaul. I said, "I really want this. I really care about this." So I got in. I was at DePaul for one year and then my husband got a job in Detroit. Again it was more, what is the convenient law school to where we lived in Detroit? We were right in Detroit. So I ended up going to Wayne State University.

SCOTT: You were already married at this point?

GUSTITUS: Yes. I went to Wayne State for two years, at the law school there.

SCOTT: What is Wayne State like? I've never been to the campus.

GUSTITUS: It's urban. It's right in the heart, it's not downtown but it's about a mile or two miles out from the center of the city. It's maybe not even that much, maybe not quite a mile. It's a very urban campus but it has a lot of property. It's not all buildings, like NYU or something. It's got some space. The law school had just built a new building. It has a very good law school. It's a serious law school. They get some good professors. They were really working at improving themselves. I felt really good about the legal education that I got there.

SCOTT: What was it like to be in Detroit? You had a good sense of the Chicago scene at that point. Was it hard to make that transition to a new place?

GUSTITUS: In Chicago the little people had no voice in the politics. We were all so removed. It was governed by the Daley machine. You were either in it or you were out of it. We worked with the independent movement to try to penetrate the Daley machine in Chicago. My husband and I were both part of that in our local ward. In our ward we ended up having an independent alderman. But in Detroit when we got there—I told Bob when he had a choice of two jobs, one was Detroit and the other was Newark. I said, "Those are the two armpits. So which armpit are we going to go to?" Honestly, I was so upset.

SCOTT: Right, the '67 riots, both those cities had burned.

GUSTITUS: What great choices!

SCOTT: But it makes sense, doesn't it? Given what he is doing?

GUSTITUS: Absolutely, he was going to start a community organization in a working class neighborhood in Detroit. It was a fabulous experience. And, as it turned out, I loved Detroit! Go figure. Coleman Young was the mayor then and there was a lot of energy around him and the city. There were a lot of racial tensions, serious racial tensions. But the government was approachable. It was not locked up like Chicago. The government there, you could work it. You could relate to it. They would listen to you at some point. It was much more of a community, I thought. It was a big community even though it was loaded with problems.

We lived in an area of Detroit that was a big apartment building area. There were these beautiful old art deco, art nouveau, buildings. Great brick work and stone work. We ended up having a lot of crime. People were really nervous. Being the organizers that we were, I spearheaded with my husband's support an organization to fight crime in our neighborhood. We called it the Palmer Park Citizen's Action Council. The area was Palmer Park. The PPCAC, as we called it, became hugely successful. We ended up with one big meeting with 500 people in the local temple. We were fighting for new lighting in the city, in our area. We did a whistle blowing thing, where everybody wore a whistle. If you were being robbed or mugged or thought you were, you could blow your whistle and people would open their window and they would blow their whistles. It was called whistle stop. It became a big deal in Detroit. We were pretty successful at that.

At the time Carl Levin was the chair of the Detroit City Council. One of the things we did was at that big meeting of 500 people we invited the Detroit City Council out. Carl Levin was there and a couple of other members came out. I was the leader of that whole thing, the speaker and moderator. We had the City Council members take a tour of our neighborhood to show them where we needed lights. That was one early contact I had with Senator Levin. The other was when I was in law school, there was a professor who had a course on legislation. I decided to take that. He and I clicked in terms of our interest in politics. He had an opportunity, there was a woman named Diane Edgecomb and she was the head of what was called the Central Business District Association of Detroit. She was the mother hen of growth in downtown Detroit. She was in on everything. She did the People Mover, which they now have. She tried to do festivals and concerts to bring people to downtown Detroit. She worked very closely with Coleman Young. All these businesses downtown contributed to this organization so that she could do the work that she did.

She was trying to get a tax increment financing piece of legislation enacted for Detroit, which would give somebody who invested in Detroit a lower tax rate to encourage them to come into downtown Detroit. She was looking for a couple of law students whom she could pay—not a lot—to come down and help her. The professor suggested that I do it, and this other woman, my co-student, and I would go there and do that. For the two years I was there, of the last two years of my law school, I worked with Diane Edgecomb at the Central Business District Association and really helped draft this statute, which was the tax increment financing legislation, and worked to try to get it passed. In that capacity I got involved in the mayor's office and the Detroit City Council. We were connected to the government in a big way. I loved that work. I loved Diane Edgecomb. She was fabulous, and we developed a very close relationship.

I was going to law school. I was doing Palmer Park Citizen's Action Council and I was working with the Central Business District Association. I was really active politically in Detroit.

SCOTT: And this is what, '72-'73?

GUSTITUS: This is actually '74-'75. Seventy-three was when I went to law school in Chicago, at DePaul. Seventy-four, '75 because I graduated from law school in May of '75.

That's what happened in Detroit, it was a fairly political involvement. And then we went back to Chicago after law school. As soon as I graduated from law school Bob and I moved back to Chicago.

SCOTT: Why?

GUSTITUS: It was home for him. We had friends there. We had a couple who had a house and we were going to share an apartment building, a three-story with three apartments. It was just time. It felt good to go back. Bob had started this organization and had gotten somebody else to be the new executive director. We never had thought about moving permanently to Detroit. It was just a temporary thing. We went back to Chicago. We were there from '75-'77, for two years. At which point Bob got another job offer.

What's so funny is I was the one who wanted to go to Washington, but he got the job offer in Washington to work as a national consultant for a community organization consulting entity. I was happy—let's go! At which point I then immediately applied, since I was a lawyer, to the Justice Department. I had been practicing as a lawyer for two years in Illinois, I had worked as a staff attorney for the Fair Employment Practices Commission doing case work and building cases to present to the commission on fair employment issues. I had also worked as a prosecutor for the Cook County state's attorney's office. For a year and a half I had done that.

SCOTT: You were doing both at the same time?

GUSTITUS: No, one after the other. One I had done for maybe six months, the years aren't really clear. Then I was a prosecutor for a year and a half, two years, maybe.

SCOTT: What kind of work were you doing at the fair employment commission? What kind of cases were you handling? What was coming across your desk?

GUSTITUS: It was pretty much standard issue, people who felt they had been discriminated against for lack of promotion for race or sex.

SCOTT: I was going to ask if gender, if you were seeing some cases like that.

GUSTITUS: We had one lawyer who was particularly skilled in the sex discrimination cases. But it wasn't that interesting work for me. It was pretty much working in a little office and reading these cases, and I wasn't that excited about it. Actually, I ended up working on the campaign of the person running for state's attorney, Bernard Carey, who was the independent, non-machine person. As a result of that, when he got elected, I became an assistant state's attorney.

SCOTT: What does a state's attorney do?

GUSTITUS: They are the district attorneys. They prosecute all the crimes in Cook County, any crime from traffic stop to a murder and anything in between and consumer fraud. I started out doing consumer fraud. That's where freshmen state's attorneys get their sea legs. We did minor consumer fraud cases. Somebody bought something that wasn't as represented and they feel it is criminal behavior. But that lasted only for a couple months that I did that, maybe three or four months. Then I ended up being chosen to be an attorney—one of two attorneys—for a special hand-to-hand narcotics group. It was called MEG. They were an undercover narcotics team who dressed like street people and made hand-to-hand narcotics transactions. I would go around the county wherever their preliminary hearings were and prosecute these drug dealers, basically.

SCOTT: That's very interesting.

GUSTITUS: It was very interesting.

SCOTT: Was there a big drug problem at that time?

GUSTITUS: Absolutely. PCP was especially popular at that time. People were selling it to high school students, a lot. PCP is mind-destroying. It is such an awful, awful thing. Cocaine wasn't so popular at the time, some heroin, it was PCP and heroin as I recall, and marijuana, of course. PCP was big. What happened was these cops were focusing on high school, people selling to high school students, which was great and I felt terrific about prosecuting people who sold to high school students. That was interesting.

SCOTT: What kinds of things did you learn there that may have been helpful to you when you went to work on Capitol Hill, for example? Were there issues that you learned about that you later picked up?

GUSTITUS: Oddly enough, while a lot of people don't trust the cops, I ended up trusting them a fair amount. Even when I knew they weren't telling the truth to the exact question, I knew that they had gotten somebody who they thought was really dirty and needed to be prosecuted. They had their limits as to what they could and couldn't do. All the Miranda warnings and the search limits. Those are all wonderful things, but it's really hard for a cop in a few seconds to make these split-second decisions that courts take months to say whether it was right or wrong. I have always been very sympathetic to cops. I think they have an incredibly tough job. And there are some bad cops, like there are bad secretaries, or whatever. But for the most part I thought they really cared. They put themselves at risk. They basically knew who the bad guys were and they wanted to get them off the street. I could tell that—they would say these lines that were almost memorized. "We put the perpetrator in the car. There was no use of physical force." You're going, "Yeah, right." I just had sympathy for how hard it is to be a cop and working in law enforcement.

The other thing I observed was that most of the judges I saw didn't really care that much. I wasn't impressed with the judges. They really deferred to me to do the sentencing. "What does the state want for this?" We'd say, "We want 12 months in prison." "Fine." I was at a very low level of judges, and given it was the Daley machine, a lot of political hacks were probably judges.

SCOTT: So in the two years that you had been gone not a lot had changed in terms of the political machine?

GUSTITUS: No, it was so entrenched.

SCOTT: So you applied at the Justice Department for a position?

GUSTITUS: When I came to D.C. I thought I would apply to the Justice Department. I had a little trial experience, a little real life experience from those two jobs. I got hired to be a trial attorney at the Justice Department. The area in which they were hiring was the civil fraud section. Those are cases where the government sues people who have defrauded the government. You use what is called the False Claims Act, which allows for triple damages. If you find that somebody has defrauded the government we can seek triple damages.

SCOTT: I didn't know that.

GUSTITUS: It's a [meaningful penalty]. You can also, if somebody helps you identify the case, if they become a whistleblower, whistleblowers can get up to—I don't think it was 25 percent at the time, they have increased it—it was like 10 percent of the damages. So you reward a whistleblower who identifies fraud. I went and worked there for a couple years. I loved it.

SCOTT: What was that like? It must have been really interesting work.

GUSTITUS: I learned a couple things, by the way, for my work on the Hill, which were really important. One, the people at the Justice Department were profoundly talented. I mean really good lawyers. There was a professionalism that was terrific, really terrific. I admired it so much. I say that now because I think so much of it has been lost. I think it's been politicized. My personal opinion is that the [George W.] Bush administration did a lot to hurt the professionalism, the talent pool, for the Justice Department. What was so great is you could always rely on the apolitical staff people who were completely apolitical in their work. They were good lawyers, really good lawyers. There was a review system that was really challenging. They made sure that your brief, all the references were right, and sourced perfectly. You couldn't slip much by them.

SCOTT: Did they have a mentoring system there when you were—

GUSTITUS: No, they didn't.

SCOTT: How did you learn?

GUSTITUS: It was organized down to small groups. One more experienced lawyer wasn't my mentor, but he was my supervisor. They didn't call them mentors, but it was the person you could go to all the time who had been there for a good amount of time who could teach you. Plus, I was placed in an office with somebody who had more experience. They were two-person offices when I was at the main Justice building, and that person you watched and learned from. That was good.

The other thing, on the other hand, is that it was also very bureaucratic. You had to go through a chain of command to get approval for something. You couldn't move that quickly. There was definitely a bureaucracy. I didn't really like that part of it.

Thirdly, there was one more thing that I learned, which was really important for up here. The agencies are so afraid of Congress because they don't trust us, they don't trust Congress. They shouldn't, because sometimes we do really stupid things. We say we'll protect your confidence and we don't protect their confidence. Mostly we are out to get them. It's true. If they do something wonderful, we don't usually hold a hearing and say how great that is. We hold hearings when they've done something bad. So we are always looking for something, for the most part, that is bad.

SCOTT: Checks and balances tend to focus on the problems rather than the things that seem to be going well.

GUSTITUS: There aren't that many hearings lauding something that was wonderfully successful. When an executive branch person picks up the phone and hears it's a member of Congress on the other end of the line, they are not thinking good things. They are not thinking this is a good call. For me, this naïve person back in John B. Anderson's office, "We just talk about all issues and we're honest about—" at the Justice Department I was stunned by the reluctance of the Justice Department to fix statutes that would have helped our ability to recover damages or to stop the fraud in the first place. You'd get a case and you'd see that the contract elements were not there or there was some legal requirement that was frustrating the execution of the contract. I would always say, "Why don't we tell them to fix that law? It's not necessary and it's only hurting us. We could stop the fraud." "That's not really our job." The Justice Department does the cases for these other departments. All they do is the cases. So you'd say, "This is a HUD [Department of Housing and Urban Development] case. Why don't we go back to HUD and say, 'Look, if you put this in your contract, or you put this in the law, we can avoid this fraud in the future.'" It was really hard to get anybody to want to do that.

SCOTT: In that case it's agency to agency. What were the reasons against making that contact?

GUSTITUS: It was a challenge to get anybody to want to do something at the policy level. It was I think out of fear. It brings attention. "We'll just keep doing our job." They all move through the legislative affairs office. God forbid a staff person should call a member of Congress and say, "You could fix it this way." You can't do that. You have to go through legislative affairs. That was frustrating on that end, and it's frustrating on this end. You always have to go through legislative affairs. What you want to do is take the online attorney and say, "Tell me. What is wrong? What is it that we need to do to fix it?" I have a lot of faith in a lot of the executive branch front line people.

SCOTT: The practitioners.

GUSTITUS: The practitioners, yes. They know what is going on. Sometimes they get so frustrated that they can't fix it themselves. When I had legislative fellows up here, the first thing I would say when I had them was, "If you see something that is broken, that you think could be fixed by a change in the statute, or policy, I want you to tell me that because I want to try to work on it. If there is anything in your agency that you have been trying to fix, tell me about it and let's try to work on that." That was foreign to them. That's not how they think because they are not trained to think that way. That was the same at the Justice Department. I thought it was very frustrating that you'd see these cases and you'd say, "If we just changed the law we could probably avoid this type of fraudulent action." It didn't really happen.

SCOTT: How did you get to Levin's office from that position? Were you in some ways still looking to get into Congress?

GUSTITUS: Yes. I was still always looking to the Hill. I still had Congress in the back of my mind. I didn't like the bureaucracy of the Justice Department. I didn't like having to go through the layers. Congress sure isn't a bureaucracy. That's the great thing about this place. [both laugh]

SCOTT: It's very different here.

GUSTITUS: So what happened was, in '78, Carl Levin got elected senator from Michigan. When I saw that, I thought, "That is the closest I'll ever come to knowing a senator and having people I work with who know him. It's probably my best shot at getting on the Hill." I called Diane Edgecomb, my friend from the Central Business District Association. I don't know whom else I called back in Detroit. Then I applied for a position and got it. I got a position as a legislative assistant. I think Diane helped with her recommendation and probably my law school professors, a couple of them who were political, probably helped.

SCOTT: Did you have an interview with the senator?

GUSTITUS: Yes. He came here. I think he wore a three piece suit for the first and only time in his life that I've ever seen him wear a three piece suit. So we went to [Donald] Riegle's office. Riegle was in the Dirksen Building over in the corner and he gave his office to Carl for interviews. I walked in and interviewed with him.

SCOTT: He remembered you, I'm sure?

GUSTITUS: I think so, yes. I can't remember exactly but I know that I had given them a three-ring binder on me. There were stories from the *Detroit Free Press* of my work with Palmer Park Citizen's Action Council and pictures. I was community person of the week. I put that stuff in there. They had a three-ring binder on me. We had a good interview. It was very comfortable.

SCOTT: What is he like as a person? What did you recall at the time? Is this someone you felt like you would like to work with?

GUSTITUS: I think the first thing that comes across is that he is so down to earth. What I do actually really remember from the meeting was I walked in. I'm thinking this is highfalutin, serious, pomp-and-circumstance. He's sitting there, he had the three piece suit, very odd for him. Not that I knew that at the time, but now I do. We start talking and we don't talk for very long and he says, "You know what? I've got to go to the bathroom." [both laugh] So he just gets up and goes to the bathroom. He comes out and says, "I'm sorry for that," and continues the interview. I thought "That's pretty down to earth."

SCOTT: [Laughs] Was that your style?

GUSTITUS: Yes. That was a match.

SCOTT: You become a legislative assistant. Were you hired with the idea that you would be working on any specific issues?

GUSTITUS: I was hired as the lawyer, doing Judiciary Committee issues. Immigration was probably one, anything that was in the Judiciary Committee and women's issues and I had HUD issues also. That may be because I did some of that at the Justice Department.

SCOTT: This is 1979, right?

GUSTITUS: Well, I was hired in 1978 and then started February 1, 1979. The beginning of that Congress.

SCOTT: Just to back up a bit, were you in Washington when the Watergate hearings were going on? I don't think you were. You were probably back in Detroit, or maybe in Chicago.

GUSTITUS: Right. I saw all that on the TV.

SCOTT: Did that change the way you thought about Congress in any way? Did it make you want to be here even more? As historians we always point to the Watergate Committee as a fine example of bipartisanship and real investigative work, and a very careful inquiry and a good use of the press to get the public interested and involved in these issues of national importance. Did you have a sense for that at the time? Were you watching the Watergate hearings?

GUSTITUS: Absolutely. I was captivated by the Watergate hearings, but I don't know that I was looking at it in terms of myself. It was so compelling. What was being revealed, I don't know that I—I have always been intuitively somebody who wants the facts, the truth. That is just my nature that you always have to get the truth. That to me was the right thing to do. Of course we've got to get to the truth. We have to find out what happened. It was shocking. It was unbelievable.

It changed the world. It changed the United States of America. We all talk about 9/11. Absolutely, 9/11 did. The other big thing that changed America was Watergate. It just changed it in so many different ways. My father, look at that faith he put in a president. I didn't see it as, "I wish I could be there with Sam Ervin and Howard Baker." I didn't see that. I just was impressed with how it was conducted and I was impressed with what they unearthed. It was really powerful.

SCOTT: It strikes me, too, that when you join Senator Levin's office in 1979, this is that post-Watergate Senate, a Senate that has been empowered in some ways by these hearings, a Congress that has been empowered by first the House considering impeaching the president and a president that is forced to resign as a result of all of this work which Congress feels itself to be responsible for in some way. I wondered if you had a sense for that post-Watergate era. Congress is going to exercise checks and balances. "We are going to look into the presidency in a new way. We are going to ensure that the president doesn't abuse the power of his office, going forward." Did you have a sense for that?

GUSTITUS: No, I didn't have that big picture sense of the president versus Congress. What we did have, and it may have been because of Senator Levin's comments to me, was this notion of the need for the Democrats to get control over the programs that they created, the idea that [Speaker of the House] Tip O'Neil and the House Democrats were always throwing money—give programs more money, give programs more money. There was this drumbeat that these programs are less popular, there is too much waste. Paul Tsongas [D-MA] and Carl and a couple of others were really starting to say, "We have to oversee what is going on." I don't know if they got that out of Watergate so

much, it could have played a role, not so much in presidential authority as oversight being an important tool. I think we called that the oversight Congress. Wasn't that the oversight Congress, the 96th Congress?

SCOTT: It was the 96th Congress. My sense is that the “Watergate Baby” class, the folks who come in after Watergate for the next couple of congresses, all feel the sense that “we need to have more oversight.”

GUSTITUS: I think they call the 96th Congress the “Oversight Congress,” in part that's because people like Tsongas and Levin came in. Levin gives a speech to the ADA in which he says, “If you want these programs, you better manage them.” Tsongas gave a big speech also to the ADA, Americans for Democratic Action, and it was a scold or a warning that the American people aren't going to put up with all these programs if we don't show that we are careful about how we manage them. Part of that was the HUD disaster, there were all those mortgage programs that especially hit Detroit.

SCOTT: I was wondering if it was also Senator Levin's experience back in Detroit that informed him?

GUSTITUS: It was a huge piece of his experience. It was devastating to Detroit. [George Romney was secretary of HUD under Richard Nixon, and many of the HUD mortgage programs got focused in Detroit, because Romney had been governor of Michigan.] Detroit had a huge number of homes that went belly-up and stood vacant and just caused so many problems. At one point Senator Levin rented a—what do you call them—a tractor with a plow and on his own tore down a home. They couldn't get them torn down. HUD wouldn't approve tearing them down on a timely basis. So Levin just said, “It has to happen!” So in his own demonstration he got a big plow and went in and tore down a home.

SCOTT: This is when he was a senator?

GUSTITUS: No, no. He was [in] the city council. He fought this HUD issue a lot, trying to get HUD to do something with these abandoned homes that had been foreclosed on. He couldn't get them to do it. This was his argument, I didn't experience it personally, but this is what he said. He would go to Congress and ask his members of Congress to do it and they couldn't do it because they say it was HUD. HUD had these regulations. But there was nobody he could hold accountable, he felt. The employees at HUD are not elected. He really got on to that issue of the unelectable bureaucrat and that we have to keep them accountable. He would much rather have these programs in the hands of Congress where you could throw the bastards out if they were doing the wrong

thing, as opposed to the executive branch where you can't get to them. That was the big thing coming into the 96th Congress. [Abraham] Ribicoff [D-CT] was part of that. Ribicoff had just either done or was in the middle of a big review of regulations, government regulations. His staff had done I think a seven part study on regulations. There was a lot of that, a lot of how do we control this bureaucracy. What's going on over there?

SCOTT: What are some of the issues that you remember working on during that 96th Congress? How long were you in that LA position?

GUSTITUS: I was in it until October of '80. I was there for a year and a half and then I moved over to the subcommittee [Oversight of Government Management].

SCOTT: Do you remember any issues that were particularly interesting?

GUSTITUS: Yes, there were a couple big issues. One big issue for Senator Levin was the Panama Canal implementation treaty, implementation legislation. I just read that in Ira's book¹ about the Panama Canal and how it was the third rail and nobody wanted to do it. Something like 87 percent of the American people felt we shouldn't give the Panama Canal back.

SCOTT: And a number of those members were not reelected who voted to [ratify the treaty].

GUSTITUS: It was serious.

SCOTT: It was very serious.

GUSTITUS: I guess that was the year before, in '78. Well then in '79 they had to do the implementation legislation. I remember we heard the bad news that Carl had been picked to be involved in managing the bill on the floor. [both laugh] It was not something that he wanted to do.

SCOTT: Interesting that they would pick a freshman member.

GUSTITUS: We had to gear up for it. I wasn't involved in it, but I remember that was something like, "Oh my god, how did that happen?" So there was that, that year.

¹ Ira Shapiro, *The Last Great Senate: Courage and Statesmanship in Times of Crisis*, (New York: Public Affairs), 2012.

The other big thing was the legislative veto. That was huge. The Federal Trade Commission had issued about five or six rules that had been hugely unpopular. One was automobile sale warranties and the other was the funeral industry. They had imposed these requirements on the funeral industry, I think a big part of which was just disclosing costs. The funeral industry went ballistic. Something happened with auto sales also, a couple of things that they did. Business was just nuts about these rules. This was Mike Pertschuk. Mike was head of the FTC at that time. Anyway, the FTC hadn't been reauthorized for several years because everybody was so mad at it for doing these aggressive things. One idea at the time was to have a legislative veto over rules so that the FTC could issue a rule but it couldn't take effect for 90 days until Congress could review it. These rules were like legislation and no bureaucracy should have that much power. Senator Levin supported that. I'm going to stop now. But we need to get into because that was a very important issue at the time.

SCOTT: Okay, we'll just stop there.

GUSTITUS: Good.

[End of First Interview]

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, [D-OH] 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 [R-MD], 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 1st and 2nd 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 2nd 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*¹ 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

¹ *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,² 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

² 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]

LINDA GUSTITUS
Interview #3: The Objectives of Good Oversight
November 26, 2012

SCOTT: We left off last time thinking that we would like to come back to the FTC reauthorization bill of 1979-1980.

GUSTITUS: Yes, because my history wasn't quite clear about the order of events. I want to go over that again. I want to weave it into this notion of what was going on at the time in terms of the way Congress was responding to what was deemed by many people as overregulation or intrusiveness by the agencies, by the executive branch agencies.

Just to go back to that then, when Senator Levin ran for office, oddly enough, he actually ran on legislative veto. Part of his campaign was to get control over the executive branch agencies, the "nameless bureaucrats" in these agencies, in particular HUD because HUD programs had done so much damage in Detroit. His objective was to have some mechanism where publicly elected officials could be held accountable for the programmatic decisions that were being made by the executive branch agencies. Congress couldn't just pass these laws and hand them off and say, "The bureaucrats, we have no control over them." His position was, "No, these are programs over which we should have control, and we need mechanisms that allow people to come to us and hold us accountable for the programs that we create." So he started on legislative veto. A gentleman, a congressman in the House, Elliot Levitas, was the number one champion of legislative veto. Senator Levin picked that up and he ran on a platform that he was going to fight for legislative veto when he came to Congress.

When he got here, one of the first pieces of legislation where that issue was drawn, where that became an issue, was on the FTC authorization bill. This was in 1979. The FTC had not been authorized for three of four years because of the conflict over what the FTC had done with respect to the funeral industry, the car dealerships, three or four industries where they had issued pretty strong regulations from the industry's perspective and so it was very controversial. Mike Pertschuk who was the head of the FTC, he was a very aggressive consumer advocate and they had issued regulations that were pretty tough from the industry's perspective. From a consumer's perspective, they probably weren't so tough.

The House ended up, I assume through Elliot Levitas' efforts, putting on a legislative veto on the FTC reauthorization bill. I believe it was a one-house legislative

veto, meaning one house could issue a resolution of disapproval and that would stop the rule from taking effect. So then it came over to the Senate and it was hugely controversial whether the Senate would support legislative veto. Senator Levin really led the charge on that. The Senate was trying to deal to some extent with what the FTC had done. There were limitations that were put on with respect to certain rules. They couldn't do "x, y, and z" with respect to the funeral industry. They couldn't do "x, y, and z" with respect to used car dealerships, or something like that. But they hadn't endorsed legislative veto. Senator Levin pushed it and pushed it. It in fact passed. It was put on in the Senate. It was different from the House version, though, because it required a joint resolution of disapproval which means it required the full legislative process to veto a rule—both houses and the President. And that went to conference. It came out of conference as a two-house legislative veto, which meant that by concurrent resolution the two houses could overturn or stop an FTC rule.

In the meantime that mechanism had been put on other pieces of legislation. It had been put on an immigration law about deportation. I believe it was about whether or not the immigration department, or agency, could deport somebody automatically or whether Congress had the right to overturn the deportation by having the decision lay over in Congress and then one house or two houses could overturn it. That became the *Chadha* case, which was the big Supreme Court case. Chadha was going to be deported. He challenged his deportation with the INS and got a stay. Congress overturned that stay by passing a one-house resolution of disapproval, and that case was then argued all the way up to the Supreme Court. So he, Chadha, challenged the constitutionality of the legislative veto.

Everybody was looking for the constitutional challenge on legislative veto. So everybody was looking for the right case to have this brought to the Supreme Court. And so in that case, which I think was issued in 1982 or '83, the Supreme Court held that you couldn't have a one-house or a two-house legislative veto, because the Constitution requires that both houses and the president be involved in any legislative action. And preventing a rule or overturning a rule is a legislative action. So the result of the *Chadha* decision was to negate the FTC law that we had put in the authorization bill and other laws like that where there were legislative vetoes. And then, going forward, to requiring that any legislative veto be a joint resolution of disapproval, which means that Congress still could say the rule doesn't take effect for a certain number of days, 30, 60, 90, whatever you want. And somebody could introduce a resolution of disapproval, but it has to be approved by both houses of Congress and then signed by the president. Or if he vetoes it, then it has to have two-thirds approval, I mean, the override.

Some of those were passed with a layover provision to allow Congress to act. And then what was added as a strengthening element was an expedited procedure for the consideration of the joint resolution. So you couldn't delay it. You couldn't filibuster it. The joint resolution got priority over consideration of anything else so that within that 30 days, 60 days, whatever the layover period was, that window, Congress could act if it wanted to before the rule took effect. So that was the big—

SCOTT: Was Senator Levin pleased with that outcome eventually?

GUSTITUS: I think he was fine with that. Yes. I mean, he wanted one as strong as possible. I think as it played out, I think it all became pretty apparent that it wasn't a good idea to just have one house be able to stop a regulation. I think he would have been comfortable with a concurrent resolution, with two houses, because that was Congress saying, "No, no, that was so far afield from what we wanted." So I think the two-house resolution was probably about where he would have liked to have ended up. Even just having a layover helps because you could bring attention to the rule. How it ends up over time, Congress basically didn't pay attention after that. There weren't that many resolutions of disapproval. This would be something that a political scientist has to look at, or CRS could be asked to do, but I don't think we ever got involved in stopping that many regulations. It was a weapon that we wanted, but I don't think we exercised it very often.

It just faded out. It also faded out because a number of things were happening. Not only were we doing legislative veto, there was the proposal to require the reauthorization of all programs every 10 years. So that was the sunset legislation. And Senator Levin supported sunset legislation, as did a lot of Governmental Affairs Committee members, as we learned. It was hugely contentious because the supporters of all these programs had fought so hard to get these programs enacted that to think of having to reauthorize them every 10 years was just a huge undertaking for them, a huge uphill battle. They didn't want to have to go through that again, because every time you reauthorize, all the issues in that program can come to the floor and they can be fought over and weakened from the supporters' perspective. It was a very contentious issue, but Congress was so concerned about regulatory reform and the number of regulations. This was just after Ribicoff at the Governmental Affairs Committee had issued the seven volume study of the regulatory process. So you can see how much was happening on this issue of overregulation by the federal government at the time. We actually passed sunset legislation in Governmental Affairs, which is really quite shocking. Senator Levin was the only member of the committee present during the vote who voted against it, as it turned out. Although he supported the idea of sunset legislation, he had a number of amendments to the bill that he thought were essential, and three of those weren't

adopted—including sunseting the sunset bill itself and providing for exceptions under certain circumstances. But, if you look back on it, it seems surprising that we ever did that.

SCOTT: In what way? Because of the membership of that committee?

GUSTITUS: Because it's such an incredible idea. I mean, think if somebody came forward with that idea now. You would think they were an extremist. I mean, if Ron Paul or somebody came forward with this idea, you'd say, "Oh yeah, he probably thought of the idea." But Senator [James] Sasser [D-TN] and [John] Glenn and Levin? These people were supportive of the idea? It's pretty interesting what happens in certain times and all the emotions that come to bear and the context in which these issues emerge.

So there was that in 1979, I guess it was. When Reagan got elected, one of the very significant sea changes that he brought about was his executive order, which was to require that all agency rule-making, before it becomes final, go to OMB [Office of Management and Budget] for review. And he set up a whole office to review rules.

SCOTT: How did Congress feel about that?

GUSTITUS: Well, the defenders of those programs thought it was the devil incarnate. It was just the worst thing, because obviously it was, from their perspective, really politicizing the rule-making process and taking it out of the hands of the agencies and putting it into the lap of the president. They thought it was heresy. People who were supportive of regulatory reform thought it deserved a second look. They were somewhat supportive. Senator Levin would have fallen into that category.

At the same time, it was very uncomfortable to be able to support saying, yes, President Reagan can look at any rule that any agency issues. The standard by which those rules were being reviewed was a cost-benefit analysis. How you define cost-benefit analysis in terms of what can be included in the costs and what can be included in the benefits is really, really critical. This whole issue came up about the value of cost-benefit analysis. One concept was, yes, we should review rules for cost-benefit analysis, people like Senator Levin, but Congress should decide what the terms of the cost-benefit analysis should be. The president should not make that decision. Congress should make that decision. That's when we started the whole effort to pass regulatory reform legislation, which went on for years and years and years. All the big players in Washington came in to play on that one. The Business Roundtable, the NFIB [National Federation of Independent Business], the National Realtors' Association, everybody on

one side that really wanted tough regulatory reform, and all the consumer groups, food safety groups, everybody else on the other side saying this is a way to stop good regulation, it's just a ruse.

Enormous amounts of money were spent on lobbying on that and on political campaigns. Some people were accused of trying to extend the regulatory reform debate in order to keep getting political contributions because it was such a hot issue and people would pay to support candidates who were supportive of their position on regulatory reform. Senator Levin was in the middle. He really supported regulatory reform and he supported cost-benefit analysis. He was a person who was trying to work with both sides. But mostly he was supportive of regulatory reform. He was more on the side of the people who wanted a cost-benefit analysis system in place, and he felt that it should just be a rational one that didn't deny good regulations but that did take into consideration whether the regulation is a meaningful one or not.

We went around and around and around for years and years and years on regulatory reform. One piece of it was to put in a government-wide legislative veto provision, which would be a joint resolution. That was one of Senator Levin's contributions. Both the Judiciary Committee and the Governmental Affairs Committee had bills. Senator [Bob] Dole [R-KS] was involved heavily in regulatory reform, representing the business interests. Governmental Affairs had its bill with Senators [William] Roth and Glenn. But those were the times when we were all trying to figure out how to control and put limits on and common sense rationality to these programs.

Justice Breyer was a staff person for Senator Kennedy when they deregulated the airline industry. Out of that, Justice Breyer issued a book which became kind of the bible, at the time, of cost-benefit analysis and stupid regulations. He laid out a very strong case for how thoughtless some of the regulations were. So he was more in Senator Levin's camp on why risk and cost-benefit analysis are important in issuing regulations.

SCOTT: You mentioned in our last interview that Senator Levin had some challenges back home in terms of the fact that his position on some of these issues ran against labor, for example. I could see, also, that some consumer groups might be opposed to his position on these issues.

GUSTITUS: Yes.

SCOTT: And yet be allied with him on others. So how did that play out politically back in Michigan? Did you have a sense for that?

GUSTITUS: Well the most important thing for Senator Levin was the trust that people had in him. That he wasn't doing anything for his personal gain, except for, obviously, to continue to be a senator. I mean, you wanted to be able to make public policy, but not personal financial gain. He always played as honestly as possible with people. He was pretty direct and pretty comfortable with where he was, and so people became very comfortable with him. He had built up so much trust by his constituents that these groups that were mad at him, or unhappy, let's say, with his positions, didn't take him on too aggressively because they knew that not only they respected him as a person, but that his constituents respected him as a person. You couldn't paint him as evil [laughing] or not trying to operate in these peoples' self-interest. It didn't get very far. There were some tough meetings where the unions were really quite unhappy, but they liked him so much that they put up with it, basically. Also, he did support the union, the auto industry, on so many issues, because those were his people. The auto industry was so key to Michigan. On a lot of the issues that mattered economically he was very supportive. He was able to withstand the anger—it wasn't quite anger—the disapproval and the dissatisfaction with his positions on regulatory reform.

I remember so many lobbyists would come in and try to—Consumers Union or whatever it would be, Environmental Defense Fund—and they would be really urging us to modify this or support this amendment. In certain situations, I'd just have to say, "That's just not where Senator Levin is. You know that. He doesn't support that." They would basically walk away saying, "Well, we respect that it's truly what he believes." It's hard to fight that if that's what he really believes. It's one thing if a member's doing it because somebody is financially supporting him for that or her for that. You're suspicious about why they're supporting it. Is it to help a friend? But that's not how this was. Senator Levin really believed in this deeply and he had done it from the beginning. He had run on legislative veto. He had spoken to the ADA, the Americans for Democratic Action, on the need to rein in the agencies. He came in as a regulatory reformer.

SCOTT: He had been so consistent that people knew what they were getting when he came.

GUSTITUS: Yes, right, exactly.

SCOTT: Given this context that you've just laid out about Congress during the late '70s and early '80s wanting to deal with some of these programs in a new way and revisit some of these regulations, it seems like OGM [Oversight of Government Management] has the potential to be a really important subcommittee in terms of doing just that, looking at regulations, providing the oversight maybe that some members of

Congress, like Senator Levin, would say was lacking. Did you feel that sense of mission in your work on the subcommittee?

GUSTITUS: Yes, absolutely. It was why the subcommittee was created, because Levin came in and Ribicoff wanted him on the committee. Levin said, “I want a subcommittee that can do oversight.” That is what we did. We just looked at whatever program we wanted to look at to see if it was working the way it should work. We went from, I had mentioned earlier, debarment and suspension to the IRS that had a seizure policy that was irrational. We looked at that. We looked at the Social Security disability program when they weren’t paying people appropriately for their disabilities, and quickly enough. We looked at the whole defense contracting system.

The problem was that we had a very small staff. But what is amazing is how much you can accomplish if you have really good staff and you have the authority of the Senate, if you’re a chair and you can get documents and the information you need. But if we had had a larger staff, we could have accomplished so much more. But we only had six, seven, ten people, maybe. And a number of the people were legislative fellows, people who came from the agencies who worked with us for a year. They weren’t even really our own staff people. We had so few people I had to use whomever I could get.

SCOTT: Can you talk about the role of documents in the process of oversight and investigation? What is that role?

GUSTITUS: Documents are critical. Oversight is a lot of hard work. It is getting the facts. If a committee does oversight well, and not many do, but if it’s done well, the job of the committee staff doing oversight is to gather the facts for the members so that the members don’t disagree on the facts. Both Republicans and Democrats can say, “Okay, those are the facts.” Mostly facts are obtained through documents. Documents are critical. People can say things to you about how a program works, but when you see the document or the e-mail transmission, you really see what’s going on on the ground. Documents become just critical to oversight. I think I said this earlier, there are two ways you get information: you get it through people or through documents. People under oath—they don’t even need to be under oath, really—it’s against the law to lie to Congress whether you’re under oath or not. When you’re talking to people and interviewing people, they have to tell you the truth. But how they see what they did is a little bit different, perhaps, than what actually happened. The documents show you what actually was going on at the time any event was taking place.

Gathering the right documents, interviewing the right people, is critical to getting the facts. Then the members can disagree about the interpretations of the facts. Somebody

may say, “Okay, let’s look at the Head Start program. I think the facts show that there should have been 20 percent greater growth in the nutritional condition of the kids in Head Start.” And the other person can say, “I was amazed that there was the growth that there already was in the nutritional condition of the kids in Head Start.” So they can have different views on the facts, but the purpose of the oversight subcommittee, of the staff and the work, is to make sure that the committee gets the facts.

One thing that happens in a committee that doesn’t do it well, you can get documents—and I saw this in the Enron investigation, we had like five committees investigating Enron at the height of Enron, in both houses combined—is a chairman, in wanting press, can get documents and then hand them out to the public, to the press. So it will be Ken Lay’s memo to Jeff Skilling and it says something that looks very inappropriate, and that goes right out to the press because that’s how the chairman is operating. But that’s not good oversight. What oversight does is it brings the information to the committee, all of it, so that you can understand it completely in context. That memo just released to the press may give one impression, but it could be the wrong impression. Because there may be a whole series of events surrounding that memo that explain it in a very different way.

So the objective of good oversight is for the staff to get all the information that they can. And once they’re satisfied with it, if members think that there’s something there that’s a story to be told, then you do a hearing and the hearing is the storytelling. I tell people hearings are not trials. They’re not fair. Trials are due process. Each side gets a certain time. You get to cross-examine. You have a lawyer present. It’s set up to be as fair as possible. Hearings aren’t really like that. Hearings are in the control of the chair, for the most part. Committee rules do allow for the ranking minority member to ask for witnesses or to have some witnesses present. But basically the chair controls the hearing and any witnesses whom the ranking member might want could be the last panel or at some point which isn’t very noteworthy.

So the chair wants to tell the story and that’s how you decide your witnesses and the order of the witnesses, if you do good oversight. You’re going to take all of this information you’ve gathered and now, of all the people in the country, you should be the people who know the most about this issue and have the biggest picture. Then you present your witnesses in the order that tells the story. So usually that works out that if you have victims, people who’ve been hurt by something—I’ll use, I told you previously about sweepstakes—for sweepstakes we had like three or four seniors who had succumbed to these solicitations for sweepstakes. They tell you, “Well, I lost \$2,000 because I spent all this money. And I actually went to the place where they told me if I went there to Toledo to pick up my million dollars but it wasn’t—” They tell you those

stories. You've got people's attention, because everybody loves individual stories. Then you have usually a panel who are the validators who say okay, these are the anecdotes and they're real and they're not isolated incidents. In the sweepstakes hearings, for example, we had a panel of AARP, states attorneys general, the Postal Service, who say, "Look, there are tens of thousands of stories like this out there. We get a hundred thousand complaints at AARP. This is the most complained about element for senior citizens with respect to advertising," or something like that. So then you deliver the message that it's a serious, widespread problem.

Then you bring on the people who are causing this problem, whom you can subpoena, so the executives of the companies come in and testify. And that's where documents become critical, because they come in and testify and they say, "We're all about doing good." You know, "We're trying to provide entertainment and hope to these senior citizens. No, we don't really target them. No, we don't mislead them. It's all in fun. It's all just to be positive and to make their dismal little lives better, and to give them the opportunity to buy magazines and tchotchkes and all that sort of stuff." They give their best face. Then when it comes time to question them you bring out, "Well, you've said this and this and this, but let me just show you this memo that you wrote to your executive vice president with respect to the approach you were going to take on this solicitation. And it says, 'these people won't have a clue if we do x, y, and z,' or 'this is the only way we can get these people to buy these magazines even though we know this is a joke. How stupid can people be?'" Whatever the memo says. You confront them with that. That's where the magic happens, because that's where it's very hard, if you've done your homework, for them to wriggle out of the documentary evidence.

We had a hearing on gas prices. This was when gas prices were \$1.79 a gallon and we thought they were outrageous. So this was many years ago. But we had all the big CEOs of the oil companies in. It was all about how are gas prices set. They were all about how it's supply and demand. "We have nothing to do with rigging gas prices. That's not what we do. We're all for the consumer." We had these documents. One document was from Marathon Oil where one of the top executives said how great it was that the hurricane happened because it took down that refinery. And the reason they're happy it takes down the refinery is because it shortens the supply of gas and the gas prices go up. Another BP executive, a vice president, had written a memo the title of which was something like, "Thirteen ways to raise gas prices in the Midwest by three cents a gallon." Seriously. And then there were these little pathetic schemes. One was to not put the additive in the gas that makes it move through the pipeline faster or something. I mean, just unbelievable kinds of schemes. And so here are these executives and they're saying, "We're all about the consumer and we're all about getting gas to the pump." And then you say, "Well, excuse me, I've got this memo here from your vice president." So

then the BP executive says, “Well, that’s not our policy. That was just something he was proposing. We never implemented any of that.” And we say, “Well, was he demoted? What happened to him?” “Well no, he was never fired. He was never reprimanded.”

That’s where the documents are so important. What happens is the private industry can catch on to this and can inundate you with documents. So if we ask for documents on gas prices from Exxon, they can give us documents that include where the toilet paper is stored for the executive bathrooms or something. If you have a little staff, which is what we had, you’ve got to plow through all those documents. On that one we had like a million documents or something. You’ve got to have staff just kind of plow through them and then you set up a file of “hot docs,” which are the documents that actually are meaningful and have something to say about the issue. Then you use those to interview your witnesses to have them tell you what that document means, because they might have an explanation.

SCOTT: And these might be at the executive level that you’d be interviewing people before the hearings?

GUSTITUS: Yes, because you don’t want to be surprised by a document that you think means one thing and then they say, “No, that was completely ridiculous. That was actually an April Fool’s party joke.” You know, what if they said that? “Well, of course. That was what he wrote on April 1st and it was sent around to everyone. We all got it. We thought it was hysterical,” something like that. You really have to be sure. As I say, this is good oversight if you do it right. You know what your documents are. You’ve asked them about those documents. They come to the hearing knowing that they’ve got to explain them. But the documents still have tremendous power, because if they’re true, they’re almost inexplicable. I mean, it’s because you have caught them in something that they shouldn’t have been doing. Documents are so important, and so what happens is sometimes they don’t want to give you your documents.

SCOTT: So what happens? What do you do?

GUSTITUS: Congress fortunately has the power of subpoena. Because we’re a coequal branch of government, we have assumed the power to subpoena. That is critical because you can ask for documents and nine times out of ten agencies will give you their documents, unless you’ve got a big political challenge between the president and the member asking for the documents. That can happen. But otherwise, mostly agencies give you their documents. But private industry, if they know they’ve done something wrong, they’ll try to avoid giving you the documents. They’ll delay, or they’ll try to hide them or bury them in other documents. Often times you subpoena them. That’s an important

power, to be able to subpoena documents and subpoena witnesses. You have people who don't want to testify. They don't want to come. You need to subpoena them. You have the right to do that. They have the right to take the Fifth Amendment like you can in a trial. But we also have the right to give them immunity, which means we have the right to say to the Justice Department, "You can't prosecute this person based on the testimony that they've given to the Congress." They can prosecute them if they don't use that testimony. Most people don't realize that that's something we can do. And they confuse, then, that we are prosecutors versus doing oversight. We don't prosecute. We can never prosecute anybody. But we can, if we think it's necessary, give somebody immunity to make sure that we get their testimony when we need it.

SCOTT: Did you do that?

GUSTITUS: Yes, we did give immunity. In the campaign finance hearings that the Governmental Affairs Committee did, we gave immunity to the Buddhist monks who had been signed up as donors to the Democratic Party, but they weren't really donors. In order to get them to come, we gave them immunity. I wanted to give immunity to the treasurer of Enron because he was willing to testify and say everything that went on at Enron. It was going to be a fabulous hearing. But you don't give immunity without checking with the Justice Department to make sure that if you give immunity you're not blowing a criminal case. We still could have done it, but the Justice Department, it was Mike Chertoff at the time, said that it was way too early. They wanted to use him to get more information. They weren't sure where he was in the whole scheme, so they thought it would be very devastating to their criminal case. So we still could have gone forward, but you don't do that if—you weigh the risks and the benefits. It would have been great for us. We would have gotten a lot of kudos, but it wasn't appropriate from a public policy perspective, or from a good government perspective, I should say. So we didn't give him immunity. But Ollie North, you know, got immunity during the Iran-Contra hearings.

SCOTT: How often would you have to get a subpoena for documents? Is this a pretty standard practice?

GUSTITUS: No. Most committees do not issue subpoenas. It's very rare. Members don't like to do that. You know, most members don't do oversight. Oversight is done by a very, very small group of people, and it's getting smaller and smaller. It's probably at its nadir right now in terms of the number of people doing oversight. When you go back to early Congresses, the Ninety-something Congresses or the Eighty-something Congresses, there was a lot of oversight going on. PSI was so active and they had a huge budget. They had a lot of staff. They did those big hearings on the Mafia and

on defense contracting. They would go day after day with these hearings. But people don't do that much oversight. As you know, during the two terms of George W. Bush, Congress was probably the lowest it had ever been in oversight in its history. It's maybe just now getting momentum, to some extent.

It's not intended, under the Constitution, to be political oversight. It's intended to be institutional oversight. When [William] Clinton was president, [Alfonse] D'Amato [R-NY] and others did oversight, so to speak, on Whitewater and they just were merciless. They got nowhere because there was no there there on Whitewater. They kept trying to do oversight on it. But it was politically motivated. During George W. Bush's period, Congress didn't do oversight because both houses were under Republican control and they didn't want to do oversight, which was also shirking their responsibility because, as an institution, we have a responsibility to do oversight. You just have to do oversight if you're going to hold up your end of the bargain, which is not just give money to the executive branch, but understand how it's being spent and if it's wisely being spent and how the executive branch is operating. You need to have people who do oversight. A lot of members don't want to do oversight because it's hard work. You do have to ask for documents and you do have to ask for people to come in and testify. If they don't want to, you have to subpoena them. It's not easy. For most committees, you have to have both parties support the subpoena to a large extent. The chairman can ask to issue the subpoena. The ranking member can say, "I object." Then you have to have a vote. If all the members of your party are in support of the subpoena, you can get it. But most members don't want to go down the subpoena route, except for PSI. And when we had OGM, we issued subpoenas.

PSI is unique in that just the chair can issue a subpoena. So in most all these other cases, the chair can issue it, but the ranking member can object and then you have to have a vote. But in PSI, the chair isn't answerable to anybody. He or she can just issue a subpoena when they want to, which is why Joseph McCarthy [R-WI] used PSI for his anti-communism investigation in the 1950s. He issued hundreds of subpoenas and he was unchecked. For the House Government Ops committee, I think about eight years ago, they gave sole subpoena authority to that chair, Dan Burton. He was the gentleman who shot the watermelon in the backyard to see how Vince Foster killed himself. Anyway, he issued a thousand subpoenas, or something, also.

SCOTT: I wonder, why do you think Congress isn't doing a lot of oversight? What's happening? What's the context? You would have witnessed some of that decline of oversight during your tenure here. Why do you think that's happening?

GUSTITUS: I think during the Bush era it was pretty clear. Bush gave a very strong message that “You don’t cross me.” Oversight ebbs and flows based on a number of factors. One is how popular is the president? If the president is hugely popular, it’s a challenge to do oversight. If it’s a president of your same party, it’s another little step you have to take because you’re challenging your president, your own party. If the president is a powerful president, whether he’s popular or not, but he delivers a message of retribution if you take him on, and the House is controlled by his own party, it makes you not want to do oversight. Bush was like that. My understanding is if a member of the House or the Senate said something challenging of Bush, [Karl] Rove or whomever would say, “Well, the president won’t be out there to help you fundraise for your next election.” So there was a very strong message of “You have to be a player on our side,” and that really discouraged oversight.

So if the president is popular, if the president is powerful and just assumes power, if the parties are the same, the two houses have the same party as the president—all of those can be a perfect storm, which is kind of what happened in a big chunk of the Bush administration’s eight years. You have a perfect storm of weak oversight by Congress. So that’s part of what happens. Then people get out of the habit. You go for eight years and you don’t do much oversight, you don’t have staffs who know oversight. People don’t do it as much.

SCOTT: Can you say something about the role of other agencies that help Congress do good oversight? Let’s say, like CRS or some of these others, I think you mentioned the inspectors general.

GUSTITUS: Yes, I think they’re overlooked in terms of the public’s appreciation of the work they do. When you have a hearing, it’s Congress that’s doing all of this good work. But in so many cases, it’s based on, or we’re using, the really good work of the agencies that support us. GAO is one of them. We created GAO to do investigative work and auditing work for us. We didn’t have all the tools we needed and we wanted an agency that could go into programs, work with the agencies, get all the documents, and tell us what’s going on. It’s a very, very important organization. A good chair of a committee will use GAO well to help them oversee the programs that they’re responsible for, to get studies going, to do audits of certain programs or agencies within their departments.

That’s an important organization that Congress, smartly, created. GAO also has its own authority to look into programs that they think are troubled. They have to be responsive to Congress, that’s their number one responsibility, but on their own, if they have staff and money, they can say, “We really have to look at the B-2 bomber program,

because we've heard just too many things about the cost overruns." They can initiate their own report. They don't do much of it, but they can do that. Using their good work is really important, because they have experts. They have auditors. They have program experts. They have lawyers. They even have a little group of gumshoe investigators, people who will go out and do interesting things like try to get through an airline security gate carrying a gun—or carrying something—to show that the security isn't what it should be or something like that. They'll even do undercover kind of things. It's a small group. I actually haven't seen much of its work product lately, but about ten years ago they were a good little group over there.

Then you have the inspectors general. Congress did a really good thing in 1978 or '79, I think it was, we created the inspectors general, which again was this issue of oversight. It was all about sort of that late '70s, early '80s time. We created these independent offices within the agency, each department. That inspector general, what makes them independent is they report directly to Congress. They don't go through their secretary or their agency. They have a responsibility to investigate whatever they want within the department and then they report to us on what they discover or uncover.

SCOTT: On a regular basis?

GUSTITUS: Yes. Then they have another responsibility, which is they have to do a special letter if they see something that is really serious. There's a special letter that they can send, in addition to a report. It's like a red flag of an issue that they've uncovered that they think is really, really important. They're constantly doing work. The good thing about putting them in the agencies is they develop relationships and an understanding of the agency from the inside. Congress could never achieve that. That's really important. Having that direct connection to us, where they don't have to go through approval to get the results of their reports, is really critical. That's how Congress can get good information. Those inspectors general are really important, and any committee chair worth his or her salt is always going to be reading and be on top of, through their staff, whatever the IGs are finding out about the agencies and the programs that they run. They should be.

Lastly, we have the Library of Congress' Congressional Research Service, which used to be about 800 people—I don't know, maybe it's 500 people now or something—who are experts in lots of different things. The ability to pick up the phone and call somebody who knows so much about this issue or aspect of the real world is so important to wise legislation and to oversight as well. When we did the gas price hearings, I knew nothing about the price of oil or how oil was shipped or developed or transformed into gas. I knew nothing about it. I had to start from scratch, and I called CRS and I had like

two or three people who all they do is follow the oil industry and the gas industry. They came over and they gave me this wonderful briefing and understanding of how it all works. I could refer to them. That's pretty critical.

Oversight is challenging, especially from the Governmental Affairs perspective, when you do it across the government, because you're not an expert on any of these programs. You're jumping into a new issue each time. It's kind of like being a litigator. You get a case and you just have to be absorbed by it. Then you drop it and the next thing that comes up, you've got to get absorbed by that. That's how this works. You have to get up to speed very, very quickly on something you might not know much about. Those resources help you tremendously.

SCOTT: What are you looking for when you hire staff for oversight?

GUSTITUS: Curiosity, tenaciousness, and intelligence. I would say all three. You want somebody who just has to get to the bottom of it. It just would drive me crazy if I didn't figure out why this was, or the discrepancy between these two memos. You just have to have somebody who is just so curious that they have to get to the bottom of it. Then they have to be tenacious. They can't be somebody where the person has some kind of light explanation about something and they go, "Oh, okay," and you know, be sweet and go, "Oh, okay...yeah, yeah, yeah." No, they have to say, "Wait a second. That's not true. Tell me more. What's really behind this?" So there's a tenacity that I would look for. Intelligence is really important, to be really bright. I hired great staff. Elise Bean is the best of the best. She's currently the staff director of PSI. Nobody is better than Elise Bean. Bob Roach is our top investigator, absolutely top investigator par excellence. They're just both phenomenal staff.

We took on Enron and the other committees were basically looking at Enron itself. We looked at what the role of these banks were. Merrill Lynch and JP Morgan and the banks that bought into these fake financial transactions that Enron set up. Really, really complicated stuff. You'd need more than an MBA to figure these out. Just ridiculous transactions. What we were trying to show was how, from Enron's sales perspective, it looks like, yes, they took a loss, or they made a gain, but when you look at it from the real perspective, it was all fake. They did this to build up their financial statement. They were really taking losses and they made it look like they were taking gains. You could diagram some of these and they would look like some incredibly complicated constellation or something. They would just like go all over the place. Bob Roach took them all on.

SCOTT: And this is when you're at PSI? Is that right?

GUSTITUS: We were in PSI, yes. He just figured it out. He was methodical. When we interviewed a lot of these people, their lawyers would come in and they would say, “Okay, we’ve got two hours. We flew in from New York. We’re with Citigroup. We’re here for two hours and that’s it.” Bob Roach would say, “No, we’re sitting here until I get through all these documents. So let’s just relax.”

You have to be very self-confident, very strong, because when you’re dealing with Senate oversight, you, as Senate oversight, the people you’re taking on are some of the most powerful, prestigious people and lawyers that we have. They come in with a lot of bluster. They sweep into a room with all this aura about them and you have to not be affected by it. You have to try to stay on task and just make sure you get what you want out of it.

SCOTT: Were you one of those people who weren’t affected by it, or did you have to learn that over time?

GUSTITUS: I think you have to learn it over time. Bob Roach didn’t seem to have to learn it over time. He’s always been like that. But I think it took me some time to learn it. I tend to be more respectful and nice. I want to be polite. But really that’s not a good thing to be, necessarily, when you’re doing oversight. You want to be more tough, I think. You can’t be affected by the auras of top people. For example, we interviewed John Reed, who was the head of Citigroup, Citibank. We brought him in, I did the interview. We brought him into our offices. That’s the other really fun thing is when you make them come to your office [laughing]. John Reed, his office was some huge, twenty thousand square foot, probably, top of the Citigroup building or something like that. And the PSI offices are in the basement of the Russell building.

SCOTT: Are they?

GUSTITUS: Oh, they’re burrows. You know, the windows are up here.

SCOTT: [Laughs] Not quite as impressive.

GUSTITUS: I didn’t even put out coffee or water or anything. We just went into some other side room and just sat down, pulled up some chairs. It was just a completely different atmosphere for them to have to face instead of the world of Wall Street, the elite world of Wall Street.

SCOTT: What kind of backgrounds do you look for when you're hiring someone? Do they typically need to be attorneys?

GUSTITUS: Attorneys are very important, I think. I hired one person who was not an attorney, who was just an investigator. I don't mean "just" in a demeaning way. I mean he was not an attorney. Mostly in this kind of work, being an attorney is really helpful because there are so many junctures at which a legal issue presents itself. Say subpoenas. You know, you're an investigator but you want to issue a subpoena. Well, you've got to write the scope of the subpoena. It has to withstand a challenge. If somebody wants to bring their attorney, you've got to know, does he have a right to an attorney? What can an attorney do in a deposition? There are just so many legal aspects to it. You can have a potential to have a really good investigator who just does a lot of the interviews of people, without attorneys, just to get information. I have a bias on this to attorneys.

SCOTT: What's the role of reports in terms of the investigation and the hearings? You mentioned, in our last interview, that sometimes you might issue a report without a hearing, I think. Can you talk a little bit about why you do reports and what occasions they're important and maybe when they're not?

GUSTITUS: Reports are not done by a lot of oversight committees, because they're a lot of work. They're a huge amount of work. I think that's another thing that I'd love to have a student of Congress look at, whether there's been a big fall-off of oversight reports. That would be my sense, except for PSI, Elise Bean, who does reports all the time. When you do a hearing, you're going to get out your best information, but you're not going to get out all your information. A big issue like Enron's use of these fake financial transactions, at a hearing we can do one or two. The Nigerian barges, as I recall, is what we did with Enron. But there's so much more there that you've learned. First of all, we subpoenaed all those documents and we'd gone through those documents. We know what's in those documents. We've interviewed people and you know more about what they've said than just what you can bring out at the hearing. That's one thing. A report allows you to make public, in an understandable way—not just loose documents in a file, giving people access to those—but in a way that you, with all your knowledge, can put in order and explain. That's really important in a report.

It also allows you to give information, put it in a way that people down the road can use it. Maybe today they can't, but it's there as an historical record. Five years from now somebody may say, "It was really Enron that was involved in this. We should learn more about what they did with respect to this particular financial transaction. And weren't there hearings over there by PSI? Well, yes, there were. Well, what happened?"

Did they issue a report? Yes, there's a whole report and there's a section on that that you can look at." So you know, it's good for future work that you can't even see who could benefit from that work.

It gives people a chance to process the issue. You know, you have the hearing record, but the report allows you to say so much more and give people so much more of a sense of what was really going on. I think they're really important. The other thing they do is they give you an opportunity to have more press, because you can have both a hearing and the report. So you can do your hearing. You can even do a report before the hearing, which is one press hit. You do the hearing, which is a press hit. And then you can do your report after the hearing, which is another press hit. You can make that issue more and more visible, hence more understandable to a lot of people. You can expand on the size and the scope of the issue and make it a more important issue.

SCOTT: What's the role of public opinion in the oversight process?

GUSTITUS: People always ask me on oversight, they say, "Well, who oversees Congress?" The public oversees Congress. The role of public opinion is very important and your constituents are always really important. When you do anything in Congress, you're always thinking about how does this play out? How will people perceive this? What will the public reaction be? And everybody's always told, in Congress, assume that everything you do here can appear on the front page of the *Washington Post* tomorrow, what you say, what you do. Many people ignore that and some to their peril, but it's real. When you're doing oversight, you're always anticipating, will this be received well? How will this be received? Will this be received as too political? Will it be received as an honest effort? You know, you're always kind of checking it out. Now sometimes you say, okay, it's going to be perceived politically, but I don't care. It's worth doing it so we'll just have to take the hit from the public that it's a political thing when it's not. But that's who's judging you. That's kind of what's keeping you in check at all times, is how is this going to appear to the public? How is this going to appear if this were in the newspaper?

SCOTT: Did you have someone on your staff, or did you use someone on the larger Governmental Affairs committee to work as a press liaison?

GUSTITUS: No, the press person we used was Senator Levin's press person. It was slightly unsatisfactory. It would have been much better if we'd had money. I would have had my own press person, because that relationship is so important and it's great if you have a press person who has intimate knowledge of what you're doing and understands the report and develops relationships with the press. What happened was myself and my key staff, we were kind of our own press people. We nurtured the

relationships with the press. We did a lot of the drafts of the press releases and held the press briefings. We did a lot of press briefings.

SCOTT: And that's to educate them, simply, about what you're about to do, or maybe something you've done?

GUSTITUS: Yes. If you're doing a hearing on a complicated financial transaction between Merrill Lynch and Enron, it's very hard to get that in the first two hours of the hearing. Our job is to try to make it so people can get it, but it's much better if you have a press briefing beforehand, which would be the night before the hearing. We'd say, "Okay, we just want to walk you through this because this is really complicated. This is how this worked, and this is what will be said at the hearing. This is what we think he'll testify to," that kind of thing. You give them a background.

SCOTT: What's more important, print or television coverage?

GUSTITUS: Everybody always wants to be on television. We vie for C-SPAN. We want to be on C-SPAN. If you can get NBC there or ABC, of course. But that's rare. That's hard. You can get little squibbets. You know what that news is like. It's like a minute or two, if you're lucky. C-SPAN is something that we all felt really good about. As a matter of fact, we didn't do many hearings when C-SPAN wasn't there. That's because it's oversight. We're doing work on something that matters. We rarely did just a casual hearing. The hearings that we did were the product of a lot of work and a lot of effort, and a lot of judgment as to whether it was meaningful or not. So by the time we were ready for a hearing, it was kind of a big show. It was something that was important. It was more the exception that we weren't covered on C-SPAN than that we were.

SCOTT: When you first came to the Senate, of course, in '79, C-SPAN was not there and didn't arrive until 1986. Do you have a sense for—

GUSTITUS: Was it 1986?

SCOTT: Nineteen-eighty-six. Do you have a sense for how C-SPAN coverage changed the institution? I mean, you spoke a little bit about it just there in terms of the hearings, but do you have a sense for how it change the floor proceedings, for example, or things like that? Do you have an opinion about it in general?

GUSTITUS: I was very against television coverage of the floor. Not of hearings so much because we had the Watergate hearings. Those were televised. I don't know, hearings just seem like a different animal to me than the floor. But the floor, I was

concerned about people just going down and wanting to be able to have 30 seconds for their own back home TV station and saying things that they otherwise didn't need to say or were inappropriate or misguided the debate. It wasn't really something that anybody needed to pay attention to, but it was just a way for that person to get on their local evening news.

To some extent, I think that's happened. I think that's real. I think members go down and say things that they want to just promote back home, and to see themselves on C-SPAN, because they're not active in some other way. I guess, in retrospect, everybody seems to have adjusted. I suppose more goes on in the cloakroom now than went on before. A lot of the conversations might be taking place back in the cloakroom than they did before. It's something that was inevitable. It's just something we had to live with. It's certainly better than the squawk box. I mean, having staff have the squawk box was not a very satisfactory experience, and we did need to follow what was going on on the floor.

SCOTT: So did C-SPAN change your ability to do that? I'm sure it was much easier.

GUSTITUS: Yes. But I think C-SPAN has been fabulous with respect to hearings and committee work, because that's where so much of the work is done. It's more real than the floor. You don't go to a hearing—they do give prepared speeches—but once you get past those, you're into the Q&A and things really happen. It's more real. You learn more, I think. It's more spontaneous. The witnesses have to answer these questions. I think it's great that we have the hearings on C-SPAN. I'm 100 percent supportive of that.

SCOTT: What was your relationship with Governmental Affairs as staff director for one of the subcommittees? Did you work on investigations at the Governmental Affairs level ever?

GUSTITUS: The only one we worked on was on campaign finance reform. That was when Thompson was the chair and Senator Glenn was the ranking member, and that was this big, big investigation that we did. And so much of our work, almost all of our work at that time, was done just being involved in that campaign finance investigation.

SCOTT: What prompted the investigation?

GUSTITUS: Well, Bill Clinton was pretty much offering stays in the Lincoln bedroom at the White House to big campaign contributors and it had the smell of a quid pro quo. "If you contribute, we'll put you up in the Lincoln bedroom." There was a lot of

that going on, on both sides. But that was pretty visible. I think Tony Coelho, do you remember him? He was a congressman from the House. He was a Democratic congressman. He was very involved in campaign contributions. At some point, Tony Coelho, he came up with some novel ideas about how to raise money [laughs]. It became a free-for-all. Everybody just started to—in the '96 campaign in particular—just raising crazy money by offering access to members, on both sides, really. But the Democrats were pretty visible because Clinton was in the White House. [Albert] Gore [Jr.] was making calls from the White House to people to raise money. It was not a pretty picture. It really wasn't. The Republicans saw an opening to embarrass Clinton and the Democrats, really.

This was also just the rise of huge money. It wasn't even just who was asking. It was just so much money. Members knew they were starting to ask for huge sums of money. So much of the members' jobs were asking for money. Everybody was asking for huge sums of money. We were asking for soft money. There's hard money and soft money. Hard money was direct contributions to your campaign. But it was all this soft money for these fake election commercials where it was supposed to be issue ads, but they were really about candidates. There were huge, huge amounts of money. So anyway, was [Trent] Lott [R-MS] the majority leader at the time?

SCOTT: I believe he was.

GUSTITUS: I think Lott and the Republican leadership decided that it would really hurt the Democrats if they came up with a hearing on campaign finance of 1996. So they said it was the “campaign finance investigation of the 1996 campaign.” It was supposed to be bipartisan. Did we go over this?

SCOTT: We talked about it the first time we met.

GUSTITUS: Glenn was the ranking member. Glenn was all in, because he was disgusted by the money. We all thought it was going to be this great bipartisan investigation. It ended up Thompson, the first hundred subpoenas he issued without consulting anybody, were all to Democrats. It turned into a very partisan investigation. A lot of money was spent on the investigation. They had a lot of staff. They had a special staff for the investigation and a special staff director just for the investigation, and a lot of travel money to bring people in and to fly around the world to investigate foreign money as well. The Democrats had obtained campaign contributions from foreign-born citizens, which is not appropriate. The Republicans had examples in their attic also of odd foreign-based contributions.

It was intense. We were just constantly digging, digging, digging. They were digging into all the Democratic incidents and we were actually genuinely interested in the Democratic incidents as well, but we also wanted to expose the fact that it was the Republican side as well. We kept bringing up the Republican examples. Because of the way the committee rules are, we had the right to have the witnesses that we asked for. We were able to expose Republican improprieties as well. But there were a lot of really embarrassing and bad examples of inappropriate fundraising.

SCOTT: On both sides?

GUSTITUS: On both sides. It was really egregious. Back, I think in the early '80s, I remember, Senator Lloyd Bentsen [D-TX] had established something called a "breakfast club." I think, for \$10,000, it came out that for \$10,000 you could have breakfast with Senator Bentsen. That was what he did. He had this breakfast club. When it came out, everybody was appalled. It was horrible. You can't do that. That's not right. He stopped it, as I recall. Well, by 1996, that was a "nothing perk." Of course you'd have a breakfast club and \$10,000! I mean, how else would you operate? That's how far we had come in about 10, 15 years of actually having some shock over something like a breakfast club to, oh my God, you could sell anything for anybody, and everybody was buying access like crazy. It was awful.

So what happened as a result of it was the Republicans issued a huge report on all of the findings on the Democrats and we couldn't sign that. We couldn't go along with the fact that they'd left out all of the Republican examples. We wrote a huge minority report on the Republican examples. That's unfortunate, because it really should have been a bipartisan effort. But it also broke apart because the Republicans never wanted to do serious campaign finance reform. They don't believe in it—and Mitch McConnell [R-KY] is clear that they think it's unconstitutional to limit money in politics. We wanted to limit money in politics. So we were really going down two tracks anyway. The recommendations probably would never have been the same because that's not where they were. It was a very brutal investigation on both sides. It was not a happy situation.

SCOTT: And your subcommittee staff was involved in some of the investigation at the Governmental Affairs level? How did that work?

GUSTITUS: Yes. Carl Levin was really Glenn's right hand member on this and he is a lawyer. Senator Glenn is not a lawyer. They really valued having Senator Levin on the job. Glenn hired his own special staff for the campaign investigation. In Congress, whoever hires you, that's where your loyalty is. It's not really all that comfortable for Senator Levin to use Senator Glenn's staff, as much as he may have respected his staff.

It's not your own staff. You just don't have that confidence that you need, or that ability to just call on them at will and give them direction. He used me and Elise Bean. Yes, a lot. We both got heavily involved in that. Then we would be part of their strategy session. It was the Democrats, but especially even with just Glenn and Levin, we would be called in to work with Glenn in deciding how to respond to certain situations.

SCOTT: Political situations?

GUSTITUS: Yes, what to do.

SCOTT: Is that the first time that you had seen that level of disagreement or partisanship with the writing or issuing of a report?

GUSTITUS: Yes, in Governmental Affairs, yes, because we didn't have that many situations where there was a lot of antipathy between the two sides in Governmental Affairs. Again, I was there in the good years. A lot of the good years where we were still thinking government mattered and that government was okay [laughing], both Republicans and Democrats. You know, it's evolved. It took the Reagan Revolution a little bit of time to actually sink in that they were actually against government. Then you really have a hard time negotiating because if one side believes that government has a really good, meaningful purpose, and the other side doesn't, then you don't even want government. You're so far apart. For the early years, everybody thought that government was valuable, and so we were all just trying to figure out how to make government more effective. Do you know what I mean?

Then something ran off the track and do you remember Grover Norquist said, "Well, we should just flush government down the toilet"? And that kind of resonated with the way a lot of the attitudes were on the Republican side. That's really hard to negotiate with.

SCOTT: What was the role of leadership in the process of oversight? Did the leaders, to your knowledge, ever try to rein in an investigation or change the course of an investigation?

GUSTITUS: Not much. I think on the campaign finance investigation, that's probably the one that had the most leadership involvement. It did, in fact. I know it did. It certainly was initiated, my understanding is, on the Republican side, from the leadership. Thompson was told—they were going to maybe create a new committee for it, a special committee, but they said, no, Governmental Affairs, we'll give you more money, you do it. Fred Thompson will do it. On the Democratic side, Senator [Tom] Daschle [D-SD]

assigned a staff person to the investigation. He was in on the meetings with us, Glen Ivy, because it was viewed as contentious and dangerous and needed watching. That's the first time that's ever happened on an investigation in which I was involved. It was also because it was unique. It was a Governmental Affairs Committee investigation, but it really, because we hired special staff for it, it had its own special status.

SCOTT: Right. It's like a special committee in some sense.

GUSTITUS: Yes, it was like a special committee in a committee. Daschle's person was in on almost everything.

SCOTT: There have been times, in the history of the institution, when the Senate has decided that it needs a special committee to investigate a particular issue, like Watergate or like the Truman committee, which then grew into PSI—

GUSTITUS: Or Iran-Contra.

SCOTT: Or Iran-Contra. But that seems to be happening less frequently, let's say, in the past 30 years or so. Do you have a sense for why that might be? Is it because Congress has the capacity now, with its various committees and subcommittees, to investigate these issues, and it doesn't, therefore, need a special committee? Do you have a sense for that?

GUSTITUS: No, I don't think it's because the capacity has increased, because I think it's about the same. Why has that happened? I was going to say it seems like it's too much work, in a way. To have a special committee, you have to start from scratch with staff. You've got to get staff directors. It's an add-on to members' jobs. They don't give up their committees. They have to go and add another committee. They're fundraising all the time now. Life's changed. They're doing so much fundraising. I don't know. My take on it would be it just seems like too much work to do a special committee. They were talking about doing it for Benghazi, which it doesn't seem like it's worth that to me. It's not at that level. But I think it just seems like a lot of work, and it's a lot of money. You've got to hire all new staff.

We did do it for big things, and probably if some huge thing comes along, we might do it again. When you think about what it was done for, 9/11, Iran-Contra. People have forgotten how serious Iran-Contra was. That was the president violating the congressional law. That report really scolds the president. [Warren] Rudman [R-NH] was on that. It was [Daniel] Inouye [D-HI] and Rudman. If you read that report, it's stronger

than people probably remember. Of course, Watergate. It takes a really big issue to have a special committee.

SCOTT: Was there ever any discussion about Enron having a special—

GUSTITUS: No, because Enron didn't involve the government. You know, these other ones, 9/11, what did we know? When did we know it? Why didn't we protect America? Iran-Contra, the president is violating a very specific requirement that you don't mess around with the Contras. Watergate, the president is involved in a crime. Enron was a company, so that's very different. The nation isn't at risk. The political system wasn't at risk for that. It is interesting, though, to point out how do we organize for oversight? You know, there's no master plan here in Congress, or the Senate alone, to decide who does what. When it comes to oversight, if you have jurisdiction, you could have, as we did with Enron, four or five committees all investigating the same thing.

SCOTT: Is that useful? How do you feel about that?

GUSTITUS: I think it's almost impossible to organize Congress. I think in that example it was way over the top. We didn't need that, and a lot of those committees didn't contribute to our understanding of Enron. But it's almost unavoidable. It is unavoidable, practically, because of the way we operate. Committees have jurisdiction. You'd have to have a leader who just stands up and, by custom and practice, says, "No, we're giving this to this committee and this is where it's going to be." You can have that. That can happen. But it has to be important enough for it to rise to that level. In Enron, Enron had to drop its documents—they mostly did their documents by CDs—at four or five spots. They'd get a subpoena and they'd say, "Well, we'll give it all to you then." The next subpoena, "Well, we'll give you all the same documents." They were dropping documents off all over the place and making their people available for interviews. No, it's not the most efficient way, but unless the leadership steps in and just by the power of the leader says, within their own body, "We're only going to do it in this one committee," then anybody can do it. In Enron's case, it was both the House and the Senate were doing it. I know of no history where the Senate would defer to the House doing a hearing, or the House would defer to the Senate doing a hearing. Do you?

SCOTT: No [laughs].

GUSTITUS: No. We're our separate bodies with our separate responsibilities.

SCOTT: A compromise, maybe a joint committee, but they rarely do that.

GUSTITUS: Exactly.

SCOTT: I think that's a good place to stop.

[End of Third Interview]

LINDA GUSTITUS
Interview #4: Personalities and Power
December 10, 2012

SCOTT: Welcome back, thank you for being here.

GUSTITUS: Thank you.

SCOTT: Maybe today we could start with a question about technology. We like to ask staff how the technology changes that they experienced during the course of their tenure here changed their work here. I wondered if you had any comments about that.

GUSTITUS: Phenomenal. It's just a phenomenal change. When we started we had IBM Selectric typewriters. We thought self-correcting was about the greatest thing in the whole world, where you had that little tape inside the typewriter that automatically corrected your typing. We had mag card machines for reports.

SCOTT: Can you describe that? What is a mag card machine?

GUSTITUS: A mag card machine was similar to a computer. We used them only for large written products. You had your secretary—secretaries had to do a lot of this work—who typed the report into the machine. The machine punched what was typed onto cards and then the cards were run through a machine to make a copy and the cards were delivered or the mag card machine was connected somehow to GPO so they could print the report from that. That's how we did our reports. It was very labor intensive, but you could make corrections. Secretaries were really important because they did most of the typing. Members used Dictaphones then, to speak into a Dictaphone and do letters and then they would be taken off of the machine by the secretary and typed up. I suppose some of that still happens, but it was typewriters and these mag card machines that we lived by. I recall the mag card machines because our chief clerk had to type up these reports using the mag card machine.

A couple of other things. One, all constituent letters had to have three copies, a pink, a blue, and a yellow. Those were carbon copies.

SCOTT: And where did they go?

GUSTITUS: Those would go in different files. One would go back to the state to show that we had written this letter. That's like a physical mailing back to the state of a

copy of the letter that we wrote to the constituent. One would be filed by alphabet and the other would be filed by issue. Every time you did a letter you literally would have to make this little package. It's funny to describe it because it sounds so antique, doesn't it?

SCOTT: [Laughs] It wasn't that long ago.

GUSTITUS: It wasn't that long ago. You take this little package of the letterhead, a piece of carbon paper, blue paper, piece of carbon paper, pink paper, piece of carbon paper, and yellow paper. Package it up, put it in your typewriter, scroll it up, and then you type your letter. When you made a mistake, before the self-correcting Selectric, you had to put that little piece of white tape in and go backwards and then hit the key again to try to white it out. With the self-correcting Selectric, it had a little button where there was a special white tape built into the typewriter that you could go back and it would white it out for you. But your carbons never had that, so if you were a really bad typist your carbons had these spots where literally a single letter of the alphabet could be hit three times on top of each other. The carbons could be very messy. Then you had white out, which was this little bottle of white paint. If you made a mess on something and the letter was all ready to go you would just white it out and type over it. It was really challenging.

To share, to edit things, you had to edit them from a hard copy. To edit a report, you would physically take it around to the staff. You would circulate it, and people would write their edits on it. The final copy would go to our secretary who would put it into the mag card machine and make the final copy of it. That's how I remember it was done.

With the computer, it just changed everything. First of all, productivity just soared. Everybody had to become a typist, basically. So everybody types. The chief clerk only had to, after the final document was sent to her, put it on a letterhead and print it out. We could share copies of things. We could edit each other's work without having to print it out.

SCOTT: Do you recall when you began to use the first computers on the subcommittee?

GUSTITUS: That's a good question. It wasn't in the early '80s. I think even [when we moved to the Hart Building] we were using mag cards. It was probably mid- to late-'80s, maybe?

SCOTT: I suppose when you received your first computer you only had one?

GUSTITUS: No, I think we all had computers. But the software was challenging. You know how you had to do searches? There was the whole concept of doing a search through THOMAS.¹ We used THOMAS but it was the first THOMAS version, and doing searches was so hard because you had to format it in such a way that you had to put things in parentheses so you could chain words together so that when it searched you made sure that these two words—like “legislative veto” were connected so you wouldn’t get all the “legislative” hits and the “veto” hits. You couldn’t just put in “legislative veto.” It would be legislative veto and FTC plus—we had a little sheet that told us, if you are going to do a search this is how you have to do it. If you didn’t use “and” and used a comma instead, or if you left out the parenthesis, it didn’t do the search right. You had to work at developing a skill to do a good search at the beginning of THOMAS.

Now it’s just so phenomenal. You go to THOMAS, you type in a couple of words and it gives you all of these options. Google is beyond comprehension. We didn’t have either of those. We used the libraries a lot. Obviously we didn’t have WestLaw and Nexis and so you literally walked up to the Senate Library in the Capitol, which had one of the best locations in the Capitol with this beautiful circular window overlooking the mall, and you’d go up there and get your case, whatever you needed. Or you’d go to the Senate legal counsel’s office for cases. It was very physical. You had to go get things that you wanted to see or read. They weren’t readily available online. That took time.

SCOTT: You relied heavily on the support of the research librarians, I imagine, to find things.

GUSTITUS: Yes, that’s a good point. We would call up a research librarian and say, “We need x, y, and z,” and then they would go into the stacks or whatever it was and make copies of it for you or get you the books. That was very helpful.

Then, of course, there was that squawk box.

SCOTT: Right, we talked earlier about going from the squawk box to the television.

GUSTITUS: We didn’t know who was speaking unless—well we did because we learned the voices.

¹ The Library of Congress THOMAS site was the source for federal legislative information: <http://thomas.loc.gov/home/thomas.php>. THOMAS has been replaced by Congress.gov: <https://www.congress.gov/>.

SCOTT: What about the televising of hearings and the Senate floor activity. Did that change your job in any way or change the way that you went about your business on a daily basis?

GUSTITUS: Not really. For me that did not change that much. I didn't see any major change in the subcommittee or in Senator Levin's office in terms of using the floor in a different way. Every once in a while there would be a time when we would want to take a statement to the floor so we could notify the news back in Michigan to take a piece of that for their nightly news. But it was not that often. I don't think that changed too much for us. Also for us, when we were doing hearings, the networks could come in anyway, to our hearings, so that was TV, so they were still available. What happened with C-SPAN, I think we talked about that before, was a dramatic change with their gavel to gavel coverage of hearings. The concept of a feed happened when you didn't have to have a gazillion cameras in the hearing room and there was one feed camera, which helped a lot. I don't think they still do this, but you'd walk into a hearing room and there'd be 10 TV cameras, which were big on the stands, and they took up half of where the staff sat. So we'd be climbing over and under and around and through all these TV cameras. I think that's changed because they have this feed capability.

SCOTT: You mentioned in a previous interview that you thought that the Iran-Contra investigation hasn't been given its due. I wonder if you want to say something about that.

GUSTITUS: We were talking about commissions and how Congress creates special committees and whether they are successful or not and what's a really good route for that. I was also, after I retired, appointed to the Wartime Contracting Commission. Your question gave me some time to think about my attitude towards these commissions and these committees. I have a mixed reaction. I mostly think it works best if Congress does the work because these are members who know the political milieu. Inevitably on some joint committee, or special committee, there are members who have been around here a long time. They understand agencies, they understand how you get information from agencies. They have experienced staff people for the most part which is hard to get. So you don't have some new person who is heading up a commission who has never done that before. I think the experience is a really important element in conducting these major investigations. I think if you look back, Watergate was hugely successful, obviously. I think the 9/11 Commission that Congress used itself was quite successful. This Iran-Contra committee was terrific.

It's interesting because the Iran-Contra report, a lot of people aren't really aware of what great work was done by this committee. Most people remember Iran-Contra for

Ollie North and the comment by his attorney, "I'm not a potted plant," and the fact that he got immunity to testify. It was chaired by Daniel Inouye and Warren Rudman, they were co-chairs and Rudman was a Republican and Inouye the Democrat. Very much like Watergate, the two parties came together and just decided to get the facts and let the chips fall where they may. That's what happened in Watergate and that's what happened in the Iran-Contra investigation. I brought the report with me because I wanted to share how strong it was. Now this was when Ronald Reagan was president. Everybody knows how popular Ronald Reagan was, particularly after he left office. During office people praised him, and he's considered one of the great presidents. [I don't personally share that opinion, by the way, I should add.] The Iran-Contra affair was a crisis almost at the level of Watergate in his administration. They called Ronald Reagan the "Teflon president." It's in part because of his lovely personality that he escaped, I think, the black mark of history that he deserved from Iran-Contra. But the record of the Iran-Contra committee report tells you what he did, which is basically he and his staff lied to Congress, lied to the American people, and broke the law. It's basically as clear as that on a very important foreign policy matter. To read from the executive summary, at one point here it talks about that President Reagan had this news conference involving Israeli sales of weapons.

The president was asked [reading from copy of report]: "Mr. President, are you telling us tonight that the only shipment of weapons with which we were involved were one or two that followed your January finding?" And the president replied, "That's right. I'm saying nothing but the missiles were sold." The report says, "In fact, however, the Israeli sales including the Hawk shipment were implemented with knowledge and the approval of the president and his top advisors and the president himself." That's clearly stating that he lied. It's only one example but at the end, in the very end of the executive summary it says:

The ultimate responsibility for the events in the Iran-Contra affair must rest with the president. If the president did not know what his national security advisors were doing, he should have. It is his responsibility to communicate unambiguously to his subordinates that they must keep him advised of important actions they take for the administration. The Constitution requires the president to take care that the laws be faithfully executed. This charge encompasses a responsibility to leave the members of his administration in no doubt that the rule of law governs. Members of the NSC staff appeared to believe that their actions were consistent with the president's desires. It was the president's policy, not an isolated decision by North or Poindexter, to sell arms secretly to Iran and maintain the Contras body and soul the Boland Amendment notwithstanding. To the NSC staff implementation of these policies became the overriding concern.

That's really strong language. I'll read just one more:

The president himself told the public that the U.S. government had no connection to the Hausenfuse airplane. He told the public that early reports of arms sales for hostages had no foundation. He told the public that the United States had not traded arms for hostages. He told the public that the United States had not condoned the arms sales by Israel to Iran when in fact he had approved them and signed a finding later destroyed by Poindexter recording his approval. All of these statements by the president were wrong.

And it ends by saying,

Fifty years ago the Supreme Court Justice Louis Brandeis observed our government is the potent, the omnipresent teacher. For good or for ill it teaches the whole people by its example. Crime is contagious. If the government becomes a law breaker it breeds contempt for law. It invites every man to become a law unto himself. It invites anarchy. The Iran-Contra affair resulted from a failure to heed this message.

That is about as powerful as you can get. This was a bipartisan investigation by Congress and that was the statement they made in their executive summary about Ronald Reagan, the president, a very popular president. But what he did was he lied to the American people and he basically engaged in a crime. He violated the law. Now there was no criminal penalty for violating the Boland Amendment, but there is always a penalty for lying to Congress, it's a crime to lie to Congress.

When Congress does it right, it can do it very powerfully. It has done it right. Everybody is so down on Congress right now because it's such a mess. But there's a very powerful history of really fabulous work in Congress and it occurs when both parties take two reasonable people, as leaders, and put them on a committee and they can come up with the facts. Which is what this did, the Iran-Contra committee basically came up with the truth, which is what good—we talked about this earlier—which is the responsibility of good oversight. In this case, they both agreed with the conclusions, the results of the facts, the interpretation of the facts – that what the president did was wrong and that it violated law, and that it offended the values of our Constitution and our government.

SCOTT: Do you think that good oversight needs to have a legislative component to it? In this case, for example, were there legislative achievements that we can point to that resulted from the hearings?

GUSTITUS: No, this wasn't an investigation for legislative achievements. Out of Watergate, of course, came campaign finance reform and a number of very important laws. I don't think much came out of Iran-Contra, it was more exposure. That is a responsibility of Congress, by the way, to enlighten the American people as to what is going on. It wasn't outside of its responsibility in doing so without a legislative achievement. The legislative link there is whether the Boland Amendment was followed or not. Mostly it was compelling that the American people learned the facts about what President Reagan and his advisors had done. It was really almost at the level of Watergate in cover-up, destroying records, violating the law.

SCOTT: Do you remember having conversations with other staff at the time during the hearings about what was going on? For example, we had staff who were here during Watergate talk about how the institution felt during the Watergate hearings and investigation. There was a lot of tension and people were riveted by what was going on. I wonder if you have a sense for that with Iran-Contra?

GUSTITUS: Yes, I think people were clearly watching the hearings. When North came and testified it was a moment that a lot of people remember in terms of congressional testimony, although what people take away from that is that North won that debate because he was so arrogant and without remorse or guilt. He was basically, "Whatever we did, we were on the right side of things. We did break a law, and who cares." I think people were engaged in it. I think it's this attitude towards President Reagan, which is, "He's such a good guy. He's probably doing it for the right reason." Whereas with Nixon, nobody liked Nixon personally. He was a really unlikable person. Reagan had this reservoir of goodwill, and I also think that people did not want to see another president resign. Truly, he could have been impeached for what he did. The Republicans didn't hesitate with Bill Clinton but I think when Reagan was there, what was this? I think it was '87?

SCOTT: It was '87 because Democrats had just gained the majority again [in the Senate].

GUSTITUS: People didn't want to have to go through it again, I think. The Republicans were sure willing to with President Clinton—of course, he was not convicted. But with Iran-Contra, I think Congress didn't want to take down another president.

SCOTT: I'm glad you added that.

GUSTITUS: To compare it to the current issue, this doesn't have the same weight as Iran-Contra and Watergate, but Congress has been faced with the enormous expense going on in two wars in Afghanistan and Iraq. A huge percentage of our money being spent in those two wars is going to private contractors. This is really the first time that Congress faced the reality of a war that was basically contracted out, but for the soldiers themselves, the war fighters, as they call them. So much of what was being done in Iraq and Afghanistan was being done by private contractors. We used to have soldiers who peeled potatoes, remember those are the famous pictures: "You've got to go peel the spuds. You've got toilet duty." All that changed, that's not what we do. Now the war fighter is all about just killing the enemy and we're going to provide him or her with services for everything else. I'm sure the contractors had a lot to do with convincing the Pentagon to go that route. We ended up contracting out all the food service, all the cleaning, all the building, all the construction. We used to have Seabees, who did a lot of construction in World War II. We had enlisted people who built things. That's not what we do, this is all contracted out.

We also contracted out our security to the point that we were protecting our bases not with our own soldiers but with private security guards. We use a private contractor to protect the perimeter of the camp in Afghanistan or Iraq where our soldiers are housed. The whole concept here is that the only thing we want the soldiers to do is go kill the enemy, that's it. The rest is all going to be private contractors. Well, to do that everybody sees dollar signs, of course, who is remotely involved in this kind of work. And it's all over there. So you don't have a lot of the contracting infrastructure that is here. A lot of federal employees, now civilian employees have to go over there because they have to monitor these contracts, or award these contracts. It created the perfect opportunity for people to rip off the government, massively, and at huge expense. Congress had the smarts to see that things were not going well. KBR, if you remember, there were some big stories about massive fraud going on and big problems going on, and with Blackwater, which was the private security contractor whose employees were engaged in killing Iraqis in several cases unjustifiably, in my opinion.

Congress decided they had to deal with it, they had to get a handle on this contracting. Now in my mind what they should have done is have the Armed Services Committee or the Governmental Affairs Committee create a special committee or be given more money for one of their subcommittees or the full committee and be told, "Dig into it. Get to the bottom of it and let's see what laws we have to change and what procedures we have to change to stop the waste." Instead Senator [Claire] McCaskill [D-MO], who is a wonderful senator, and Jim Webb [D-VA], totally well-intentioned about trying to get to the bottom of this, decided to go with what they said was something like the Truman Committee from World War II—which was a very successful effort to

address defense contracting fraud. [A big difference, however, was the fact that the Truman Committee was a Senate special committee created by the Senate and consisting exclusively of senators to look into defense contracting fraud.]

SCOTT: It was a special committee.

GUSTITUS: Truman's committee was a special committee that was the forerunner of the now Permanent Subcommittee on Investigation, by the way. But at the urging of Senators McCaskill and Webb, Congress decided to create a freestanding Commission on Wartime Contracting, essentially housed in the executive branch. They selected a blue ribbon panel of outside people and appointed them. It was one of those things where the House Speaker could appoint three, and the Senate leader could appoint three, and I think the president probably was able to appoint a couple. I got appointed because I had done oversight, I was retired, and Senator Levin knew of my work. It was supposed to be a two-year commission. It took a long time to get started because the Republicans couldn't find a co-chair. They had trouble figuring out who their co-chair was going to be. One of the people who wanted to be co-chair was actually in charge of contracting for the army, somebody who was appointed to the commission. It was a significant conflict of interest. We got through that and he resigned and eventually Chris Shays came on as the Republican appointed co-chair. He had just lost his election in Connecticut. The former deputy of the DCAA was named as the Democratic co-chair.

SCOTT: What's the DCAA?

GUSTITUS: I'm sorry, the Defense Contract Audit Agency. We ended up having to, to do this commission, set up a whole office, get a whole new staff, get computers, get everything. The expense in starting something like that is significant. Hiring staff to do that work, it ended up we hired a fair number of retired people. You're paying really good salaries, because it's a short, two-year thing. But it was probably the worst staffed organization that I've seen in terms of accomplishment and leadership. We had some good people, junior staffers, who did some good work. But they were really limited by the direction and the focus at the top.

We had a couple of hearings, we had a couple of good hearings. To me the issues were obvious, it didn't take a lot of digging to come up with what was wrong with the system. DOD didn't do a good job of writing requirements in contracts. They wrote bad contracts. They shot from the hip. They didn't do the kind of quality work that a contracting officer is supposed to do, which you would do back here. You had an incentive to hire locals. Those countries didn't have many good companies that could do the work. So you're kind of running a small business program over there at the same time

you are trying to win a war and save money. There were so many pieces to it that just don't work.

Basically the message to me was that we should have never engaged in nation-building in the first place. There were so many examples of the kind of crazy things we did like build an enormous water purification system in Iraq that they didn't even want and couldn't staff. It was so sophisticated nobody in the country could be hired to run it because they didn't have the skill sets. It was only half staffed at some point. I'm not giving you all the details but I'm giving you the gist of this. In the meantime they already had an inspector general for Afghanistan and an inspector general for Iraq. Well they had an inspector general for Iraq, first of all. And then a couple of years later they got an inspector general for Afghanistan. And the inspector general for Iraq was doing a fabulous job uncovering details. He had staff over there and he could use military people. He was in great shape.

To me the commission was just a waste of time and money and not necessary. I think the Senate or the House could have done a really good job themselves and come up very clearly with what the recommendations are. Plus, contracting is probably the least political kind of issue. It's not like the fiscal cliff, where you've got these incredibly strong opposing ideological views of how to solve a problem. This is contracting. The issue is how do we do it better. On the scale of political contentiousness, this is way at the bottom. That's another reason why I think the Senate could have done it. It ended up that the commission—I voted against this—but they voted to add another year to their life. I just didn't support it. I just didn't think that that was—

SCOTT: Because you felt the work had been—

GUSTITUS: I thought it was unnecessary. We could have easily done it in two years. They set up big operations in Afghanistan and Iraq. I thought that was also unnecessary. It was more like we were bothering people in a war zone, instead of just getting in and out and doing what we needed to do.

People have said in the past to me, “These commissions, you're kidding. It will just be a report that sits on a shelf. They are just a waste.” I didn't really believe that, which is why I signed on to this. I thought, we'll try to make this one work. But in the last analysis—and I think their final recommendations are fine—I think the work could have been done easily by a Senate or House committee and with much less fuss and much less cost. Iran-Contra was actually very political because the issue was the president, yet it was done by Congress itself.

SCOTT: What kind of challenges did you face on the commission that you may not have faced if you had been on a committee here?

GUSTITUS: That's a good question. That was really the heart of the problem. When you are in Congress, there is no bureaucracy, basically, especially if you have the confidence of your member. For me, I would consult Senator Levin's AA [administrative assistant], but if we disagreed or it was important to me, I could go to Senator Levin directly on anything. When we wanted to move on something, when we wanted to interview somebody, I didn't have to ask anybody. If I wanted to get to the bottom of an issue, I could go do it. I talked about this earlier—that on oversight, you want a staff person who is so curious they want to get to bottom of an issue. "Let's do it now." You don't put it on your to-do list and say, "Okay, on Friday." No, if you are so curious, you are going to call that person and get a hold of them. When you are in Congress, people basically, for the most part, pay attention and respond to your calls. With the commission, I was just dumbfounded at how bureaucratic it became. It was largely run by people who had been in the executive branch for years.

SCOTT: Very bureaucratic?

GUSTITUS: Very bureaucratic. I was shocked that there were these protocols that had to be established and there was this hesitancy. "Should you really call the State Department at this point?" "I don't know, let's move through this. Let's do this." It was so surprising to me because my attitude was what I brought from Congress, a legislative body. There, when we want the information, we want it now. This is what you do. But that's not how that commission operated. It was more like, the staff would say, "We've asked the State Department and no, they haven't gotten back to us yet. They said they've got to send it up." That's just not what would be acceptable for me working for a Senate committee. I think you nailed the biggest problem I had was the attitude of the leadership. If the staff people had been told, "Go ahead, get the job done," maybe they would have done it. But there was this cautious imprimatur of leadership that you have to go through channels. You have to take it step by step.

SCOTT: Access to documents was an issue?

GUSTITUS: Yes, we used to wait and wait. Yes, that was the biggest frustration. I had just never seen anything like that where you are doing oversight. It's an investigation, and you don't treat yourself as if you are the biggest kid on the block and that you have a right to this information. The commission was largely congressionally appointed. It was created to get this information. I used to tell the staff, if they are asking an agency, "You tell them that getting us this information is the most important thing that

they can do right now. We've got a congressional mandate to find out what is going on." But it didn't work very well.

SCOTT: Did you travel to Iraq and Afghanistan?

GUSTITUS: I did not. Other people did. I don't like to travel much anyway. But I didn't like the idea that we came into a war zone and asked questions about things that we really could have found out back here. It seemed like a big distraction—taking people's time and energy. You know how those visits are, especially in the military, they overreact. They'll give you nameplates and they have special parking spaces for you. They give you special food. I just don't like that. I didn't want that.

SCOTT: Did you hire your own staff as a member of the commission? Did you get to select staff?

GUSTITUS: No, I got to recommend staff. And several of the people I recommended were hired, but the co-chairs hired the executive director and then the executive director hired staff with the co-chairs.

SCOTT: You didn't vote to continue the commission for that extra year. Did you stay with the commission through its entirety?

GUSTITUS: No, I did leave. I decided that it was not where I wanted to spend my time.

SCOTT: Where was the commission physically located?

GUSTITUS: The commission used offices provided by the Department of Defense in Arlington, in Rosslyn, in one of their buildings. Some other entity had been there before us. DOD rented space in this building, and we got an available office.

SCOTT: Did the investigation proceed as a congressional investigation might? Did you have the same kind of meetings? How did you work on a daily basis on this commission?

GUSTITUS: The commissioners had a choice of either working full time there or being paid for meetings or hearings or visits, the extent to which they did participate. The staff was full-time. I was encouraged to try to be present full time. I did try that for a while with an office there and try to oversee the work and be involved in it. Honestly, it

was just too frustrating. I couldn't, I didn't have the authority apparently. I couldn't get my hands around the work, it just didn't happen.

SCOTT: What did Senator Levin think? Did you ever have conversations with him about the decision to do the commission?

GUSTITUS: I don't think he supports commissions that much, period. I don't think he was surprised when I told him that I didn't think it was the most successful commission.

The base closing commission [Defense Base Closure and Realignment Commission, BRAC], I think people would say, was fairly successful. That was more because of the requirement that they put into that legislation that whatever that base closing commission came out with, Congress basically had to accept it. There were all these hoops in order to avoid it. But it was pretty strong medicine. They set themselves up, Congress did, to put themselves in a corner on the base closing commission.

SCOTT: They would have to act on the recommendations.

GUSTITUS: Yes, and I think they picked staff that were pretty familiar with how that whole system operated. I don't know enough about it, but that's my impression.

SCOTT: In 2001 you became the staff director for PSI. I wanted to talk to you about your decision to move to PSI. How did that come about?

GUSTITUS: The way subcommittees work on Governmental Affairs is by seniority. You get to pick your committee, your subcommittee, by how senior you are. Senator Levin was senior enough to be chair of the Governmental Affairs Committee. But he was also senior enough to be chair of the Armed Services Committee. He chose to be chair of the Armed Services Committee, but then he got to choose the subcommittee on Governmental Affairs that he could chair. The best subcommittee for him and for anybody on that committee if they know what they are doing is the Permanent Subcommittee on Investigations. That's how we got it. When Senator Roth was chair of the full committee he chose also to be chair of the PSI subcommittee and that goes back to what I was talking about, personalities and power.

SCOTT: Senator Levin didn't make that choice.

GUSTITUS: Senator Lieberman was after Senator Levin [in seniority on Governmental Affairs, and he became the chair when Senator Levin chose to chair

Armed Services.] But if Senator Lieberman had chosen to take over PSI as well as to chair the full Governmental Affairs Committee, he ran the risk that Senator Levin would say, “I’m going to take over Governmental Affairs, then.” It’s all very complicated when you get into these chairmanships. Senator Levin had wanted to chair PSI for years because it’s such a powerful subcommittee. It was a no-brainer to choose to chair it.

SCOTT: You wanted to do that? Did he ask you to move?

GUSTITUS: I was always going to be his staff director of whatever subcommittee he had. I had moved, we started at OGM, then we went to that Federal Services, Nuclear Proliferation subcommittee, he got that at some point. I guess we went back to OGM and then we had PSI.

SCOTT: That 107th Congress is a strange Congress because you had that delayed, or prolonged organizing resolution period. You were going to have this even split in the Senate that was going to be broken by the vote of the vice president, who was Al Gore for that two-week period and then when the new administration came in, Dick Cheney was the deciding vote.

GUSTITUS: Right, so we were chair for a while and then we weren’t chair.

SCOTT: Right. Then in June when Senator [James] Jeffords [D-VT] makes the switch, the Democrats gain the majority again. Do you want to say anything about that period? I know that the organizing resolution itself was different in that it provided equal office space and equal staff and equal money for these committees and the built-in trigger where if one of the parties gain a majority then that will cause a new reorganization, which actually hadn’t happened in other Congresses when there had been a 50/50 split. Do you remember anything about that organizing resolution and how it impacted PSI?

GUSTITUS: A staff director is always concerned about money. Money is staff. Money is opportunity. Money is power. That’s the ticket you need in order to be able to do really good work. Throughout that period you are always worried about, what is it doing to my staff? Can I get more staff, do I have to fire staff, what is going to happen to my staff, is there a way I can increase staff? As I recall, the 50/50 split was an increase for us, which was a good thing. After that, I don’t remember that we went back to the one-third, two-thirds divide in money that we usually had. I think after Senator Jeffords switched, we still let the Republicans have a fairly good chunk of money because in that subcommittee we were working with Susan Collins [R-ME]. I knew Susan Collins’ staff quite well. There were no ill-feelings there. They do really good work. They were a great staff. It wasn’t much of a contest. There was no bitterness there. We were all just having

to respond to what was going on outside of us. I think we tried to work it out the best we could. We tried to keep as many staff people on as were already there. If we could get new hires, we would, but given the money that was coming to us from the full committee—I remember it more as a positive thing in terms of the 50/50 split than what we had expected.

SCOTT: And PSI has this history of working so well with both sides.

GUSTITUS: Exactly.

SCOTT: Maybe that's why it didn't affect you as much.

GUSTITUS: I think that's definitely why. We have that very explicit requirement in the rules that the ranking member gets to do their own investigation. There is that concept that you are somewhat equal—at least the minority has specific rights and opportunities.

SCOTT: What did you have planned for PSI? As a new staff director what kinds of things were you thinking about doing and what kinds of things were you interested in looking into?

GUSTITUS: The first thing I did, which proved to be a good management tool, was we always had to deal with whatever was going on in Governmental Affairs, at the full committee. Our job was to staff everything going on in the full committee and any other subcommittee that Senator Levin was on. He was on one or two other subcommittees. Governmental Affairs was always doing something, was always fairly active, and Senator Levin liked those issues, so we always had to be using staff time for that. What I decided to do managerially was remove my top people, Elise Bean, Bob Roach, and a couple of other people who were the real oversight lawyers and investigators, and not have them do any work other than oversight and investigations so that they didn't have to do legislative work or other hearings. Before, you would divide it, you take federal employee issues, you take ethics, if this comes up. That's just not how we wanted to spend our time and energy. I really freed up the oversight staff so that nobody was supposed to touch them. Senator Levin couldn't touch them basically, to ask them to follow a hearing or anything. They needed all their time to do oversight.

I can't remember the order of events really clearly except that I think it was a *Wall Street Journal* article that came out. I've always been really angry at wealthy people not paying taxes fairly, a fair amount of taxes, their fair share. I've always been upset that people say, "It's horrible to pay taxes." To me government provides such important

services. Obviously, I don't want my tax dollars wasted either, which is why I enjoyed doing oversight of all these government programs. But when I go to a national park and I get greeted by a friendly and competent national park service person and get to see these magnificent sights, I'm so grateful that there is a national park; I'm so grateful that I get to drive these highways. For wealthy people to escape their responsibilities on taxes has always been something that drove me nuts. We did these hearings on CEO pay, I think we talked about those at some point. It was just ridiculous amounts of CEO pay.

At some point, the *Wall Street Journal* did an article on Raoul Salinas, who was the brother of the president of Mexico, who got \$150 million out of Mexico through Citibank's private banking operation. He was a client of Citibank and this \$150 million was not legitimately earned money. This was money that he got because if you wanted a contract with the government of Mexico, Raoul will help you get the contract but you must give him a good chunk of the action. There was also drug money. We never learned what all the bases were for the \$150 million but he had to get it out of Mexico in order to spend it. I saw that article and that just sent off so many alarm bells to me, that Citibank would have a whole unit to help people like Raoul Salinas get his money out of Mexico illicitly and then call it private banking?

My recollection is that that's how we started at PSI and got into private banking of U.S. banks. It was such a can of worms, it was disgusting. We just kept uncovering more and more awful people, whom these private banks—our major banks like Citibank and Riggs, which used to be a big bank here in Washington, D.C.—were helping all these people have accounts in the Cayman Islands, all of these anonymous accounts in the Cayman Islands, that's where they would hide their money. They would be the pass through. It was all secret. We had cases where a private banker would not even mention the name of the person whom he was a private banker for [because he didn't want to risk disclosing the foreign bank account,] and they put a number on it and he wasn't even allowed to have a sheet that associated the numbers with the names because nobody should know that this bank account in the Cayman Islands set up by Citibank was for whomever, people like Raul Salinas and [Chilean dictator Augusto] Pinochet. Riggs had Pinochet's account. That's how we started the hearings. We really got into these banks and this whole concept of private banking and money laundering. It's essentially money laundering. It's going on to this day. Elise Bean and Bob Roach have done unbelievably great work uncovering more and more and more. Horrible African dictators who were clients of Citibank, or J.P. Morgan Chase. They found that Riggs was the big bank for Pinochet. That's really in large part what brought Riggs bank down and Pinochet's conviction, was the disclosure by the PSI subcommittee of the role Riggs bank played in all of these foreign political figures who were ripping off their countries.

That's where we spent a lot of energy in PSI having hearings. Why we could investigate these banks was because we had subpoena power. That is what opened this up to us. We didn't have to ask anybody about a subpoena. Senator Levin could issue whatever subpoena he wanted to whom he wanted and they had to respond to the subpoena because we had jurisdiction and authority to do it. We subpoenaed all these banks, got all these records about their private clients, and that's really what opened that up.

SCOTT: Just as a contrast, on OGM, in order to get a subpoena for something you would have taken it to the chair of the Governmental Affairs?

GUSTITUS: Actually to the full committee, but of course we would do that by going to the chair first and asking for the chair's support. So, yes, we would have taken our request to the chair. Certainly we couldn't do it by ourselves. Actually, we first would have taken it to our ranking Republican on the subcommittee and get support for it. They could object. If they objected, we'd have to have a vote of the subcommittee. It's not attractive to have a partisan vote on a subpoena. If the subcommittee approved it, we would have had to take it to the full committee. Clearly that was the gift of PSI—you could issue subpoenas directly. I remember that feeling. It was just breathtaking and wonderful.

Of course it's a hugely important power so you have to exercise it carefully. I remind people that PSI is where Joe McCarthy operated out of, because he could do the same thing—issue subpoenas on his own authority. You can use subpoena power maliciously, but you can also use it for great good. That's how we were able to expose these banks. What happened then, when Enron broke, we had been into the banking world and were quite familiar with it. There was this whole issue with Enron about these massively fraudulent financial transactions, financial arrangements that they had engaged in. Everybody else was looking at Enron itself. We looked at the role of the banks in participating in the fraud that was going on at Enron, banks like Merrill Lynch and J.P. Morgan and what these banks did and how they bought into and facilitated the fake financial statements of Enron.

SCOTT: When you do something like that as a parallel investigation to another, Governmental Affairs was also looking into—

GUSTITUS: I don't think it was Governmental Affairs. I think it was Commerce, Commerce was doing Enron in the Senate. The House had three or four committees that were doing it as well.

SCOTT: Would you work closely? How much communication would there be between two committees that were looking into, let's say, similar issues?

GUSTITUS: Not much.

SCOTT: That's typical? Or in this case that was different?

GUSTITUS: Pretty typical.

SCOTT: Why is that?

GUSTITUS: People are very protective of their jurisdiction and when they get into something like that they are doing it in part because they want the big say. They want the attention. And in cases like that, Governmental Affairs, I think, within the Senate, I think it's safe to say the committees of real jurisdiction, substantive jurisdiction, feel that Governmental Affairs may interfere with their work. When Governmental Affairs looks into defense contracting, which they have complete authority and the right to do, the Armed Services Committee isn't so happy with that because that is their backyard. When we looked into Enron, that is also the jurisdiction of the Commerce Committee, you're looking into how a company talks about its stock—what was the information they fed to the SEC to support their stock prices. The Banking Committee and the Commerce Committee think, "What's Governmental Affairs? Do you have expertise? What are you doing with it?" That's part of it. But it's also, people are very protective of their jurisdiction and their authority within their jurisdiction.

SCOTT: Do you think that this concern for what another committee is looking into, does that rise to the level of distrust in some cases? Or is it primarily about jurisdiction?

GUSTITUS: I think it's mostly about jurisdiction, but it can rise to distrust depending on who the players are, who the senators are. Some senator can be more paranoid than another. Or, some senator can be less trustworthy than another. You can have concerns that if you had some very important information that you were to share with them, that they wouldn't handle it carefully and discretely, that they would rush to the press.

Talking about trust, we had a case when we did an investigation in OGM into Wedtech. This was a company that Ed Meese, when he was at the White House, was involved with. We called it Wedtech but the issue was whether Ed Meese was getting special treatment by this financial advisor whose name was Franklin Chin and whether

Franklin Chin, whom Meese invested his money with, was picking winners and losers to favor Meese. We proved that he didn't buy the stock officially for Meese until he knew whether it was going to go up, whether he knew it went up or down. He had a way he could do that. The reason for that was Wedtech was a company that won a contract and Meese had intervened to help get them this contract. This we saw as a payback where they gave Franklin Chin this authority to go help Meese invest his money and to give him financial benefit. We issued a report on what we found, which was not very positive about Ed Meese. We had built it up so we were going to have this big press release and this big press moment and it was going to be announced. Somebody on our subcommittee—and our guess at the time was that it was Senator [Ted] Stevens, but it was never proven, it came out in a way that it looked like it was, maybe it was an Alaskan newspaper, I can't remember. It stands in my mind that it was out of Senator Steven's shop that somebody had leaked it. The reason they had leaked it was because it took a lot of the wind out of our sails. It wasn't like we were announcing this big finding. It was like, "Oh, somebody already reported that." So there are times when there is a question of trust and you can be challenged by that.

SCOTT: It sounds like, based on your experience, that this is the outlier. That you didn't have many cases where you felt like somebody had worked on these oversight committees to undermine strategy.

GUSTITUS: [Laughs] One of my big failings as an oversight person was I was very trusting of people, which is weird because you would think that I would be the person who wasn't. But when it came to members of Congress I gave them the benefit of the doubt. That probably wasn't the smartest thing. I think I learned over time that I had to be more careful.

SCOTT: Senators could be the worst leakers, right?

GUSTITUS: Yes, exactly.

SCOTT: I wanted to talk with you about 9/11, where you were. Your personal experience of 9/11 and then also how the experience of 9/11 and how Congress responded to it may have affected your work on PSI. Where were you on 9/11?

GUSTITUS: I had just walked into my office. The PSI office is on the first floor of the Russell building but it's below grade. I had just walked in to my office and Elise and my whole staff were around the TV. It was around 8:30. They said "Oh my god, a plane just crashed into the World Trade Center. You've got to see this!" So I came to the desk and looked with them and it was unbelievable. I said, "Some pilot must have had a

heart attack, or was drunk, or some crazy thing.” We looked again and it was a big airliner. I had assumed it was a little charter. We were just aghast. And then, was it nine o’clock when the second plane hit the second tower? It was pretty close, I think. But even before that, they said it wasn’t a little plane, they think it was an attack. I remember telling the staff, “The world has changed forever.” We all felt that, the world has changed forever. Shortly thereafter the plane hit the Pentagon.

I never really panicked. We started to hear reports that there was another plane and that it was going to hit the Capitol. It didn’t register to me as being imminently dangerous for me personally and for my staff. Nobody had told us to evacuate. The weirdest thing, you talk about an unprepared institution! We were in the basement-like offices of the Russell. People were saying, “What should we do, where should we go?” My husband called to say—and this was the first time that I heard about the other plane—that my son had heard there was a plane headed for the Capitol. My son was telling me to leave immediately, leave immediately. I said, “We haven’t heard anything about that. Don’t worry, I’m safe. I’m fine.” He called me back again, I remember, and they were really wanting me to get home.

I got called up to Senator Levin’s office to see what we should do about him. He’s the chair of the Armed Services Committee. I was not only the PSI staff director, I was also involved in Senator Levin’s top staff decisions. There were three or four of us who were involved in major decisions: his legislative director, his AA, me, and Senator Levin. I was also heavily involved in strategy about issues that he took on and his office in general. I was called up and we had to decide, what should he do? Nobody told him what to do. We said, “Wait a second, you’re chair of the Armed Services Committee. We should protect you.”

SCOTT: At this point he would be chair because the control had gone to the Democrats after the Jeffords switch.

GUSTITUS: Yes. We said, “You chair the Armed Services Committee, somebody should be here to tell you what to do and where to go.” Nobody did that as far as I know. We said, “Where should you go? We don’t think you should stay in this building.” The first thing was to figure out where to get him to. We decided he should go to his campaign office, which was about five blocks away. It would take him out of anything that might happen on the Capitol. He could make phone calls from there. We decided he had to go there. I went back downstairs to my office. We hadn’t really made a decision that everybody should go home, the personal staff either. People were saying, “Maybe we should go.” A security guard came through the hall eventually and said, “We’re thinking people should leave.”

SCOTT: There was no sense of urgency though?

GUSTITUS: Nobody told us where to go or what to do. It was really odd. They said, “We’ve decided we should evacuate the building.” I don’t even think they knocked on our door. I think we heard people moving in the hall outside and stuck our heads out. They said, “We think you should leave.” It was really not organized. There was no system where we could be on the TV where they could give us directions.

SCOTT: Or alert people over a sounds system like we have now with the annunciators.

GUSTITUS: Oh, you do? We didn’t have anything like that.

SCOTT: Right, you left before we had got those. We have this little pager type thing that announces something in the office, we take it with us, we all go outside, and then it will tell us. It works like a pager except it literally has a little speaker in it and it tells everybody “This is what is going on, this is what to do.”

GUSTITUS: No, we had nothing like that, whatsoever. It was hit or miss crazy. I told my staff, “Everybody should leave. Get outside, let’s go. Leave for the day. Go home.” We did, but not with any great urgency. I picked up my stuff and went outside. We went off into the park there. I said, “I think everybody should go home.” So we all decided to go home. I live in D.C. but just at the Maryland line, it’s about eight miles from here. I started to walk to Union Station to take the Metro, and there were people everywhere now. All the streets are packed with cars and there are all these people out on the streets and the sidewalks. I walked to Union Station and people were coming out of Union Station. Big crowds were coming out of Union Station saying that it had been closed. There was some issue about a threat, I believe. So I just started walking up Mass. Ave and there were lots of us walking. We were just walking en masse. I just kept walking and I walked all the way home. I didn’t know what else to do. It was a clear blue sky and I remember thinking, “Where are our fighter jets?” I didn’t see any jets. “Where are our people?” I walked all the way home.

SCOTT: Were you in contact with your family at the time? As you walked home?

GUSTITUS: There were no cell phones, at least I don’t think I had a cell phone.

Before I left I probably called my husband and said, “I’m leaving and I’m coming home.” But no, [laughs] we didn’t have cell phones then. I don’t know if I stopped halfway home and called or not.

SCOTT: Were your kids living at home at that time?

GUSTITUS: Our daughter was, and she was at school. The school closed, and Bob, my husband, went and picked her up. He was working from home.

SCOTT: Did you come to work the next day? What happened after that?

GUSTITUS: We came to work.

SCOTT: What did Senator Levin do the rest of that day?

GUSTITUS: He told me that he had just stayed in his office, in his campaign office, and made calls and stayed on top of it.

Was that a Tuesday?

SCOTT: It was a Tuesday.

GUSTITUS: I think we all went back to work. The subway system wasn’t damaged. There was that horrible thing that happened at the Pentagon. But I think we all felt that we wanted to be back at work. We were back at work. We had gone through that horrible anthrax event.

SCOTT: After, in October. It was just after, that was almost exactly one month after.

GUSTITUS: Okay, I don’t even remember the order of that. It was after? Okay.

SCOTT: Just after, very close. Did that impact you? How did that impact you?

GUSTITUS: Yes, that impacted us like everything else. What happened was security became so much stronger. You used to be able to park on the street here and you used to be able to walk close to everything. It all just changed, dramatically. They have done a very good job of trying to keep the Capitol accessible. Really, I think they are really working hard at this balance between security and accessibility. Before, you could take anybody into the Capitol, your friends, and visitors and family. Now there are all of

these stages and that part has clamped down. But it was probably too loose before anyway. You could just go through the Capitol and wander around. That was the big change, all the security that then was established. We were all given gas masks. Don't you have gas masks in your office? We went through some training and drills where you go outside. I've never understood. We go outside and we stand there. I never knew what we do when we get outside. Now you say you have a little pager to tell you where to go.

But the anthrax scare was pretty personal because I knew so many people who had been affected by it. So many people had to take that antibiotic. It was really, really, strong. One of our staff people had to take it and he got very sick. It was painful. It was inside the building. It was such a strong virus or whatever anthrax is that if you were anywhere near that area you had—it wasn't just the people who opened the envelope, it was this whole building or area. A lot of people had to take that antibiotic. It changed our whole mail system. It really changed things because before, mail was just a regular thing. After the anthrax incident mail was delayed by about two weeks. That's what I remember for the last year. People mailed something and it took two weeks to get to us.

SCOTT: We have to caution people who want to mail something to us. I was getting something from the National Archives related to one our investigations, some footage, and I had to tell them to mail it to my home address because if it is irradiated, it will be useless.

GUSTITUS: That's what I did. We mailed a lot of packages and things to our home because it got through so much faster, or to our campaign office sometimes. The anthrax episode made a big difference.

SCOTT: I know, for example, because our office was in Hart, that we were relocated to the basement of Russell and shared space with the library for a time. Did you share your space in the Russell basement with anybody during that immediate post-anthrax period?

GUSTITUS: I'm not sure; I don't remember that.

SCOTT: Did PSI turn to the issues related to 9/11?

GUSTITUS: Not PSI, no. But the full committee, as you know, did. It created the Department of Homeland Security. That was after my time.

SCOTT: I know that you left in January of 2003. Can you tell us about your decision to retire then? What brought that about?

GUSTITUS: Yes, I had been working in the Senate for 24 years. During that time I had been doing oversight during that whole time, virtually. It's kind of a high wire act. It's very tense because you are making claims that you need to back up and you can't be wrong because basically, in this city, if you are wrong once, you lose a lot of credibility. It takes you a long time to reestablish your credibility. You have this pressure, this tension, to just not make mistakes. You've got to be sure you have the story right, the facts right, and you haven't overlooked something. And the member, Senator Levin, in this case, is reliant on you to have gotten all the information. When they are up there asking the questions, you're feeding them a lot of information and the direction to go in. It's a huge responsibility. You just have to be sure that—they are trusting you to be right.

I found it to be exciting, wonderful, I loved it, I'm so glad I did it, but it was a tremendous amount of pressure. And you are on call, basically, all the time. I told you before, I worked lesser amounts of time at certain points, but I was still on call. So if anything happened I was always talking to Senator Levin. I remember when we were doing the campaign finance investigation, it was August. I was on vacation with my family on a house boat in Mississippi, on the Mississippi River. Literally, we docked along the bank and I was on a conference call with Senator Levin, Senator Glenn, and two or three staff people. That kind of thing. It was just always, it's true for a lot of people, but that was true for me. I was always on call. I had raised two kids, which is another hugely demanding responsibility, and I didn't even think about what was available to me monetary wise, that I could retire. About three or four years before I retired, somebody was talking about "you've got this great retirement program." I was CSRS—Civil Service Retirement System—defined benefit. It's a wonderful, wonderful program. I thought, "My god, I could retire at 55." I actually could afford to retire at 55. I had worked all my life. Even before the 24 years in the Senate I had been at the Justice Department and several other government agencies.

As a staff person, as close as I was to Senator Levin, and we really had a fabulous working relationship and deep friendship, you're still the staff person. You are still really at the beck and call of the member. They are the senator. The longer we went, the more revered Senator Levin was, he becomes more of an icon, he deserves respect. There is always a slight separation and a responsibility to service him and do what he wants and needs. There is always that feeling that I'm never totally my own person because I'm still a staff person. Air traffic controllers and firefighters have forced retirement at the age of 50 or 55, forced into retirement because of the tension of their jobs. I decided being the staff director of an oversight subcommittee for 24 years and raising two children entitled me to early retirement. And there was also that other piece that I had always been a staff

person, I really should go out and experience my own individual freedom. That's what drove me to decide to retire.

And Elise Bean, on my staff, who was as good as you can possibly be, it was appropriate for her to be able to move up. I know she wanted to. Knowing that she was there and it was right for her to take over and that I had somebody who could take over for me for Senator Levin, that also was a factor. I really felt good to be able to give her the opportunity that I had. That was also part of it. If somebody hadn't been there, I would have felt obligated to stay until we felt good about somebody. But with Elise, it was really more that I'd like to move over so she can come up.

SCOTT: I think I read that your last year here at the Senate you were technically Senator Levin's chief of staff. Is that right?

GUSTITUS: Yes. What happened was that was the year that he was running for reelection and the administrative assistant, Chuck Wilbur, had told Senator Levin that after the election he was going to leave. He wouldn't be the AA anymore after Senator Levin got reelected. He was going to go run his campaign in Michigan, that was what he wanted to do, and Senator Levin wanted him to do it because he was really a Michigan based person. He had previously run his Michigan operation. When Senator Levin's AA had left about four years earlier, Chuck had come in to take over as chief of staff. But he really always wanted, I think, to go back to Michigan. His message was that he was leaving after the election to go back to Michigan. We had this odd situation where Senator Levin was up for reelection, although we assumed he was going to get reelected, but Chuck Wilbur, our AA, was in Michigan so he wasn't really here to help train somebody as an AA anyway. I was the most senior person on staff and I was ready to retire. We all thought that I should just hold that position open until Senator Levin gets reelected and then he can start anew. He can then look for an AA and figure it all out once he gets reelected and we'll all be able to put some time into it. I think it worked out really well that way. It was challenging for me because I stayed as staff director, for the most part, of the subcommittee, too. But I was housed up at the AA's desk so I also ran the personal staff for a year. That was fun. It was good.

SCOTT: Was it a big change? Were you thinking about things that you hadn't thought about for some time? You and I hadn't talked about your working at the highest level with other staff to staff the senator. I wasn't aware of that. Maybe it didn't change for you, in other words, being chief of staff.

GUSTITUS: In that respect, you're right. I was always involved in, or could be if I wanted to be, in anything that went on in Senator Levin's office, for the most part. I

didn't really involve myself with Michigan campaign type issues. I pretty much stayed out of the campaign work. I got involved when we had to put together his record and I got involved with strategy in the sense of when we decided whether ads were appropriate or not. There were some issues about some of the ads in terms of tone and what we should push. So I was involved in the campaign in that way, but not in terms of fundraising or the nitty-gritty of it. In terms of what mayor was going to support him, what mayor wasn't going to support him, that kind of stuff, I never got involved in that.

I got involved at the top level with visionary issues. For many years we would have a Friday meeting where the legislative director, myself, his staff director at the Armed Services committee, and our AA, and Carl, would meet and talk about the week and the issues, and what was going on. We had this group that was the core group, and I was always a part of that. Becoming chief of staff was not hard. It was kind of nice because I was personally really close to him, and as AA you are also physically close to him, so I got to see him in a different way in some things. It was good.

SCOTT: You knew at that point that you were going to retire, and everyone else knew that you'd be retiring.

GUSTITUS: Right, yes.

SCOTT: What do you think has been the biggest change in the Senate as an institution during your 24 years here?

GUSTITUS: Obviously, the lack of comity. Everybody knows that. It's apparent. It's really very serious. Technically, or practically speaking, the requirement to have 60 votes is huge. That was not the case in the early '80s. That's evolved, really through the '90s, was probably when it came to the fore. Maybe even later than that, maybe the late '90s.

What does the history say as to when it really started to happen?

SCOTT: Because we track the cloture votes we know that there are exponentially more cloture votes today than there were 10 years ago, 20 years ago.

GUSTITUS: I was going to say that it seemed like the '90s when it started to have a huge effect. But in the '80s, we didn't do that, there was a majority vote. The floor ran much more efficiently and according to what you teach in civics. Committees actually had hearings on legislation and then wrote reports and those reports lay over for three days and people got to read the reports and there were minority views and comments and

you would see why people offered amendments or not. When the bills were brought up on the floor, there were mostly relevant amendments. You weren't ambushed with abortion or anything, or a vote that even though it was relevant was nastily political. We actually were pretty much doing the business of the Senate as envisioned by the Constitution, I think in the ways civics teaches how a bill becomes a law. I don't think it works like that anymore. I think it's all up for grabs.

Before when you had a conference report, for example, you couldn't put anything in a conference report that wasn't in either the House or the Senate bill. There may have been some rare exceptions, but mostly it was an understanding. You can't and those were the rules as interpreted by the parliamentarian. You couldn't put something in a conference report that wasn't in the House bill or the Senate bill. The reason that is such an important rule is because conference reports are voted up or down in their totality. If you allowed somebody in a conference to put something into the conference report, neither House would have ever voted on it before. Neither house would have approved it. It would have been a whole new thing. You can say, "By voting for the conference report they are voting on that specific thing." But the conference report is this big [gestures] and the little item that was added is this big, so bad things can happen when you violate that rule.

I don't know if it was five or eight years ago, but they violated that rule, and the violation was allowed, because you can overturn the parliamentarian's view—position—by a majority vote of the members. So something happened where they accepted the conference report and it's such a dangerous thing. Then it allows a little cabal of people to get their way without either house supporting them. I think one of the things that they put in one of those conference reports was a \$50 billion item. It got taken out because people raised such a stink about it. A \$50 billion item. I can't remember what it was for and everybody was shocked that it happened. That's another example of this change and how we don't really follow the rules as they were intended. On amendments on the floor, it seems as if anything goes on any bill. It doesn't need to be relevant. We completely blew the budget act, the Graham-Rudman budget act. That used to have meaning. The budget process is a mess. We stopped appropriating the way we appropriate. You used to have an appropriations bill, you vote on each one individually. Now they are bundled. I think the omnibus element, which started happening maybe 15 years ago or more, is so dangerous. You've got people voting for thousand-page bills with all these pieces in it. And we didn't have all these continuing resolutions. It seems like a free for all. That's how I see it. We used to have order and custom and practice that kept things in a fairly reasonable responsible way. But now it's pretty much a field day. Everybody can do whatever they want to, I think. That's a big change.

SCOTT: Do you think you would recognize today's Senate if you came back and worked? You've been out for almost 10 years.

GUSTITUS: Probably not.

SCOTT: You think it's changed that much?

GUSTITUS: I think it's changed a lot. Of course, I would recognize it to some extent. I'm sure you still have to put statements in the [*Congressional*] *Record*. Bills are brought up. There are unanimous consent agreements. Actually, are there still, every once in a while, unanimous consent agreements? The rules that we lived by in the '80s and up to the mid-'90s made a lot of sense. Issues were supposed to be deliberated by committees before they went to the floor. I think that's the biggest concern about the way that amendments work now. You can bring things to the floor and bypass committees. Instead of being the exception, it feels more like it's the rule now. We did one thing like that that I remember so clearly feeling nervous about. We had a big drug act back in the '80s. It was so important that everybody said no, we don't really have time to go through committee. They appointed Nunn, and I think it was Rudman, and said those two are going to figure out the package for this anti-drug act. They sat in that room right off the Senate floor—

SCOTT: The Marble Room?

GUSTITUS: Maybe it's the Marble Room. They sat there and if you had a provision that you wanted in the bill, you almost took a ticket. You didn't quite do that, but you said that you wanted to present it to those two. Then they put this package together of this anti-drug act. This was in the '80s when everybody was so concerned about crack and cocaine. Everybody wanted to do a mandatory minimum because they wanted to be the sponsor of a mandatory minimum prison sentence. Mandatory minimum within 100 feet of a high school. Mandatory minimum [for drug possession above a certain level]. Three strikes and you're out. That bill never went through a committee. That just went to the floor because everybody said, it's urgent. That, to me, is a very dangerous way to legislate. Those things get stuck in committees, but there is a purpose for a committee because those people are supposed to know those jurisdictional issues, and they are supposed to give it thought, and they are supposed to have hearings and talk to people about them and give people an opportunity to comment on them. That's not the way it works now.

SCOTT: Where do you stand on the filibuster? There's been a lot of discussion of late, people are thinking again, perhaps in this new Congress, about attempting to revise the filibuster.

GUSTITUS: Our former legislative director, Rich Arenberg, whom I admire, is one of the advocates for retaining the filibuster. He wrote the book with Bob Dove on it.² But I do disagree with him on this one. I really like the lawsuit that Common Cause has brought to say that it's unconstitutional to allow for a filibuster and require a 60-vote majority because by interpreting the Constitution in the way it should be interpreted, according to Common Cause and others who are part of that lawsuit, the Senate is supposed to operate on a majority rule. There's nothing in the Constitution about a filibuster. It says the Senate can set its own rules, but its rules have to comport with the intention of the Constitution. The argument before the district court right now, it's just at the beginning of its journey, is that it violates the Constitution to have the filibuster. I like that idea because I think that's what's happened is nobody intended that it should take 60 votes to vote on Head Start, or the defense budget. I'm very supportive of reform.

SCOTT: Reform, but you would still support the right to filibuster, but you would reform the threshold to end debate? Is that right?

GUSTITUS: I did say reform, as opposed to eliminate the filibuster. But I think if you reform it to such extent, then it's not a filibuster anymore. I don't know how I would reform it. I think you have to eliminate the filibuster. I think you have to allow for majority vote and then let the election rule. If the Senate does terrible things as result of majority vote, that's it. Have a majority vote and go back to having committees really do their work so that when the item comes to the floor it's a very thoughtful piece of legislation. Impose your rules in terms of, if you want us to be the saucer, impose your rules to make sure that we give a lot of thought to what we bring to the floor. By the time we bring it to the floor, let the majority rule. I think I would go in that direction.

Interestingly enough, the George W. Bush tax cut came in through a majority voting to support it, because it was part of the reconciliation process, and the reconciliation bill was not subject to a filibuster. That would have been a consequence of not having a filibuster, would be that a majority would have voted for the tax cut anyway. But that's okay. I can live with that, if the majority voted for it, but then it would have been subject to a hearing, and I don't know if his tax cut was subject to a hearing. But it's a good example of what would happen if we didn't have a filibuster. It happens in the reconciliation process.

² Richard Arenberg and Robert Dove, *Defending the Filibuster: The Soul of the Senate* (Bloomington: Indiana University Press, 2012).

SCOTT: I know that you have been very busy, actually, since you've retired from the Senate. We talked a little bit about the Commission on Wartime Contracting, but another thing that you've been doing is that you helped to found the National Religious Campaign Against Torture in 2006. Can you talk a little bit about that? How did you get involved and why? What prompted your involvement and then what have you been doing with that vehicle?

GUSTITUS: I was, like a lot of people I think, really shocked when the story came out in 2004. It was Sy Hersh in the *New Yorker* and CBS, I think, came out with the pictures of Abu Ghraib. But what shocked me more was the lack of reaction by the administration. I really expected that President Bush would have said, "This is appalling; we're going to get to the bottom of this; I need to know what is going on. This is not America." But that's not what happened. It was more, "These are the acts of a couple bad apples." The response was so tepid, I was really shocked. There is still a lot of trust in me for the people in public office wanting to do the right thing.

But I followed that story closely. More and more came out that it was more extensive and we had a torture program and we had black sites. That was just unbelievable. Jane Meyer did a lot of fabulous work on it in the *New Yorker*. By the time Christmas rolled around in 2005, I decided I just had to speak out. I ended up organizing some demonstrations at Vice President Cheney's house. Had I gone through that before at a previous—?

SCOTT: No.

GUSTITUS: I hadn't told you that?

SCOTT: No.

GUSTITUS: I thought I had. Do you know the man who has the pedophilia sign at the corner of Massachusetts where the vice president lives? It's where the Vatican embassy is.

SCOTT: No, I haven't seen the signs.

GUSTITUS: Okay, there's a man who—I thought I told you all this—there's a man who stands out there, an old man, with a big sign that says "Catholics support pedophilia." He holds this sign. He turns out to be a very nice man but he is obviously very disturbed by some incident in his life. Every time you go by there, you see the man.

In December of 2005 I thought, I just can't go through the holidays without speaking out against torture. I decided if he can do that for pedophilia, I can put on a sandwich board against torture and stand out across from Vice President Cheney's house and say "no" to torture.

I talked about it with some people from my church. I go to a Unitarian Universalist church in Bethesda. They all said we want to do it, too. So we ended up organizing a vigil outside Cheney's house and it was a religious vigil and it caught on. Other churches came. We got Protestants, Jews, Muslims, everybody, people started to come. Every Wednesday we did this big candlelight vigil down Massachusetts Avenue.

SCOTT: You walked? Or you had people stand—

GUSTITUS: No, we stood along the edge of Massachusetts Avenue. I think at the maximum we probably had 250 people at the largest vigil, so it wasn't ever really big. But we had big banners against torture saying, "America doesn't torture." "These aren't our values." "What would Jesus do?" Those kinds of things. A friend of mine who came to that vigil heard about a conference that was going on at Princeton in January of 2006 on the religious response to torture. I do not care to go to conferences, I don't find them to be that successful. It's like Chinese food, you go and it's all interesting at the time but then it's gone very quickly. But I decided to go. I went to that conference. It was sponsored by a gentleman by the name of George Hunsinger, who is a theologian at Princeton, a Presbyterian theologian, who had called together leaders from a number of faith groups, and did a two-day session on what we knew about what the United States had done with respect to torture and why it's so morally wrong and why people of faith have to speak out.

I just jumped in with both feet. It was exactly right for me, it was the right way I wanted to respond to the issue, through a faith-based perspective, a moral issue, so they were just trying to figure out how to get started. I advised them on how to approach Congress, how to do their advocacy. They needed somebody, they didn't have anybody who knew Congress at all. Then in the meantime I organized through my own church, in June, a big anti-torture conference. We had 250 people there from 60 different congregations. Senator Levin came and talked, and Sy Hersh came and talked, we had a couple of ministers. It was a great day. It was really a great day. Out of that we created a Washington Region Religious Campaign Against Torture as a sub-unit of the National Religious Campaign Against Torture. That summer we organized ourselves officially as a 501(c)3, NRCAT did. We needed officers, so I ended up becoming the president and I've been the president ever since.

SCOTT: What have you been working on?

GUSTITUS: We spent a couple of years fighting for an executive order to end the torture. We worked with other organizations, and President Obama signed the executive order ending the torture program and closing the sites just after he was sworn into office. That was great, that was a terrific victory. But we also wanted a commission of inquiry with subpoena power in order to investigate and determine exactly what we did. How did it all work? How many people—we tortured some people to death—how many people did we torture to death? What’s happened to the people who did the torture? You have to care about those people also, because those are the people you asked to do things that made them sick. There was a Mormon woman who joined the army, doing army intelligence, I believe. She went over to Iraq and was asked to go into “the tank” where there was an Iraqi detainee and she was asked to sexually abuse him, or make him uncomfortable. Demean him, really. She just couldn’t do it. She said, “I don’t want to do it.” They said, “It’s an order.” She didn’t want to defy the order, but she did defy the order and she ended up committing suicide a couple weeks later. Whether that was directly related—nobody knows why people commit suicide—but she did.

It’s clearly the people we tortured, but it’s also the people whom we asked to do terrible, terrible things that they never should have been asked to do. We asked for a commission of inquiry, but President Obama decided not to do the commission, which is a huge disappointment for us. He does not want to look back, he says, he wants to look forward. We think he’s absolutely wrong on this. We’re still fighting for a commission of inquiry. Under international law, we have an absolute obligation to investigate and prosecute. It’s not something that we can dismiss. It may be something like in Guatemala, you do it 20 years later. In Argentina you do it 30 years later, 40 years later. At some point we’re going to have to do this because there is no way to escape accountability for torture. Torture, genocide, and slavery are three acts that no country can commit with impunity. You absolutely have to be held accountable for that. Whether you have signed the treaty on this or not, or part of the Geneva Conventions, international law says you can’t engage in any three of those and if you do you have to hold yourselves accountable. That’s one thing.

We ended up also deciding that NRCAT should work against any and all U.S.-sponsored torture, anything that the U.S. has sponsored that is related to torture. Over the last five or six years there has been some really good work done on the use of solitary confinement in U.S. prisons. Solitary confinement is a form of torture. It definitely meets the definition of torture under the UN Convention against torture. So we have a whole operation going now to address trying to end solitary confinement in U.S. prisons because the United States has more people in prison in solitary confinement than any

other country in the world. We're a leader, if not the leader, in the use of solitary confinement. It's pretty awful. We have people in solitary confinement for 10-20 years. I never did human rights issues when I was up here. It was just not in my bailiwick. It was not something I did. I have become immersed in the human rights world and dealing with human rights organizations and I find it very satisfying. It's very good work. I volunteer, I don't get paid for it.

SCOTT: What's it like to be petitioning Congress for something when you have worked here for so long? I suppose you know how things work and that must help.

GUSTITUS: It helps a lot because you know that they are people. An average person is intimidated by the institution. But you know where these people go get their sandwiches and how these people use the post office and that they take coffee breaks. It's very real and practical how you approach somebody. Also, you know what a staff person wants and needs. They don't want a long glowing flowery explanation of your issue. They want to know: What are the key issues? Who is against it? What are the consequences? What are you asking me to do? It's very clear. What is the ask? What are the pros? What are the cons? What's the ask? What's in it for my constituents? There are about four or five basic things that a staff person wants to know. You have to be really honest with them about what the negative aspects are of what you are asking them, as well as the positive so that they trust you. Building trust is so important. When I worked up here, there would be lobbyists who would know more about things of what other members were thinking about my issues than I did. I relied on them to tell me. I would give them clear information and it's that kind of relationship that is a really good one when you are both working for the same goal. If you can trust each other like that you can get a lot out of it. My encouragement to the people who do advocacy for us is also to develop those kinds of relationships where, when something comes up on torture, you're their go-to person. The staff person is going to pick up the phone and say, "Hey, Linda, from NRCAT, what does this mean? Is this worth it?" I don't do much of the advocacy myself. I'm more the guiding person at the top. We have a couple of people who are on staff who do that.

SCOTT: Where is Senator Levin on this issue?

GUSTITUS: He has been fabulous. He has been one of the leaders, really. He actually held a hearing maybe six years ago on the use of torture within the Department of Defense, what the role of the Department of Defense was in the torture program.

SCOTT: As chairman of Armed Services.

GUSTITUS: Yes, as chairman of Armed Services. He set up a little staff of three or four people and assigned to them learning about what the military did with respect to torture. The torture program was largely CIA [Central Intelligence Agency], but the military was also involved. It was the role of Secretary of Defense [Donald] Rumsfeld and the psychologists who brought this torture program to the military and what the military role was. He did a great hearing and report on that.

SCOTT: Senator McCain is ranking on Armed Services and they've both been—

GUSTITUS: Yes, and they both signed the report that the committee issued. Right now the Intelligence Committee has done a 6,000-page report on torture and the torture program, under the leadership of Senator [Dianne] Feinstein [D-CA].

SCOTT: Will it be public?

GUSTITUS: That is the absolute key question.

SCOTT: Have you been working on this issue?

GUSTITUS: That's what we've been advocating, a lot—to get them to vote to report the report, but also to make as much of it public as possible. Because that may be the only commission, so to speak, that we actually get—that is, the Senate Intelligence Committee's work on this. The word we have is that it's a good report, it's well done, but we won't know that until we see it. A lot of it could be classified, but there are ways to get around that with your findings.

SCOTT: What do you mean by that, there are ways to get around that?

GUSTITUS: Well, you might not be able to report a document that names names, like who was tortured or where they were tortured. But you can have the committee say we find that there was indeed a torture program and the techniques used were torture. We find that these techniques did not lead to good intelligence. In fact, this could have been found—those kind of findings are releasable.

SCOTT: There is a way to narrate the story without getting into the specifics, which move you beyond the classification restrictions.

GUSTITUS: That's right.

SCOTT: Where do you pick that stuff up? I guess you learn as you exercise oversight how to write those things like that.

GUSTITUS: Yes.

SCOTT: One thing that we haven't talked about is that even before you retired and a little bit after, you worked as an adjunct at George—

GUSTITUS: At GW [George Washington University] and American University law school.

SCOTT: How did you start that work?

GUSTITUS: The work at GW came as a result of a professor there who was involved with me on some regulatory reform issues. When I was involved in the regulatory reform work, I got involved with the ABA [American Bar Association] at sessions on regulatory reform. They had an administrative law section so I would go to some of their conferences and either speak or be present to hear what they were saying. Through the course of something like that, I met this professor who was teaching at GW and she wanted to take a leave of absence for a semester. She was teaching federal regulation in the business and public policy schools. Her subject was federal regulation. She asked if I would like to teach it while she was gone. I hadn't taught before and I've always thought about teaching so I agreed to do that. But when you think about it, here I had my kids [laughs]. I don't know why you take on things like that.

Teaching is a lot of work if you do it well. It's a lot of work, it's a lot of time. I did that course. I think I did that for two to three years. She didn't come back that next semester, and then she changed. I think I taught that for two or three years, I can't quite remember. Then a little time passed and then later on Tom Susman, who is currently the governmental affairs rep for the ABA, but at the time was a lobbyist for the Business Roundtable on regulatory reform issues, and he and I had worked together a lot, he had lobbied me a lot on regulatory reform. We had grown to really respect each other and like each other. He was invited by the American University Law School to do a course on lobbying, how to be a lobbyist, which is a really good course for that law school. It's a really smart course. He thought it would be good if he did it with me, with me from the inside perspective. We put together a curriculum and we taught that for I think five or six years.

SCOTT: Every semester?

GUSTITUS: No, just once a year. It was very practical. It was how you lobby. What are the ethics of lobbying? How you do a one-pager, just those kinds of questions I referred to earlier. What does the staff person really want to know? How to be sure to be nice to everybody, including, and especially, the receptionist. How all that works. It was a very practical approach to lobbying. It was a good course.

SCOTT: Those are both very good schools and they are here in the district, which means that they tend to draw students that are interested in these types of issues anyway. Have you been surprised, pleasantly or otherwise, about students' knowledge of Congress?

GUSTITUS: I would say shocked about their lack thereof. I am deeply, deeply concerned about the lack of education that is going on in America, in colleges.

SCOTT: About civics in particular?

GUSTITUS: I won't speak to the sciences, I don't know the sciences and I'm guessing they do a better job, but in the social sciences I'm really concerned. You have to have a knowledgeable electorate on the basics of how government works for them to appreciate it, and understand it, and be able to vote and make choices about it. It is really shocking to hear what young people don't know. And historic information! Some of them don't really understand World War II. Seriously! It's really unbelievable.

So for me when I was doing that legislation class, and these are law school students, I would start with, "How many branches of government are there? How do committees work? Who is the head of the House? Who is the head of the Senate?" Obviously, a lot of them knew the branches of government. But often there was a pause, they would have to think. It's not encouraging, I have to say. I was not encouraged by the level of knowledge of the way that government works.

I'm just really concerned about education in general. We have these AP courses where we let kids take AP courses in high school and they are taught by people who aren't necessarily the best people in terms of those courses. If you take a college level government course in high school, with a high school teacher, versus in college with a college professor, I just don't believe that it's the same course. I just don't believe it. All these kids take these AP courses in high school and then by the time they get to college they are taking Film Noir and Food Production as opposed to taking those courses which are so important. I'm pretty down on the college education system.

SCOTT: You told us at our first meeting, before we were recording, that you had thought about becoming a teacher after retirement. Do you want to say a little something about that? I thought that was really interesting.

GUSTITUS: I had wanted so badly—I still do—I want to teach young people about government. I want them to care about government. I want them to value government. I want them to understand all that goes into it and how complicated it is and how we can't just be simplistic about "good guys" and "bad guys." The movie *Lincoln*, that's Steven Spielberg's goal, I think, is to show how hard it is and how important it is. I've always wanted to teach young people about government and then get them engaged in public service. I'm always trying to encourage young people to see public service as a career.

I thought I would go teach government in high school after I left the Senate. I did go to take courses because you had to be certified. I took courses and was headed towards my certification. I started doing substitute teaching, which was not an attractive thing to do. I was shocked at the lack of respect that the high school students had for teachers. And the language. I'm kind of an old school person. That was a really good, in a sense, bad experience for me. In the Senate I had been treated with so much respect and then I went and taught and let's just say there was less respect. Even my white hair didn't seem to impress the students. It was really a step down. I knew then that I had retired. Then I tried to get a job at my local high school as a government teacher. I went and I taught a course there with the person who was in charge of the government department. I went into his AP class to talk about lobbying on legislation. Literally, in this class, the girl who was at this desk that I was right in front of when I was teaching, she had both of her legs on the desk like this, crossed, like this on her desk. She was sitting like this.

The teacher didn't say anything about it. My daughter was going to that school at the time, so I took the coward's way out. I didn't say anything. If I had been the teacher I would have—that's not how you sit in front of a guest. I wouldn't even let them sit that way for me, of course. I realized that school has changed. It's a very different kind of institution. I didn't like it. It would have been a lot of hard work emotionally for me. I also decided eventually over the course of the year that I didn't want to be stuck with a seven-to-five job. I would have loved to have established something where I could go from class to class and give my little lecture. I'm still thinking about that, actually, trying to arrange something where I could go around to various schools and talk about government. But being there from seven to five is not what I wanted. I was not ready to go back into that. I was misguided when I thought I would take up teaching.

SCOTT: Did you become certified in the end?

GUSTITUS: I was so close, but no, I didn't become certified. I could go back, I think I have just one more class. I also took the classes at UDC, which was another discouraging experience because it was so badly run. Professors walked in 10 minutes late and didn't know the material. It was a disappointing experience. The whole education system for me was not something that looked really encouraging.

SCOTT: You've had such a fascinating career here in the Senate and I thank you so much for sharing these stories with our office, because I think that scholars are going to be very interested in this material. You've given us an insight into government oversight from the congressional side that we want to know more about. Is there anything that we haven't covered in our interviews that you would like to mention?

GUSTITUS: I don't think there's a burning issue. One thing we didn't talk about, though, was executive privilege, which is an important subject. I realized when we were talking about oversight that I didn't mention executive privilege, that is, the ability of the president to make the argument to withhold information from Congress and Congress's challenge to try to get that information. I don't think it would take a whole other interview, just to say that it's really the two equal branches of government at loggerheads when the president doesn't want to reveal information and Congress wants it. The way it's interpreted by Congress, for the most part, is we have access to everything that is necessary to the investigation, and the president's position is, "Wait a second, I don't think you have a right to the recommendations and the comments that I get from my personal staff, because otherwise they won't give me the candid information that I need and we'll feel frozen here and I won't be able to operate in the way I should operate." Congress has come to recognize some of that because they know that they would feel that way about their own documents, you know, if they had the e-mail from their chief of staff about something that was exposed.

It's a balancing act. We're always trying to work out that kind of arrangement. There are extreme situations where a president will try to exert executive privilege far beyond that kind of very confidential intimate staff document or relationship. That's where Congress has to muscle up and say, "No, we want that and it doesn't meet the requirement for executive privilege." Where it gets played out sometimes is in the courts, which is the third branch of government. But the courts don't really like to deal with that either because that's a matter of two equal branches fighting with themselves. You really have to try to work it out between the two branches. It comes down to personalities. How strong is the president? How strong is the chair asking for the information? How serious is the issue? How important is the issue?

One example to show how you try to work it out is, when we were involved in Wedtech, that Wedtech case involving Ed Meese, there were documents we wanted from the White House. The White House said, “No, we can’t give you these documents.” We said, “We want to see the documents.” The way it worked out was they said, “Okay, you can come and you can read the documents. But you can’t take them. You can’t take notes.” We said, “We’re okay with coming and seeing them and reading them, but we do have to take notes, but we’ll keep the notes confidential. We won’t make the notes public. But we do reserve the right, based on what we see, to request the document, and we’ll fight over it at that point.” So we did that.

SCOTT: And they agreed to it.

GUSTITUS: They agreed to it. This was with President Reagan. I forget who his White House counsel was. We met in the national security room, what do they call it? Where the clocks are?

SCOTT: The Situation Room?

GUSTITUS: The Situation Room! We met in the Situation Room in the White House and they brought out the documents. I think it’s because it’s the only office they had that was available. It’s a small building, the White House, and the Situation Room at that time, if it’s the same one, is so small. It’s right across from the White House mess and that’s small. The White House is shockingly small. We met in the Situation Room and we went through the documents and read them and made notes and negotiated getting a couple of them. That’s the give and take of how that worked.

More recently, though, with President Bush, where Congress wanted, this is really early in the Bush administration, Cheney’s list of people he met with on this energy task force, and he said, “No, I’m not going to tell you who I met with on the energy task force.” Congress could have really pushed, but they didn’t because they didn’t have a chair in the party that was willing to force the issue. The person who was interested in it, and I can’t remember who it was, went to GAO and said, “GAO, you have some authority to try to get documents, you can ask. See if you can get it.” GAO went to court over it and the court said, “No, GAO, you really don’t have the authority to get that document.” It was never obtained, but in part because there wasn’t a person here in position in power to be able to force the issue. The whole issue of executive privilege ends up being one of politics and personality and timing and what the issue is.

Also during Reagan, Anne Burford was the head of the EPA. There was a big investigation done by the House, by [Representative John] Dingell’s Energy and

Commerce Committee on the Superfund sites. There were allegations of fraud and mismanagement involved. Dingell subpoenaed these documents from Burford and the White House told her not to give them up. She told Dingell, “You’re not going to get them.” They went ahead and issued a contempt citation, they voted to hold her in contempt for not coming up with the documents. At the last minute—because the consequence of that was that she was going to go to jail—the White House relented. I’m sure Burford picked up the phone to the White House and said, “I do not want to go to jail and I don’t care if they get these documents. I don’t want to be the person in jail.” So they relented and Congress got the documents. The reality was, as a result of that investigation, Rita Lavelle, who was the head of the Superfund program, went to jail. There was criminal activity involved.

SCOTT: And she, the head of the EPA, resigned as well, didn’t she?

GUSTITUS: I don’t know if Burford resigned. Possibly. That could have happened. But the point is, the stakes were really high. There really was criminal activity there. There was a member of the House who had power and subpoena authority to force the issue.

SCOTT: The way you describe this, it sounds like individuals matter more than party affiliation? You haven’t talked as much about the political side of this.

GUSTITUS: I think individuals matter more than party affiliation. There are ways to use your power even if you are not in the right position party wise. But if you are a powerful person and you know how to use it, you can accomplish a lot.

That’s important to know about. The last point I want to make about that is, when the courts did weigh in on this, it was during Watergate and the issue was the White House tapes. Congress wanted those White House tapes and the president said, “No you can’t get the White House tapes.” It ended up there was a case also going before Judge [John] Sirica at the time. Sirica did order a release of the tapes, and it was not only the release of the tapes to the House, I think it was probably to the prosecutor.

SCOTT: It was to the special prosecutor.

GUSTITUS: It was to the special prosecutor. But then the House got them also, but the issue there, and Sirica said it, we’re talking about a potential crime here. At that point, the White House loses its protection of executive privilege. That’s the hallmark, I think, or the benchmark for executive privilege. If you are really talking about criminal activity, I think the executive privilege has a much harder time, if not vanishes altogether.

SCOTT: I suppose on the side of the executive branch, somebody has to be willing to—you could be talking to someone fairly low-down at some agency, in terms of one of your investigations, one of your inquiries on OGM, and the White House or somebody has to say, “Yes, we’ll support this person’s exertion of executive privilege.” Does that sound right?

GUSTITUS: It sounds right. Really only the president can exert executive privilege. The parameters of executive privilege, the umbrella of how far that goes out is pretty limited in Congress’s perspective—in a good oversight chairman person’s perspective. It’s pretty limited to that White House and direct contact with the president. The further you get away from that, the less strong the argument for executive privilege is. If it’s a document between a staff person and a secretary, that doesn’t wash. The secretary is the creature of Congress. We created that department and we can tell that secretary what we want. The president was created by the Constitution so he has his—and in the future hers—has his own prerogatives and we’re a co-equal branch. But we create these departments. The departments shouldn’t be able to mess around with us and deny us what we want. That’s really where the power comes from. When you go through a period where Congress doesn’t do oversight, you lose staff people like me—I’m not tooting my horn on this, it’s just experience—people who know what Congress’s authority should be—

SCOTT: And the history of that claim of executive privilege and the back and forth.

GUSTITUS: It’s got to stay there. It’s so institutionally important.

SCOTT: Thank you so much. This has been a wonderful experience. Thank you.

GUSTITUS: It has, thank you. It was really fun for me too. I really enjoyed it.

[End of Fourth Interview]

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