

Standing for, Not Standing by:
The Senate Special Committee on Aging at 50

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The Senate Special Committee on Aging celebrates its 50th anniversary this year. The Committee, first chaired by a towering figure in aging policy, Sen. Pat McNamara of Michigan, has had 14 chairmen and 12 staff directors, has held more than 2,000 national and regional hearings, and has had its hand in—if not officially on—numerous pieces of legislation that have proven critical to the well-being of older Americans. An examination of the Committee's standing and initiatives over the years yields three overlapping stages that may be said to have marked the Committee's existence to this point: Committee creation and maintenance, placing older Americans' needs on the nation's legislative agenda, and overseeing the workings of programs established in their interest.

Committee Origins and Maintenance

The current Senate Special Committee on Aging grew out of the Subcommittee on Problems of the Aged and Aging of the Senate Committee on Labor and Public Welfare, itself established in 1959. As recounted in former Special Committee staff director William Oriol's (1985) history of the Committee, pressures were building in Congress to address problems facing older people, especially the twin issues of low incomes and high health care costs. Initially, it was not clear how much such a nonlegislative committee might be able to accomplish given that it could not receive bills or report them to the Senate floor. Yet, turning potential weakness into strength, the Committee by design and in practice was able to address aging-related concerns that

crossed the jurisdictional boundaries of several standing committees. In McNamara's words, "[T]he problems of older persons are not contained within a narrow subject matter compass but cut across most areas of governmental and legislative responsibility (quoted in Oriol, 2009, p. 3).

The transformation of the Subcommittee of the Aged and Aging into the Special Committee on Aging was one result of a broad advocacy movement at the turn of the 1960s, revolving around the nomination and election of John F. Kennedy as president and the activities on the part of organized labor and other groups to press forward with the Medicare legislative agenda (J. Rother, personal communication, Nov. 9, 2011). Sydney Spector, who chaired the Subcommittee, later noted that there was no preconceived notion that health care would dominate its early agenda, but the issue generated enormous volumes of testimony from around the United States and transformed the Forand Bill (the initial Medicare proposal) into what the *Baltimore Sun* editorialized as the "foremost issue of the Presidential campaign" (quoted in Sundquist, 1968, p. 297). At one hearing in 1961, before the newly constituted Special Committee on Aging, an older couple, living on \$1,500 annually, asked what would happen if one of them became seriously ill. The husband testified, "I will have to seek some charity institution and . . . pronounce to the whole world that I am a pauper, a beggar" (Sundquist, p. 288).

The Committee under its early leadership set its sights broadly. It did so first by identifying problems and soliciting input both from members of the public and individuals expert on the issue in question. Testimony from vulnerable elders gave unequivocal voice to the straits in which many found themselves. Among other experts, Wilbur Cohen published a series of working papers for the Labor and Public Welfare Subcommittee on Health and Income Issues, and soon after comments and support for legislative action came in from experts and the public

alike. Spector understood that the Committee had no legislative power, but he realized the power of the printing press. He commissioned papers, such as those by Wilbur Cohen, and made a record of everything he could. With time, “government agencies would look on requests for testimony as a virtual command, and people from the field were eager to come forward” (E. Cohen, personal communication, Nov. 7, 2011).

The substantive concerns raised by hearings and publications, though far-ranging, had a common thread: They recognized that widespread and profound problems faced a growing older population and that the nation overall and the government in particular were not paying sufficient attention to them. From today’s vantage point, it seems hard to believe that getting aging on the agenda was a tall order, but that was clearly the case. The Committee developed an especially propitious vehicle to make these needs known: its annual publication, *Developments in Aging*, first published in 1963 and put out until the mid-1980s. Beyond enumerating particular concerns, the title of the opening chapter in the early volumes (mostly written by Herman Brotman, and referring to the proportion of older Americans in the population) were “1-in-11,” and then “1-in-10,” and finally “1-in-9,” by which time the point had been made that the United States was indeed growing older. These annual editions came to contain reams of information about the lack of well-being of older people across a range of dimensions, and they were widely distributed. By the late 1960s, *Developments in Aging* was being published in a two-volume format, with the second volume summarizing actions that a wide range of executive branch agencies had taken with regard to aging issues during the preceding year (Vinyard, n.d.).

At the same time as data and testimony were being marshaled about the growing needs of older Americans, a stark realization grew that little governmental action had been taken on their behalf in nearly 30 years. Medical Assistance for the Aged (MAA) emerged in 1950, but was

still a so-called welfare program; the provision of disability insurance became law in 1956 for workers over 50 but had limited effect in its early years. Yet as *Developments in Aging* summarized in its initial edition, a gamut of unattended needs existed: adequate income, access to medical care, decent housing, older worker opportunities, and research on aging. From their beginnings, both the Subcommittee and the Committee publicized these concerns through hearings—field hearings, in particular—and through expert testimony in which stakeholders presented proposals to be incorporated into legislative initiatives. By the mid-1960s, what Henry Pratt (1976) referred to as the dismal years of aging advocacy and policy (1946–1964) had ended, and older people were on the nation’s agenda.

Legislative Successes

In the period that followed, with the Special Committee on Aging thoroughly involved, an unprecedented spate of legislation on behalf of older Americans became law. Medicare, of course, led the parade, with older people ultimately settled on as program beneficiaries in the wake of 30 years of Democratic efforts to enact a broader national health insurance proposal. The Aging Committee’s hearings and publications provided a drumbeat of attention and support, helping to keep the original King-Anderson proposal on the legislative burner. In Oriol’s (2009) estimation, “[T]he new Special Committee on Aging was critically important in the long struggle leading to enactment of Medicare” (p. 8). In particular, the Committee pointed out the shortcomings of the MAA (later expanded into the Kerr-Mills program), noting that (a) a few states received the lion’s share of benefits (Marmor, 1970), (b) fewer than 1 percent of elders had received any assistance through Kerr-Mills by 1963 (Quadagno, 2005), (c) states were shifting associated costs to the federal government rather than enrolling medically indigent individuals,

and—as the previous quote makes clear—(d) the image of welfare medicine continued (Oriol, 1985). On a second front, the Committee parried contentions that the private health insurance market could provide for older Americans, arguing that half of older Americans had no such insurance, that “great strides” were not being made in the private sector to extend such benefits—commercial insurance benefits covered only roughly half of what hospitals were billing, and companies were able to reduce benefits through a complex array of deductibles, co-payments, and lifetime benefit limits (Oriol, 1985, pp. 53–55).

The Special Committee weighed in on the remainder of major aging-related legislative enactments of the 1965–1974 decade. Medicaid’s enactment in 1965 continued and broadened much of the Kerr-Mills program and, with the revelation of fraud and abuse within the nursing home industry, soon became an oversight target of the Committee. The Older Americans Act passed in the same year with, as Binstock (1972) observed, “considerable support from the members and staff of the Special Committee on Aging” (p. 272). The Act brought together the growing number of state commissions and boards, some of which had been providing social services to elders since the early 1950s. With the ongoing support of the Special Committee on Aging, the Act grew exponentially over its initial 15 years as more than 600 Area Agencies on Aging joined 57 State Units on Aging, and budgetary outlays increased from \$7 million in 1966 to nearly \$1 billion by 1980.

The Committee was also active in pressing for elevation of the Administration on Aging (AoA) within the Department of Health and Human Services (Health, Education, and Welfare until 1977). The battle between members of the Committee and a series of administrations went on literally for decades. The Johnson administration had placed the AoA in a new Social and Rehabilitation Service, which aging advocates essentially found as insulting the dignity of senior

citizens (Hudson, 1973). A classic exchange took place in 1972, when Assistant Secretary of Health, Education, and Welfare Steven Kurzman testified against placing the AoA within the HEW Secretary's Office:

I would oppose [creating an Assistant Secretary of HEW for Aging], and I would like to make sure that this Committee, when they came to the question, had fully in view the reasons why I would oppose it. These have to do with the way in which HEW is structured. As the name implies, it is organized along essentially functional lines, around health, education, and welfare. Now, the elderly have needs and problems under each of these functional headings, very obviously. So do children, and for that matter, so does everybody in between. We could have had a Federal Department of the Young, the Middle-Aged, and the Elderly. . . . Now, when you approach the question of who should be for what function as Assistant Secretary of HEW, you start with this basic subdivision along functional lines. . . . So, the creation of a position for an Assistant Secretary for the Elderly would represent a significant departure from the overall structure, and would lead as well to the question of what other group concerns should be made the subject of an office of Assistant Secretary.

The Aging Committee clearly thought that the executive branch should have a cross-cutting, multi-jurisdictional entity, in some ways a mirror image of itself. In 1973, the Committee succeeded in moving the Commissioner of Aging into the Secretary's Office, only to have the Secretary cleverly parry the move: He created the Office of Human Development Services within his Office that included five social welfare constituencies and bureaus, including the

AoA. In the early 1990s, aging advocates and the Special Committee finally prevailed, with creation of an Assistant Secretary for Aging located in the Secretary's Office.

Income security has been a central concern of the Committee since its beginning. These efforts came to a head in the late 1960s, with Committee Chairman Harrison Williams pronouncing in *Developments in Aging* in 1969, "Never before has such intensive congressional attention been paid to what might be called the personal economics of the elderly in the nation" (Oriol, 1985, p. 104). A major working paper authored principally by Professors Juanita Kreps from Duke and James Schulz from Brandeis served as the basis for further activity. The paper was notable for simultaneously addressing both savings and spending patterns and both public and private pensions. These efforts, featuring future Chairman Frank Church in addition to Chairman Williams, contributed to extraordinary advances in income maintenance for older adults during the ensuing years: a 20 percent increase in Social Security benefits, cost-of-living adjustments to address inflation, the federalization of adult public assistance titles dating to the New Deal in the form of the Supplemental Security Income program, and placing private pension protection centrally on the legislative agenda.

The Committee's ongoing concerns about the plight of older workers (including those then considered in late middle age—that is, 40 and older) saw it pressing Office of Economic Opportunity Director Sargent Shriver and other officials charged with implementing the Great Society's Economic Opportunity Act to incorporate older as well as younger workers into its mission. Operation Mainstream on behalf of older adults was developed in 1967 partially as a result of these efforts; soon thereafter, Chairman Williams and other members introduced the Middle-Aged and Older Workers Employment Act, only to see it vetoed by President Nixon. What has since emerged as the Senior Community Service Employment Program was later

enacted as part of the Older Americans Act, today designated as Title V and continuing to be administered through the Department of Labor (Gonyea & Hudson, 2011).

Committee members were also on board on the matter of age-based discrimination in employment, with Committee members McNamara, Clark, and Randolph introducing a bill in 1961 to outlaw such activity. Passage of the Age Discrimination in Employment Act finally occurred in 1967 and saw two major rounds of amendments in subsequent decades. Finally, and as happened repeatedly over the years, joint work between the Special Committee on Aging and the Finance Committee led to enactment of the Employee Retirement Income Security Act in 1974, with the legislation being introduced by Senators Jacob Javits and Harrison Williams. Through these and other efforts, the Special Committee drew both attention and resources to elder needs, and by the mid-1970s had established itself as a catalyst in moving aging-based legislative items forward.

In light of these successes, it seems remarkable to recall that a serious move was made during 1977 to eliminate the Senate Special Committee on Aging altogether. As happens periodically in both legislative and executive branches, a reorganization plan was introduced whereby, in the name of administrative efficiency, the Aging Committee and programs for older veterans—administered by the Committee on Veterans Affairs—would be placed in the new Committee on Human Resources, which would expand the scope of the existing Committee on Labor and Public Welfare. Advocates for the aging and a host of Senators bridled at this attempt, arguing that the needs of elders, being both broad and encompassing, required a venue where their multiple and interrelated concerns could be addressed. In formal response, Sen. Church offered an amendment whereby the Committee's membership would be reduced from 16 to nine

but, as well, the Committee would be given permanent status. The Church amendment passed by a vote of 90 in favor, four opposing, and four abstentions (Oriol, 1985).

Although its existence was secured, an economic contraction beginning in the mid-1970s and a new administration taking office in 1981 determined to consolidate and trim social programs created new challenges for the Committee. These developments did not eliminate Committee initiatives; they just lowered the odds of legislative success. Thus, in the late 1980s, Sen. John Heinz succeeded momentarily in adding a prescription drug benefit to the ill-fated Medicare Catastrophic Coverage Act, and Sen. John Breaux gave visibility to the idea of public long-term care insurance and to expanded adult protective services legislation. As was the case with other Committee initiatives, these proposals incubated over several years, with prescription drug legislation being added to Medicare through the Part D program in 2003, the CLASS Act at least briefly seeing the light of day in 2009 (though its implementation is currently suspended), and the Elder Justice Act becoming law in 2010. During his chairmanship in 1987–1988, Chairman John Melcher introduced language to the Older Americans Act to develop an experimental cost-of-living index to track inflation among the population ages 62 and older. This adjustment would have increased benefit levels for that population, in contrast to a proposal then (as now) under consideration that would have made a downward adjustment.

The present Committee under the chairmanship of Sen. Herb Kohl has pressed for new initiatives across a range of domains, notably patient protection provisions included in the Affordable Care Act (ACA): nursing home transparency, physician gift disclosure, Medicare quality incentives, and patient safety and abuse prevention for residents in long-term care settings. The Committee has also renewed a historical concern with promoting community-based care for elders, pressing for inclusion in the ACA innovative provisions promoting consumer

choice. Due to the efforts of the Committee, again working in conjunction with the Finance Committee, the ACA features new home and community-based care authorities, most notably, the State Balancing Incentive Payments Program. The recent suspension of CLASS Act implementation focuses on another Committee initiative in long-term care, the Confidence in Long-Term Care Insurance Act, introduced by Sen. Kohl in 2009, designed to expand and monitor the insurance market, in which more than 7 million policies are now in force. Other legislative initiatives center on providing employer incentives and training to hire and retain older workers and refinancing provisions for existing Section 202 housing developments.

Oversight Activities

Much as the field of policy studies came to realize in the late 1960s that policy implementation (i.e., what happens after a bill becomes a law) was critically important, so did the Special Committee on Aging. It began turning attention to monitoring and how the Executive Branch was administering various programs affecting older Americans, many of which the Committee had helped give life to.

One of the stellar chapters in the Committee's history is represented by the hearings, briefings, and media events undertaken beginning in the mid-1960s that centered on the quality of care and abuse in U.S. nursing homes and the larger question of the place of long-term care in the country's overall approach to health care. Hearings held during Chairman Smathers' years, "Conditions and Problems in the Nation's Nursing Homes," continued the Committee's ongoing concern with Medicaid (and its predecessor programs) but also expanded into long-term care and health care concerns more broadly. These efforts were renewed under Chairman Frank Church in

the 1970s, through a series of hearings and events that invited and attracted widespread media attention.

The Aging Committee's Subcommittee on Long-Term Care, under the chairmanship of Sen. Frank Moss, conducted 30 hearings on nursing home problems between 1969 and 1976. The hearings were the basis of a twelve-volume report titled *Nursing Home Care in the United States: Failure in Public Policy*. The titles of the first nine papers of the series capture the range of the Subcommittee's concerns (U.S. Senate Special Committee on Aging, 1977, pp. 44–47):

- The Litany of Nursing Home Abuses
- Drugs in Nursing Homes: Misuse, High Costs, and Kickbacks
- Doctors in Nursing Homes: The Shunned Responsibility
- Nurses in Nursing Homes: The Heavy Burden (The Reliance on Untrained and Unlicensed Personnel)
- The Continuing Chronicle of Nursing Home Fires
- What Can Be Done in Nursing Homes: Positive Aspects in Long-Term Care
- The Role of Nursing Homes in Caring for Discharged Mental Patients
- Access to Nursing Homes by U.S. Minorities
- Profits and the Nursing Home: Incentives in Favor of Poor Care

In their later account of the workings of the Committee under Chairman Heinz in the 1980s, former staff directors Larry Atkins, Steve McConnell, and John Rother (2005) referred to the glory days of the Committee under Frank Church in exposing nursing home abuses.

The Committee also took great interest in the early workings of the Older Americans Act and of the AoA, which was charged with its implementation. Staffing and program development was so modest in the early years that the Committee commissioned a report by Harold Sheppard with the blunt title, *The Administration on Aging—Or a Successor?* (1971). Commenting on the Report, Chairman Church made equally blunt comments: “However, as long as AoA’s mission continues to remain ill-fated and ill-defined, there is a danger of two perilous ‘isms’ in gerontology: ‘standpatism’ and ‘do-nothingism’ And make no mistake about it, more adequate funding levels—welcome as they may be—will not overcome these twin ills.” (quoted in Hudson, 1973, p. 19).

This oversight role is one that the Committee has continued to play in the ensuing years. Chairman Lawton Chiles undertook investigations of the nascent assisted living industry, concerned that facilities were being developed as what he called nursing homes light, so as to bypass state nursing home regulations. Sen. Heinz assumed the chairmanship in 1981, and continued these investigations into quality of care in the long-term care sector (B. Lipscomb, personal communication, Nov. 11, 2011). The collaboration between Sen. Heinz and Sen. Chiles went beyond particular issues. As Atkins, Rother, and McConnell (2005) recounted, in assuming the chairmanship, Heinz

offered a fair split in the budget and staffing to the Democrats and gained an ally in former Chairman and now ranking member Lawton Chiles from Florida. At a time when Senate committees were being asked to cut at least 10% from the previous Democratic budgets, Heinz and Chiles went to the Rules Committee with a request for a 50% increased, and got it.”

(p. 2)

As John Rother (personal communication, Nov. 9, 2011) later indicated, an effective Chairman needs to be entrepreneurial in the issues he chooses to address and the staff he recruits to lead investigations into those issues; Sen. Heinz succeeded in both. With Republicans in the majority for the first time in the Committee's history, Heinz succeeded in reaching across the aisle, both in working with Democrats and in maintaining seasoned Democratic appointees on the professional staff.

During the early and mid-1980s, the Committee was actively involved in resisting efforts by President Reagan and Office of Management and Budget Director David Stockman to curtail Social Security benefits and eliminate the program's minimum benefit. The Senate's 1981 rejection of these proposals represented a major Committee success but was only one episode during a period where social program expansion was being supplanted by program cuts and consolidation (J. Rother, personal communication, Nov. 11, 2011). This new reality was seen during the following two years, when near-term and long-term financing issues faced the Social Security system and urgent action was required to address both the current and pending shortfalls. As a Republican Senator in the presence of a Republican president and as chair of the Special Committee, Heinz found himself in a pressured position. As such, he worked with members of the so-called Greenspan Commission to forge a compromise involving a mix of benefit cuts and tax increases, which comprised the major 1983 Social Security Amendments.

During this period, the Committee under Sen. Heinz was also actively involved in health care and disability issues. The Aging Committee worked closely with the Finance Committee in finalizing the methodology associated with the new DRG (diagnostic related groups) reimbursement protocol inserted into the Medicare Part A program in 1983. (Sen. Heinz is credited with coining the term *quicker and sicker* in reference to concerns that the new system might lead to inappropriate early hospital discharges of Medicare beneficiaries.) In yet another major initiative, the Committee addressed stringent new regulations the Social Security Administration was introducing into both the DI and the SSI programs. Recertification of individuals with disabilities was being denied on what often appeared to be specious grounds. To bring attention to the issue, the Committee teamed up with PBS's *Frontline* to publicize the new rules, with one Social Security Administration employee overheard to mumble "this is a setup" as the cameras rolled (Atkins, Rother, & McConnell, 2005, p. 9).

The Committee continued to emphasize oversight activities in the post-Heinz years. A compilation of hearings held by the Committee finds a broad array of both elders and experts speaking to questionable practices across a range of arenas. Brian Lindberg (2011), a former staffer and current contributor to GSA's *Gerontology News*, presents a long but nonetheless partial list of topics covered: Medicare, Medicaid, Older Americans Act, Social Security, medical research, geriatrics, pensions, budgetary issues, long-term care, nutrition, elder abuse, fraud and financial exploitation, and older-worker issues.

Under Chairman David Pryor, drug pricing and Medicare issues were prominently investigated. From 1989 through 1994, a series of hearings were held: "Prescription Drugs: Are We Getting Our Money's Worth?"; "Our Nation's Elderly: Hidden Victims of the Drug War?"; "The Effects of Escalating Drug Costs on the Elderly"; and "Pharmaceutical Marketplace

Reform: Is Competition the Right Prescription?” These hearings resonated to the point that the Committee was forced to add additional telephone lines to accommodate the volume of complaints that poured in about prescription drug pricing. In particular, the Committee pressed for Medicaid drug rebates from pharmaceutical companies. Medicare topics investigated during the period included Medigap premiums, quality assurance in Medicare HMOs, and fraud and abuse practices in the Medicare program.

Under a series of chairmen beginning in the mid-1990s, a renewed emphasis on fraud and abuse, especially in the world of long-term care, assumed center stage once again. Sen. William Cohen sought to bring long-term care concerns of older Americans to center stage, seeing it as having lived too long in the shadows of health policy. When he assumed the chairmanship in 1997, Sen. Charles Grassley made oversight of aging-related federal programs a major Committee concern. The Committee pressed the Health Care Financing Administration to more stringently investigate reported incidents of substandard nursing home care, and initiated requests to the Government Accountability Office to investigate quality of care in nursing homes, among home health care agencies, and within the newly emerging assisted living communities.

Sen. Grassley also cast a wide net around the widespread incidence of elder abuse, including predatory lending practices and the potential dangers inherent in living trusts. As was true with Sen. Heinz, Sen. Grassley’s position on the Finance Committee afforded him an ability to move forward legislative items that were Aging Committee priorities (J. Rother, personal communication, Nov. 11, 2011). Sen. John Breaux, who worked closely with Sen. Grassley (both had the same chief investigator during their chairmanships,) actively took on the long-term care issue. The Committee generated a major report on long-term care and held 13 hearings on the

subject, many addressing the ongoing imbalance between institutionally based and community-based services. During his chairmanship, Sen. Larry Craig devoted considerable attention to guardianship issues and safeguards. Medicare and Medicaid issues were a major concern of Chairman Gordon Smith during his years as Committee chairman.

The oversight energies of the current Committee under Sen. Herb Kohl have been heavily directed toward the prescription drug industry, focusing on drug safety, effectiveness, and costs. Of a number of initiatives, much current attention is focused on the Prescription Drug Cost-Savings Act. The Act would promote faster introduction of generic drug equivalents, allow the Medicare program to negotiate directly with drug manufacturers, and require drug manufacturers to pay rebates to Medicare Part B drugs in a manner analogous to the longstanding drug rebate program under Medicaid, among other provisions.

Conclusion

The Senate Special Committee on Aging has lived through the tumultuous times that have marked a half-century of aging policy. From working initially to get aging issues on the political agenda, through helping usher in a decade's worth of major legislation, to riding herd on the programs, players, and dollars put into play—and to working to protect those hard-earned policy gains in today's contentious economic and political environment—the Committee has earned its keep. Today's older Americans and their parents owe a debt of gratitude to the Committee for what it has both accomplished and forestalled. Finally, and from a broader perspective, the Committee's successes belie the frequent criticisms made of supposed special interest or advocacy-based committees and agencies. In many ways, the Special Committee has served as something of a shadow committee to the legislative committees that would lend official

status to the Special Committee's work. The Committee, especially under its most active chairmen, could pick its battles, devote its resources, and mobilize its allies in timely and needed legislative directions . . . sort of a SWAT team for elders.

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