



Piercing the Corporate Veil: Investigating Public and Private Companies

- **Make sure you are in constant communication with your boss.** They need to be fully aware of what you are doing. Companies under investigation are often going to do everything they can to try and turn investigators away by discrediting you — this can include making false accusations about your integrity or even having other members or staff question your abilities in front of your boss. You need to be sure you have the full support of your boss (having thick skin helps, too).
- **Companies you investigate will try and intimidate you.** They will do this by using lawyers, lobbyists, and other resources to make you feel that you are out of your league. You don't need to prove yourself to them. Remember that you hold all the cards and have the power of Congress behind you. Don't doubt yourself. If you don't take yourself seriously, they won't either.
- **Work with your colleagues.** Conducting investigations for the public good should not be a partisan issue. If both sides are going after the same target, it adds a tremendous amount of credibility to the investigation.
- **Know your subject.** In the company you're investigating, know who does what, who they report to, what the divisions are, and what their procedures are. If you know that, then you can figure out who wrote the memos relevant to your investigation and who received them. Knowing where things should be in the company will help you find what you need.
- **Establish a process with the counsel of the company for the production of documents.** They want to avoid subpoenas and will work with you to an extent to prevent them. You'd be surprised how much you can get with just the threat of a subpoena.
- **Don't start out with assumptions.** Remember that you are going in with theories that you need to justify or dismiss. Sometimes they don't pan out, sometimes there are logical explanations, and sometimes you find out that the issue is much bigger than you imagined. Keep an open mind in the beginning, and don't get locked into something until you are confident you are right and can prove it. These investigations are like peeling an onion.
- **Be reasonable.** If you are reasonable with your requests and give the people you are investigating an opportunity to explain or defend themselves, you are much more likely to get their cooperation. On the other hand, if they are uncooperative or are intentionally slow-rolling or obstructing your investigation, you know you always have other options.
- **Bring a colleague and take notes in your meetings.** It is always helpful to have a second person with you to confirm your notes and recollection. You want to make it very hard for a witness to wiggle out of earlier statements during a hearing.

- **Know your sources.** Just because a person has baggage or an ulterior motive for giving you information, that doesn't mean their information isn't useful to you. Separate in your mind the difference between whether a source is a credible witness for a hearing and whether their information is accurate and helpful.
- **Protect your sources.** It will typically be very difficult for your source if it becomes known they are working with you. Whether they are public or not, remember to protect the people who are helping you.
- **Use what you have.** You don't always get "eureka" documents in your investigation, and even when you do, you may not realize it at first. Go through all the documents provided to you — even if it's boxes and boxes worth (it will be). If you don't read through them, you won't know what you have. If you don't understand something, ask them. Make sure you understand the material that you have.
- **Know your own authority.** Be sure you are aware of any limitations you may have, or your subject will try to set them for you. For example, Congress is not limited by "proprietary data" restrictions, nor does it need to recognize attorney-client privilege. Congress is an independent branch that is not bound by executive branch or judicial branch restrictions. Don't let them tell you otherwise.
- **Once you have a document, you own it.** Companies can't put restrictions on what you can or can't do with documents, or demand that you give them back. Once you have it, you can use it as you please, or more accurately, how the boss pleases.
- **Follow through on your investigations.** Make sure your boss knows what you're getting into so they doesn't lose heart or lose interest in the middle of your work. Doing the job halfway is dangerous for both you and your boss — it can ruin your credibility. Members don't want to be accused of being "all bark and no bite."
- **Be patient.** Remember, quality investigations take months, if not years. Be able to multitask and do other things while waiting for documents, but don't forget about the project and don't let things slip through the cracks.
- **Work with the media, but remember they will need to talk to the other side.** The media can be a great asset in your investigation. Early on, you and your communications director should decide what role the media will play: simply reporting on your work or working alongside you during your investigation. If the latter, the reporter will likely expect an exclusive on your findings, which will help you determine with whom you want to work. Remember to set the terms with them on what is public and when. Also, don't expect the press to show up for a hearing if they first hear of the investigation through a press release the day before.
- **Non-governmental organizations and civil society groups can be helpful.** Outside groups have sources, research, records, media contacts, and publications that can enhance your investigations into companies.
- **Make sure your boss is totally prepared.** By the time you are far enough in the process for a hearing, your mantra should be "no mistakes and no surprises." Be able to back up everything your boss is going to say, and make sure you know what the witnesses are going to say so they can't deflect your boss's questions. You need to make sure they are running the show.