

From: Writing Public Policy, 2nd Ed.
by Catherine Smith
Oxford Univ. Press, 2010

CHAPTER

4

Legislative History: Know the Record

Key Concepts

- Record of legislative action
- Legislative intent

Public policy making requires information about prior government action. This chapter shows you how to research legislative records and to write a legislative history.

Many kinds of information are needed for policy making. To frame a problem, identify its issues, or propose solutions, you might need to know about influential social history, technological developments, and economic patterns. You might consult scientific research, public testimony, advice of expert consultants and lobbyists, statistical data, government agency reports, transcripts of legal proceedings, and more. But one kind of information is essential: the history of government action on the problem. To get that information, you must consult the legislative record; you must be able to conduct legislative research using government documents.

Why is knowledge of the record important? Three reasons. First, for policy making, precedent matters. Action builds on prior action. Knowledge of precedent helps you to frame problems and to find solutions. Second, context matters. The record shows deliberation and debate. Third, content matters. The preamble or the statement of purpose of a published bill or law enables you to discern original

intent and the intent of amendments. If you are proposing new action, credibility and standards for policy argument demand that you know the history of prior action.

Who conducts legislative research, and for what purposes? Government staff members (and sometimes interns) consult the legislative record to help them frame problems and identify issues. Outside government, professional staff (and sometimes interns) in organizations of many kinds such as nonprofit groups, trade associations, and policy institutes, consult the record. They do so in order to inform their advocacy or analysis. Similarly, active citizens consult the record as independent researchers. They might pursue a personal interest, or they might volunteer to investigate a record of action that is relevant to an organization's mission. For legal interpretation, court clerks, law librarians, and legal services professionals regularly consult the legislative record to know a law's intent as part of adjudicating disputes over a law's meaning.

Who writes legislative history documents? Often, the people who conduct the research also write the document that reports the results. Government staff or professional researchers on contract to a committee or agency or volunteers for organizations, as well as individuals doing independent research, might produce a legislative history tailored to a particular need to know.

Interns might be assigned these research and writing tasks. To illustrate, a supervisor in a health care policy institute asks an undergraduate intern to specify unmet needs in elder health care for a position paper being written by the institute's director. The supervisor gives no instructions on how to gather the necessary information. The intern considers how to approach the task. She figures that in order to identify unmet needs, she must know what current law provides. As a strategy for getting started, she works from familiar experience. Her elderly grandparents experienced nursing home care, so she decides to start by collecting information on nursing homes.

She goes, first, to the institute's reports published on its website. She finds that they are in-depth analyses of individual laws. Because the website has no index or search engine, she cannot locate laws that refer to nursing homes unless she reads all the reports. She does not have time for that. She then tries searching on the Internet, using an all-purpose search engine and the search term "nursing home care."

That yields advertisements for providers and websites of advocacy groups, but little legislation or public debate. Stymied, she asks the institute's professional staff for help. A policy analyst directs her to government databases and to commercial databases of government information on the Internet. She uses the indexing vocabulary for each database to streamline her searches by emerging topics—first, nursing home care; then hospital care, prescription drugs, and so on. Search results suggest to her that a good time frame to focus on would be the years in office of the previous federal government administration. She searches her favorite government database again in that time frame, and she spends several hours reading summaries of laws and proposed bills. She also checks the final action taken on each.

By the end of the day, she writes a two-page legislative history of elder care. She defines the most pressing current needs to be those that were recognized by the previous administration but left unresolved. She summarizes a list of unmet needs culled from a range of bills or amendments proposed but not passed or adopted. She identifies the most significant failures in elder healthcare proposals (according to criteria that she provides) and distills the public debate surrounding them. In a concluding reference list, she cites these bills or amendments by bibliographic identifiers in the databases so that the institute director can quickly find the acts to read their language. Task accomplished.

How to Conduct Legislative Research and Write a Legislative History

Goal: Knowledge of U.S. proposed or enacted law regarding a defined problem based on consulting legislative records.

Objective: Credible reporting of government action.

Product: Written document tracing either history of a single law or history of laws on an issue.

Scope: Either a single law or an issue involving multiple laws. Relevant action might be at the federal, state, or municipal level, or at several levels. In addition to legislative records, administrative records of rule making and regulation and judicial records of litigation might be needed.

Strategy: Multiple approaches are available. No single approach to government records research fits all; however, you will save time and frustration by planning before you start. Use the guidelines given in the following sections to select a strategy.

Know why the research is needed. Legislative uses for the research might be satisfied with past records. In contrast, legal uses might require very current information not yet recorded that only an informant can provide. Knowing the purpose for the research tells you what, and how much, to look for. Will the information be used to make new law (legislative) or to interpret existing law (legal)?

In either case, there might be a published history that meets the purpose. Or you might need to find the records required to write a specialized history. Knowing the purpose for the research can help you (or a librarian assisting you) to decide where to look first. Do you want to find a history or write one?

Know the user and the user's purpose for the information. Who, exactly, will use the information, and what is his or her interest or need? The user might be you, gathering information for personal use or for an academic or internship assignment. Or the user for whom you are conducting the research might be a legislator who wants to amend an existing law. Knowing the user's purpose tells you what, and how much, to look for. Federal records only? State or municipal records also?

Set the scope. Will the research follow a single law through all its forms and related actions—bill, codified statute, administration, regulation, amendment, and (possibly) adjudication? Or will your research follow an issue through policy changes and across multiple laws over time? What is the relevant time frame? What is the relevant level of government?

Take the necessary time, and manage your time. Records research can take hours, days, or weeks, depending on how much you already know, what you are looking for, where the records are, how well you have planned, and other contingencies. Prepare for the reality

that legislative records research will take time, probably more time than you initially planned. What is your deadline for completing the research? What is your schedule for conducting the research and writing the necessary documents?

Use existing skills, and add needed ones. If you have a well-defined problem, are willing to learn, are curious and persistent, and have basic research skills including the ability to ask questions, identify relevant sources, and search computer databases, you are basically ready to perform legislative research.

You might need to learn about the legislative process, government record types, and standard tools for researching government records. If so, review as necessary using the tools suggested below.

Task #1. Review the legislative process

If you already know federal legislative procedure well or if you are tracing state law, omit Task #1 and go on to Task #2.

As you conduct research in government records, you can feel as if you are drowning in information, classification systems, procedure names, and document types. Also, if you start into records searching without knowing the underlying legislative process, you will quickly become lost. Use the following reviews of the process to revive your effort (bookmarking your favorite and returning to it as often as needed):

- The House: How Our Laws Are Made (by House of Representatives Parliamentarian) <http://thomas.loc.gov/home/lawmade.toc.html>
- The Senate: Enactment of a Law (by Senate Parliamentarian) <http://thomas.loc.gov/home/enactment/enactlawtoc.html>
- The Legislative Process (by House of Representatives Information Office) http://www.house.gov/house/Tying_it_all.html
- The Legislative Process (by Indiana University Center on Congress) http://congress.indiana.edu/learn_about/topic/legislative_process.php
- The Legislative Process (by Capitol Advantage) <http://congress.org/congressorg/issues/basics/?stylelegis>

Task #2. Conduct research

Do you want to find a history or write one? Decide early whether your purpose is served by using an already published history or by producing one. For single laws, commercial research services such as the Congressional Information Service publish legislative histories with varying levels of detail. To look for a published history for a single law, try these sources:

- Law Librarians Society of Washington, D.C., Legislative Sourcebook <http://www.llsdc.org/sourcebook>
- CIS/Annual (Year), Legislative Histories of U.S. Public Laws

You are unlikely to find published legislative histories for an issue. They are typically produced by, or for, the people who want the information.

As a general rule, federal records are accessible online and in research libraries. State records are generally less so, but an individual state's records might be available online or, more likely, in the print archives of the state's library. Local government records are generally not available unless you go to the municipality to ask about access to records. Few municipalities put their records online.

Major tools for finding federal and state records are provided by government information services, either free or by subscription. Free services can be accessed from any computer with World Wide Web access. Subscription services are accessed via the Web by authorized users of facilities provided by a subscriber, such as a university library.

From your computer at home and in many public libraries, you can freely access federal records back to 1970 (and link to online state records) through:

- Thomas (Library of Congress) <http://thomas.loc.gov>
- Government Printing Office (GPO) Access <http://www.gpoaccess.gov>

Other free access to numerous federal government websites that link to records is provided by

- Federal Government Documents on the Web (University of Michigan Documents Center) <http://www.lib.umich.edu/govdocs/federal.html>
- U.S. Government Documents (Mansfield University) <http://lib.mansfield.edu/gov-ref.cfm>
- Catalogue of U.S. Government Publications <http://catalog.gpo.gov/F>

For state legislatures and local government, these are good websites:

- State and Local Governments (Library of Congress) <http://www.loc.gov/rr/news/stategov/stategov.html>
- Legal Research Guide-Government Resources (Virtual Chase) <http://www.virtualchase.com/topics/government.shtml>
- Law Librarians Society of Washington, D.C., Legislative Sourcebook: State Legislatures, State Laws, State Regulations <http://www.llsdc.org/sourcebook>

An excellent subscription service used in most university libraries for comprehensive federal legislative information is Lexis-Nexis *Congressional*, based on the (print) *Congressional Information Service* (CIS). This database is available to subscribers only. You can access it in subscribing research libraries. Free and subscription services are available in federal depository libraries. Those are research libraries, often at colleges and universities, that make GPO materials publicly available in the library's region. Find a depository library near you in the Federal Depository Library Locator at <http://www.gpoaccess.gov/libraries.html>.

Libraries offer a valuable resource: librarians! For professional, skilled, and time-saving assistance in legislative research, always ask a librarian.

General Tips for Using Government Information Libraries

- Depository libraries have federal government records in all available forms—digital, print, and microfiche. Depending on what you want to know, you might need all three. Online access to digital records is convenient for recent records, but print and microfiche are still important, too, for several reasons. Records before the 1970s are not yet available online, and some never will be. You can miss a lot of legislative history if you only search online. Also, print compilations are sometimes easier to use, because they are well supplemented by indexes and other locator aids. When using a tool new to you, check first for finding aids, such as an index. You will save much time this way. (Note: Subscription services have more indexes than do free services.)

- You should take detailed notes as you go. Jot down contextual information and target information. List names of people, committees, subcommittees, and bill or law citations mentioned in the target record. Why? If your first search method fails, these notes can restart your search; they give you alternative ways to search.

You can use what you know to find what you want. For example, if a student intern researching elder healthcare jots down key terms, citations, names, and dates as she works in a database of government records, she is prepared to search by any of these alternatives:

- By subjects discussed in the record (for example, elder health care)
- By citation (number and letter “addresses”) of a particular legislative record in a system of citation, (for example, H.R. 1091–106 for a particular House of Representatives bill)
- By names, dates, committees, or other elements of a legislative process (for example, the name of the senator sponsoring a bill)

In other words, she could find legislation on elder healthcare by subject (elder healthcare, nursing home care, Medicare, and so on), or by citation (H.R. 1091–106), or by legislative process information (Senator Ted Kennedy; hearing witness Donna Shalala, Department of Health and Human Services; Senate Committee on Health, Education, Labor, and Pensions).

Task # 3. Write the legislative history document

To write your legislative history, begin by using the Method in chapter 2. You can reuse the thinking that went into planning your research (see *Strategy* in How to, this chapter). Use it to plan your legislative history document. Let your intended reader's needs for the information guide your selection of information for the history.

What is the message of a legislative history? It is your conclusion formed after consulting the record. The history's scope is set by the purpose (whether you are writing a law history or an issue history) and by the amount of information required to support your message. In any case, you must organize your information to support the message. Organizational options include chronology (to show developments over time), significance (to highlight influential legislation), and trend (to show a pattern).

If no form is prescribed for presenting the results of your research, you might choose to use the following standard reporting format for professional and technical communication:

- Overview that concisely summarizes both the message and the key information in the document
- Subsections that provide summaries of information
- Subheadings that label each subsection
- Citations that are provided for each subsection

Citation is very important in a legislative history. The history's credibility and the practical needs of the information user (and the researcher) demand that all sources be easy to locate for confirmation and referral. Citations are the means of doing so. A full citation provides three kinds of information about a source: what type of record it is, how it is classified in a system of documentation, who publishes it (a commercial research service or government). For government records, a full citation includes all the elements that help to identify a source. In legislative research, a full citation, or government style, is preferred over a terse citation, or legal style, that provides only an abbreviated source identifier, number in a system of documentation, and date. If either the government style or legal style is prescribed for you, use that style. If not, choose the appropriate style and use it exclusively. Do not mix styles.

Here is a list of the elements in a full citation, or government style, for citing federal or state legislation:

- Issuing agency (house, number, session, year)
- Title (document number and name; long name may be abbreviated)
- Edition or version
- Imprint (city, publisher, date of publication)
- Series (serial list of publications)
- Notes (in parentheses, add anything not already included in the citation that helps to locate the document)

Following are two illustrations of government style:

1. U.S. House. 101st Congress, 1st Session (1989). H.R. 1946, A Bill to...Authorize the Department of Veterans Affairs (VA) to Provide Home, Respite, and Dental Care. Washington: Government Printing Office, 1990. (GPO Microfiche no. 393, coordinate C13.)

2. U.S. House. 104th Congress, 1st Session (1995). "H.R. 3, A Bill to Control Crime." Version: 1; Version Date: 2/9/93. (Full Text of Bills: Congressional Universe Online Service. Bethesda, MD: Congressional Information Service.)

In the second illustration, the final element shows that the source is proprietary, or a commercial research service publication available to paying subscribers.

If you need more help on citing, see

- Diane L. Garner and Diane H. Smith, *The complete guide to citing government information resources: a manual for writers and librarians* (rev. ed.) (Bethesda, MD: Congressional Information Service, 1993)
- Citing Government Information Sources Using MLA (Modern Language Association) Style at <http://www.knowledgecenter.unr.edu/subjects/guides/government/cite.html>
- Uncle Sam: Brief Guide to Citing Government Publications (University of Memphis Depository Library) at <http://exlibris.memphis.edu/resource/unclesam/citeweb.html>
- How Do I? Cite Publications Found in Databases for Thomas (Library of Congress) at <http://thomas.loc.gov/tfaqs/16.htm>

Remember to check your final product against the standard (see checklists, chapter 2).

Three Examples

Example 1. *The Legislative History of Nutritional Labeling 1906–1987*

Overview

Government has debated the topic of food labeling for nearly 100 years. Its history of legislation passed and court cases settled shows where we've come from and sets a precedent for future legislation. In 1906 Congress was concerned with establishing a basic standard for product labels to prevent consumers from being misled. Since then changes in science and public opinion have necessitated drafting new bills that fill gaps in legislation and place more restrictions on product labels to better protect and inform consumers. In the late 1980's that meant requiring nutritional labels on pre-packaged grids listing calories, fat, sugars, and other food values to inform an increasingly health-conscious America. Now in 2002, America's growing taste for

increased portions of unhealthy fast food must be addressed by filling the gap in the Nutritional Labeling and Education Act exempting fast food from nutritional labels.

Major Legislation and Legal Decisions

59th Congress

H.R. 384: "The Food and Drug Act of 1906." This act was the first on record in the United States that governed the contents of product labels. The legislature was concerned that manufacturers and distributors were labeling their products in a manner that misled consumers. Product labels that falsified ingredients or other product information were considered "adulterated" by the act. Through this legislation, food and drugs were required to be labeled with "distinctive names" that pertained directly to their contents and to have those names and the manufacturers' locations printed clearly. To enforce this bill, the Department of Agriculture was empowered to inspect, on demand, all packaged goods manufactured or transported within the United States, levying fines on violators.

76th Congress

S.5: "The Federal Food, Drug and Cosmetic Act of 1938." This legislation was intended to replace the Food and Drug Act and cover a greater variety of products, including cosmetics, with more specific language that clarified vagueness in the 1906 act. The new act regulated items on store shelves (an important addition), broadened the definition of "adulterated" to include spoiled or mishandled food, and placed tighter restrictions on how food could be labeled. If products claimed to serve specific dietary needs or produce certain health benefits, their labels had to contain a list of ingredients and be approved by the Secretary of Agriculture. The Secretary could now freely inspect not only the goods themselves, but also any factory, warehouse, or establishment that produced, stored, or sold them and freeze the sale of products that could be considered "adulterated." This was deemed much more effective than fines in deterring violators.²

85th Congress

H.R. 13254: "Food Additives Amendment." Created to amend the Federal Food, Drug and Cosmetic Act to cover food additives. This amendment shows government recognition of a growing trend in the food industry to use food additives and flavor enhancers with possible adverse health effects in order to lower costs. This amendment

requires that before any food additive or flavor enhancer is used, its producers must disclose the additive's chemical composition and the results of a certified health study attesting to the additive's safety in the specific dosage. The effect was a dramatic decrease in the use of sodium and its derivatives as preserving agents.³

95th Congress

S.1750: "Saccharin Study and Labeling Act of 1977." This legislation is an extension of the Food Additives Amendment that called for the study of a possible link between saccharin consumption and cancer. At time of passage, saccharin, a sugar substitute, was a tremendously popular product and the implication that its usage could cause cancer was serious. The study found a conclusive link between saccharin usage and increased incidence of cancer in laboratory animals but it could not convince legislators there was a significant risk to humans. Instead of upsetting the marketplace based on "inconclusive" results, the Health, Labor, Education, and Pensions Committee implemented mandatory labeling. All products containing saccharin must clearly state: "Use of this product may be hazardous to your health. This product contains saccharin which has been determined to cause cancer in laboratory animals." What makes this bill noteworthy is that legislators approved of allowing an ingredient with alleged health risks to remain on the market provided that it had a clearly stated health advisory on the packaging.⁴

96th Congress

S.1196: "Disease Prevention and Health Promotion Act of 1978." The applicability of this legislation is its position on the effectiveness of disease prevention programs. The Committee on Health, Labor, Education, and Pensions found that contrary to popular opinion, "Americans are not fully informed about how to improve their own health and want more knowledge, that Federal, State and local governments have a role to play in providing that information, and that government at all levels has the capacity and the responsibility to help communities and individuals reduce the burden of illness through the prevention of disease and the promotion of good health."⁵

99th Congress

S.541: "Nutrition Information Labeling Act of 1985." A bill to amend the Federal Food, Drug and Cosmetic Act to require that a food's product label state the specific, common-name and the amount of each

fat or oil contained in the food, the amount of saturated, polyunsaturated, and monounsaturated fats contained in the food, the amount of cholesterol contained in the food, and the amount of sodium and potassium contained in the food. This is the first bill to require nutritional labels, although it does not cover restaurants or raw agricultural products.⁶

99th Congress

H.R. 6940: "Amend Food, Drug and Cosmetic Act." This bill requires baby formula to contain a prescribed nutritional content in order to be sold in the US. The significance is that government recognizes the need to not only disclose nutritional content but also regulate that content in order to ensure the well-being of the consumer.⁷

Arbitration

In response to two petitions filed by The Center for Science in the Public Interest, New York State filed suit against McDonalds Corp. alleging that their Chicken McNuggets were not the "pure chicken" advertised. In an out-of-court settlement McDonalds Corp. agreed to withdraw the ads and disclose the ingredients and nutritional content of their menu in pamphlets and posters at their New York restaurants. At the same time attorneys general in ten other states began the process of filing suit to require nutritional and ingredient disclosures from McDonalds and other major fast food chains. In a national settlement still in effect, McDonalds, Burger King, Jack in the Box, Kentucky Fried Chicken, and Wendy's agreed to offer separately printed nutritional information in pamphlets or on posters in stores around the country. This action resulted in McDonalds cutting back on beef-frying and discontinuing the use of yellow dye No. 5, which has been known to trigger allergies. However long-term compliance with the settlement has been inconsistent and only Jack in the Box has made information consistently available nationally. The rest of the chains only provided them in an average of 33 percent of locations.^{8,9}

100th Congress

S.1325: "Fast Food Ingredient Information Act of 1987." This bill was written in response to a greater nutritional consciousness and the national settlement mentioned in the lawsuit above. The bill sought to amend the Food, Drug and Cosmetic Act to force fast food restaurants to label pre-packaged goods with nutritional labels and to display nutritional and ingredient information in clearly visible places

in their restaurants. The bill also sought to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to allow for nutritional information to be posted in restaurants. President Reagan vetoed this bill because of possible, negative economic consequences.¹⁰

101st Congress

H.R. 3562: "The Nutrition Labeling and Education Act of 1989." An amendment to the Food, Drug and Cosmetic Act designed to expand on the requirements of the Nutritional Labeling and Education Act. The bill states that food will be deemed misbranded unless its label contains: serving size, number of servings, calories per serving and those derived from fat and saturated fat, and the amount of cholesterol, sodium, total carbohydrates, sugars, total protein, and dietary fiber per serving or other unit. Authorizes the Secretary of Health and Human Services to require additional label information.¹¹

Sources

1. U.S. House of Representatives. 59th Congress. 2nd Session (1906). "H.R. 384 Food and Drug Act of 1906." Washington Government Printing Office, 1981.
2. U.S. Senate. 76th Congress. 1st Session (1938). "S.5 Federal Food, Drug and Cosmetic Act of 1938." Washington Government Printing Office, 1981.
3. U.S. House of Representatives. 85th Congress. 2nd Session (1958). "H.R. 13254 Food Additives Amendment." Washington Government Printing Office, 1981.
4. U.S. Senate. 95th Congress. 2nd Session (1977). "S.1750 Saccharin Study and Labeling Act of 1977." Washington Government Printing Office, 1978 (Thomas Bill Summary S.1750).
5. U.S. Senate. 96th Congress. 1st Session (1978). "S.1196 Disease Prevention and Health Promotion Act of 1978." Washington Government Printing Office, 1980 (Thomas Bill Summary S.1196).
6. U.S. Senate. 99th Congress. 1st Session (1985). "S.541 Nutrition Information Labeling Act of 1985." Washington Government Printing Office, 1985 (Thomas Bill Summary S.541).
7. U.S. House of Representatives. 99th Congress. 2nd Session (1986). "H.R. 6940 Amend Food, Drug and Cosmetic Act." Washington Government Printing Office, 1986 (Thomas Bill Summary H.R. 6940).
8. Clark, Charles S. "The Fast Food Shake-Up." *CQ Researcher*, November 8, 1991: 838-43.

9. *McDonalds to Introduce Nutrition Information Programs in New York: Press Release*. 30 April 1986. New York: New York State Attorney General's Office Consumer Protection Bureau.
10. U.S. Senate. 100th Congress. 1st Session (1987). "S.1325. Fast Food Ingredient Information Act of 1987." Washington Government Printing Office, 1987 (Thomas Bill Summary S.1325).
11. U.S. House of Representatives. 101st Congress. 1st Session (1989). "H.R. 3562 The Nutrition Labeling and Education Act of 1989." Washington Government Printing Office, 1989 (Thomas Bill Summary H.R. 3562).

What this example shows. This history of an issue includes litigation as well as multiple, selected legislative actions (*Scope*, this chapter). The author chose a report as the medium or presentation. It is titled, as a report typically is, rather than provided with a header, as a memo typically is. The title and overview connect this report to a context, a process underway in 2002 to amend existing legislation proposed in 1989. This report traces landmark legislation leading up to the 1989 bill, the most recent action on the subject.

Organizationally, the report begins with an initial overview followed by summaries of major legislation arranged chronologically. Subheadings (congressional session and date) move an unfolding story of action along. Each summary concludes with a statement of the act's significance in a trend. The message of the report is to show that trend (*Method*, chapter 2). Thus, the concluding sentence of each summary reinforces the message by adding a new bit to the reader's recognition of the trend.

No purpose or audience for this report is identified; the undergraduate policy writing course assignment that prompted the research did not require it. That is a limitation on real world use, but this document nonetheless meets some of the expected standards for usability. It could serve a nonprofit organization wishing to inform its members about a current legislative priority.

Credibility is enhanced by the report's organization, which suggests care taken by an informed author to select key actions (well cited). Presentation here is authoritative and readable. The author

has recognized a legislative trend and has selected, condensed, and ordered relevant legislation as well as litigation to highlight milestones in that trend. These choices and communication techniques encourage readers to agree with his position that new action is needed.

Careful citation here supports credibility. Readability is served by the way citations are handled. Citations are distributed across two locations in the text. Subheadings for summaries cite the legislative session, record number, and common name of each bill; a footnote at the end of each summary refers to citations at the end of the document, where the act is fully referenced using government record identifiers and bibliographic style (Task #3, this chapter, and checklists, chapter 2).

The document is designed for use. Despite its brevity, it could be more concise. Sentences are typically long and many sentences include unnecessary words (checklists, chapter 2). The writer could shorten sentences to emphasize key information better, as illustrated below.

Original. The bill sought to amend the Food, Drug and Cosmetic Act to force fast food restaurants to label pre-packaged goods with nutritional labels and to display nutritional and ingredient information in clearly visible places in their restaurants. The bill also sought to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to allow for nutritional information to be posted in restaurants. (65 words)

Revised. The bill amends the Food, Drug and Cosmetic Act to require nutritional labeling of pre-packaged goods and clearly visible display of ingredients by fast food restaurants. The Federal Meat Inspection Act and the Poultry Products Inspection Act are amended to allow ingredients display in restaurants. (45 words; 20 word reduction or 30% briefer)

The revision removes repetition of words ("bill sought to amend" and "nutritional information") and unnecessary explanation ("in clearly visible places").

Example 2. The Legislative History of Banning the Use of Cell Phones While Driving

Memorandum

To: North Carolina General Assembly Senator Dannelly; Representatives McAllister, Adams, B., Allen, Harrell, Hunter, Jones, Luebke, Michaux, Parmon, Tolson, and Womble.

From: AARP Steering Committee (simulated)

Date: April 7, 2008

Re: Ban on Cell Phones While Driving: A Legislative History

Overview

Driver distractions lead each year to thousands of unnecessary and preventable deaths on our nation's streets and highways. One such distraction is the use of cell phones while driving. In his article analyzing legislative attempts to regulate cell phone use, Matthew Kalin cites studies that estimate "that six-hundred thousand collisions occur each year because of cellular phone use in vehicles" and that "ten to one-thousand deaths per year" occur as a result of cell phone use in vehicles (Kalin, 262, n 21). Other researchers have compared people talking on a cell phone while driving to drunk drivers. In a 2006 study of drivers in a driving simulator, professors at the University of Utah found that "people are as impaired when they drive and talk on a cell phone as they are when they drive intoxicated at the legal blood-alcohol limit of 0.08 percent" (Strayer, Drews & Crouch, 385–90). Lives can easily be saved by banning the use of cell phones while driving.

The North Carolina legislature has made a good start in this area. Current legislation protects our children from bus drivers distracted by their cell phones (N.C.G.S. §20-140.6) and inexperienced drivers are not allowed to use a cell phone while driving (N.C.G.S. §20-137.3). Unfortunately, your bills to amend Chapter 20 of the North Carolina General Statutes to ban the use of cell phones by all drivers have not yet been passed into law.

The following review of current legislation shows that the important work of making our streets and highways safer from the dangers posed by distracted drivers has begun. Unfortunately, current legislation falls dangerously short in the area of cell phone use by drivers. For now, current legislation only forbids a fraction of the millions of people driving while using their cell phones. Consequently, we can expect innocent motorists and pedestrians to continue to be injured and killed on our roads and highways by drivers too caught up with their telephone

conversations to pay attention to their surroundings. Now is the time to resume your call to protect everyone on our roads and highways from the danger posed by drivers distracted by cell phone use. North Carolina can become a leader in protecting motorists from the deadly consequences of drivers distracted by their cell phones by banning the use of cell phones by all drivers.

Major Legislation—North Carolina

General Assembly of North Carolina, 2005 Session

Senate Bill 1289 (Third Edition): "Cell Phone Use by Drivers Under 18 Prohibited" (G.S. 20-137.3). This Bill makes it illegal for drivers between the ages of 15 and 18 years of age to use a cell phone while driving. Specifically, this bill

- Makes the use of a cell phone by a person between the ages of 15 and 18 years of age while driving an infraction
- Provides for a fine of \$25 (but does not assess court costs or result in points against the driver's license or insurance)
- Further punishes a teenage driver by not allowing the driver to advance to the next level of licensure for an additional 6 months
- Includes a ban on the use of hands-free phones, Internet gaming devices, electronic music devices, and the like.

General Assembly of North Carolina, 2007 Session

House Bill 183 (Third Edition): "Ban Cell Phone Use by School Bus Drivers" (G.S. 20-140.6). This Bill created Section 20-140.6 of the North Carolina General Statutes, making it illegal to "engage in a call on a mobile phone or use a digital media device while operating a public or private school bus" (N.C.G.S. §20-140.6). Specifically, this bill

- Makes the use of a cell phone by a bus driver a Class 2 misdemeanor
- Provides for a punishment of up to 60 days and a fine of no less than \$100
- Allows for emergency exceptions

While the above protections are an important start, the AARP agrees with you that more is required. We applaud the following two bills that all of you worked so diligently on and hope you will continue your good work and see them passed into law. In fact, we encourage you to go even further in the name of safety—consider banning all cell telephone use (with the current exceptions), *including* hands-free phones.

Senate Bill 1399: "Ban Mobile Phone Use While Driving." This bill was re-referred to the Committee on Judiciary II (Criminal) on May 24, 2007. If passed, it would ban the use of cell phones while driving, but allow drivers to use hands-free phones while driving. It also allows for emergency exceptions and use by police, firefighters, and ambulance drivers. The use of a cell phone would be an infraction, with a penalty of a fine of \$25.00. There would be no point assessment to the driver's North Carolina driver's license nor any insurance surcharge assessed as a result of a violation of this section. Also, this infraction would "not constitute negligence per se or contributory negligence by the driver in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle."

House Bill 1104: "Ban Cell Phone Use While Driving." This bill was re-referred to the Committee on Judiciary III on May 18, 2005. If passed, it would ban the use of cell phones while driving, but allow drivers to use hands-free phones while driving. It also allows for emergency exceptions and use by police, firefighters, and ambulance drivers. The use of a cell phone while driving would be an infraction, with a penalty of a \$100.00 fine and costs of court. No points would be assessed to the driver's North Carolina driver's license as a result of this infraction.

Legislation in Other Jurisdictions

According to a 2004 review of traffic safety legislation, eighteen states and the District of Columbia have passed laws regarding the use of cell phones while driving (Savage, Sundeen and Mejeur, 2004). Below is a sample of the legislation currently in effect in other states:

California: Section 23103 of the California Vehicle Code makes it illegal to operate a handheld device while driving, and the fine is \$20.00 for the first offense and \$50.00 for each offense thereafter (Barmby, 345).

New York: Section 1225 of the New York code bans the use of hand-held cell phones while driving, and a violation of same is considered an infraction, punishable by a fine of not more than \$100.00 (New York Consolidated Law Service).

New Jersey: Section 39:4-97.3 of the New Jersey Statutes makes it illegal to use a cell phone while driving unless it is a "hands-free wireless telephone." A driver in New Jersey can be cited for such a violation only if she is detained for another driving or criminal violation at the same time. A person who violates this law is to be fined "no less than

\$100 or more than \$250" and no points are assessed to the driver's license or insurance (LexisNexis New Jersey Annotated Statutes).

In addition to state legislation, a number of towns and cities implemented their own bans on the use of cell phones while driving. Brooklyn, Ohio was the first municipality in the U.S. to ban cellular phone use while driving, and Hilltown, Pennsylvania, also banned the use of cell phones while driving (Kalin, 244). Fort Campbell military base in Kentucky banned hand-held cellular phone use while driving (Kalin, 245). However, as you know, municipality ordinances can be overruled by a state law, "preemption," if the state legislators think it appropriate.

Again, we hope North Carolina can become a leader in providing for safer streets and highways by banning both hand-held *and* hands-free cell phone use while driving.

Federal Response

On July 18, 2000, Congress began hearings to discuss possible legislative solutions (Cripps, 107). The House of Representatives introduced the Driver Distraction Prevention Act of 2000, a study implemented to explore the impact of driver distractions on highway safety (Cripps, 107). However, to date, Congress has not implemented a policy to protect drivers from the hazards posed by drivers distracted by cell phone use.

Works Cited

- Barmby, Erin. "Review of selected 2007 California legislation: Vehicle: Chapter 290: California's message to hang up and pay attention." *McGeorge Law Review* 38 (2007): 42-52.
- Cripps, Jr., Jesse. "Dialing while driving: The battle over cell phone use on America's roadways." *Gonzaga Law Review* 37 (2001/2002): 89-119.
- House Bill 183. "Ban cell phone use while driving." Online: North Carolina General Assembly homepage. 9 April 2008. <http://www.ncleg.net/gascrpts/BillLookUp/BillLookUp.pl?Session=2005&BillID=H1104>
- Kalin, Matthew. "The 411 on cellular phone use: An analysis of the legislative attempts to regulate cellular phone use by drivers." *Suffolk University Law Review* 39 (January 2005): 233-262. Citing, Hahn, Robert & Patrick M. Dudley. "The disconnect between law and policy analysis: A case study of drivers and cell phones, *Administrative Law Review* 55 (2003): 127, 130.
- New Jersey Statutes Annotated 39:4-97.3 (2004). Online: LexisNexis (TM) New Jersey Annotated Statutes 8 April 2008. <http://www.lexisnexis.com/us> [Subscription required] New York Vehicle & Traffic Law 1225-c (2001). Online: New York Consolidated Law Service, Matthew Bender & Company, Inc. 8 April 2008. <http://www.lexisnexis.com/us/> [Subscription required]

- Savage, Melissa, Sundeen, Matt, and Mejeur, Jeanne, "Traffic safety and public health: State legislative Action, 2004." National Conference of State Legislators' Transportation Series, (December 2004, No. 20). Online, 8 April 2008. <http://www.ncsl.org/print/transportation/04trafficsafety.pdf>
- Senate Bill 1399. "Ban mobile phone use while driving." Online: North Carolina General Assembly homepage. 9 April 2008. <http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?BillID=S1399&Session=2007>
- Strayer, David, Frank Drews & Dennis Crouch. "A comparison of the cell phone driver and the drunk driver." Human Factors 48 (Summer 2006): 381-391.
- Stutts, Jane, Donald Reinfurt, Loren Staplin & Eric Rodgman. "The role of driver distraction in traffic crashes." AAA Foundation for Traffic Safety Report. (May 2001): 1-63. Online: 9 April 2008. <http://www.aaafoundation.org/pdf/distract.pdf>

Example 3. The Legislative History of the Criminalization of Cocaine

Memorandum

To: Legislative Committee Members

From: Citizens Against Racial Enforcement of Drug Laws, "C.A.R.E." (simulated)

Date: February 18, 2008

Re: Realignment of the Criminalization of Illicit Drugs To Treatment: Advocacy with Supporting Legislative History

Overview

The non-medical use of cocaine was federally regulated for the first time in 1914 with the passage of the Harrison Act in 1914 ("Drug Facts"). Since then, the government has devoted considerable efforts and resources to the fight against illicit drugs in our country. In fact, this policy area is most commonly referred to in terms of violent metaphors, including, for example, the "war on drugs." Because we are in a "war against drugs," our policy response focuses not on helping people with drug addiction problems (although drug prevention and treatment are a part of the policy response), but on "defeating our enemy." However, our "enemy" in this war is our own citizens who have become addicted to drugs. While the legislation summarized below often refers to treatment efforts, only a very small percentage of resources are actually devoted to treatment. According to Jim Moye, an attorney with the District of Columbia Office of Corporation Counsel, "only four cents of every dollar budgeted is spent on drug prevention and treatment" (Moye, 276).

Another aspect of the criminalization of drugs is that it leaves the production and distribution in the hands of criminals. This system, then, creates a criminal underclass to fill the need for drugs. This illegal system is ruled by violence and there is little to no concern for the safety of the actual product (either in terms of appropriate dosing or in materials used to create or to "cut" the pure drug).

Finally, there are significant costs associated with the war on drugs. First, there are significant resources devoted to the arrest, prosecution and imprisonment of people who use illicit drugs. Vast sums of resources are spent each year by law enforcement, the court system, and the prison system on this war on drugs. One estimate places the U.S. government spending approximately \$26 billion a year on the war on drugs (Moye, 276). A second significant cost consideration is the loss of potential tax revenues from the sale of drugs. A final significant cost in the war on drugs is the loss of respect for the legal system by certain citizens. Studies show the current policy appears to disproportionately impact African-Americans. For example, University of Chicago Law School Professor Tracey L. Meares cites a study that provides that "in 1993, African Americans comprised 35% of those arrested for drug offenses, 55% of those convicted for drug offenses, and 74% of those who received prison sentences for drug offenses" (Meares, 140).

While there is a large number of drugs that are illegal to possess, manufacture, distribute, and so on, we address only cocaine as a starting point for the possible transition from a focus on punishment to a focus on treatment for drug abusers in our country. If cocaine were legalized, then the resources currently devoted to enforcing and imprisoning cocaine users could be diverted to drug prevention and treatment programs. Also, and importantly, the government would no longer have to define a portion of its constituents as an "enemy."

The legislative summaries that follow describe a federal response to our drug problem that ostensibly provides for both law enforcement and treatment. Unfortunately, the reality is that this legislation results in a system where nearly all of the available resources are devoted to law enforcement and punishment, not treatment.

Major Legislation

91st Congress

H.R. 18583: "Comprehensive Drug Abuse Prevention and Control Act of 1970." This Act was designed to increase research into and prevention of "drug abuse and drug dependence," provide for "treatment and rehabilitation of drug abusers," and to "strengthen existing

law enforcement authority" in the area of drug abuse. This Act became Public Law No. 91-513 on October 27, 1970.

This Act was promulgated before the introduction of "crack cocaine." Crack cocaine became a cheap alternative to other illicit drugs and resulted in what many referred to as an epidemic.

99th Congress

H.R. 5484: "Anti-Drug Abuse Act of 1986." This Act was designed to "strengthen Federal efforts" to halt "international drug traffic... provide strong Federal leadership in establishing effective drug abuse prevention and...to...support drug abuse treatment and rehabilitation efforts." Among other things, this Act increased criminal penalties for drug trafficking, permits the seizure and forfeiture of property or funds involved in money laundering, provides grants to states for treatment, prevention and rehabilitation programs, and shares the sense of Congress that the media should refrain from "producing material that glamorizes" illegal drugs.

Other than block grants to the states for treatment efforts, this Act focuses on reinforcing the federal government's ability to fight illicit drugs by increasing the punishment levels for trafficking and by expanding the scope of the criminal arm of the law to include the seizure and forfeiture of property or funds in the hands of "money launderers." The focus of this Act is made clear by the power the federal government kept—the ability to fight against illegal drugs. Treatment efforts, on the other hand, are passed on to the states as block grants. Treatment efforts, then, became as varied as the states themselves, with no central or powerful voice in government.

100th Congress

H.R. 5210: "Anti-Drug Abuse Act of 1988." This Act is designed to "prevent the manufacturing, distribution, and use of illicit drugs." Among other things, this Act increases the federal response to illicit drugs by establishing the Office of National Drug Control Policy and the position of the "drug czar," funds U.S. Attorneys and their staff for the purposes of pursuing asset forfeiture and other civil remedies, criminalizes trafficking in anabolic steroids and prohibits the sale of certain consumer products containing butyl nitrite ("poppers"), establishes the "sense of Congress in opposition to the legalization of illegal drugs" by, among other things, making drug-related criminal activity grounds for termination of public housing tenancies and declaring the policy that America would be "drug-free" by 1995, and establishes the death penalty for certain Federal drug-related crimes. As with the

Anti-Drug Abuse Act of 1986, the treatment provisions are limited to block grants—it amends the Public Health Service Act to provide for block grants to states for alcohol, drug abuse, and mental illness prevention and treatment, and research.

Again, this legislation evinces a clear focus by the federal government on law enforcement, with the treatment components being limited to a block grant system.

Relevant Legal Opinions

While there are myriad cases dealing with the issue of drug laws, one Supreme Court opinion reflects the phenomenon that occurs when our government is engaged in a "war"—a willingness to accept injury to innocent noncombatants. While injury to innocent people often happens in war (despite the best, and often heroic, efforts by military personnel to avoid it), our government should not be engaged in a war against its own citizens simply because those citizens have made the unhealthy choice to use illicit drugs. Our government should be treating their addiction, not waging war against them.

In the following decision, the U.S. Supreme Court ruled on the side of the drug enforcement community and allowed four poor, elderly citizens—all four of whom were innocent bystanders—to be evicted from their own homes.

Department of Housing and Urban Development v. Rucker, 535 U.S. 125 (2002): A provision in an amendment to the United States Housing Act of 1937 (this Act gave Congress the power to authorize public housing authorities) gives public housing authorities the right to punish people engaged in drug-related criminal activity. In *Rucker*, the U.S. Supreme Court found in favor of a public housing authority who evicted four so-called "innocent tenants" for the drug-related activities of their grandchildren, caregivers, and guests. The four defendants in this case were elderly long-time residents of public housing who were evicted by the Oakland Housing Authority, not for engaging in any kind of drug-related activity themselves, but for having family members or guests involved in drug activity on or simply near the Housing Authority premises.

Works Cited

1. Dep't of Housing & Urban Dev. v. Rucker, 535 U.S. 125 (2002).
2. Office of National Drug Control Policy. "Drug facts." Online: Lexis-Nexis 25 February 2008. <http://www.whitehousedrugpolicy.gov/drugfact/cocaine/>.
3. Mears, Tracey. "Symposium: Rethinking Federal criminal law: Charting race and class differences in attitudes toward drug legalization and law

enforcement: Lessons for Federal criminal law." *Buffalo Criminal Law Review* 1 (1997): 137-174.

4. Moye, Jim. "Can't stop the hustle: The Department of Housing and Urban Development's 'one strike' eviction policy fails to get drugs out of America's projects." *Boston College Third World Law Journal* 23 (2003): 275-292.
5. U.S. House, 91st Congress, 2nd Session (1970), H.R. 18583: Comprehensive Drug Abuse Prevention and Control Act of 1970. Online: Lexis-Nexis 25 February 2008. <http://web.lexis-nexis.com/congcomp> [Subscription required.]
6. U.S. House, 99th Congress, 1st Session (1986), H.R. 5484: Anti-Drug Abuse Act of 1986. Online: Thomas.loc.gov. 10 February 2008. <http://thomas.loc.gov/cgi-bin/bdquery/z?d099:HR05484:@@S>. Public Law (P.L.) 99-570. [http://thomas.loc.gov/cgi-bin/bdquery/L?d099:/list/bd/d099pl.lst:501\[1-663\]\(Public_Laws\)TOM:/bss/d099query.html](http://thomas.loc.gov/cgi-bin/bdquery/L?d099:/list/bd/d099pl.lst:501[1-663](Public_Laws)TOM:/bss/d099query.html)
7. U.S. 7. U.S. House, 100th Congress, 1st Session (1988), H.R. 5210: Anti-Drug Abuse Act of 1988. Online: Thomas.loc.gov. 10 February 2008. <http://thomas.loc.gov/cgi-bin/bdquery/z?d100:HR05210:%7CTOM:/bss/d100query.html%7C>.

What these examples show. These examples illustrate purposeful research for inquiry and reporting for advocacy. In both cases, the inquiring writer searched government records to inform the nonprofit organization's spokesperson (simulated) in preparation for requesting legislative action to regulate cell phone use (Example 2) or stating a position opposing the current direction of drug abuse policy (Example 3). Results of the records search are summarized in memos representing the organization and addressed to elected state-level officials (Example 2) and to unnamed federal-level committee members (Example 3).

In policy process terms, these documents typify the two main reasons for writing legislative histories, either to chronicle prior action (Example 2) or to characterize a pattern of legislative intent (Example 3).

They illustrate the typical actors in roles who generate and use information in a policy process. In both examples, nonprofit organizations (simulated) collect information for the purpose of persuading elected officials to solve a defined problem. If policy makers agree to take up the problem described in Example 2, makers of goods and providers of services in automobile, telephonic, and computer

industries will likely join the debate, as will consumer organizations. Professionals outside government such as attorneys and legal services providers, public health care providers, lobbyists, and community advocates along with professional staff members inside government will likely be involved if the policy redirection advocated in Example 3 gains traction, as journalists like to say.

Intergovernmental action is illustrated in Example 2, where municipal, state, and federal responses are described.

Communication would be improved by reducing wordiness in both documents. Here is an illustration from Example 2.

Original. Unfortunately, your bills to amend Chapter 20 of the North Carolina General Statutes to ban the use of cell phones by all drivers have not yet been passed into law.

The following review of current legislation shows that the important work of making our streets and highways safer from dangers posed by distracted drivers has begun. Unfortunately, current legislation falls dangerously short in the area of cell phone use by drivers. (72 words)

Revised. Unfortunately, your amendments to Chapter 20 to ban the use of cell phones by all drivers are not yet law.

The following review of current legislation shows that the important work of making our streets and highways safer has begun. But it falls short of banning all drivers' use of cell phones. (50 words)

The revision removes repetition ("dangers," "dangerously," "unfortunately," "current legislation") and excess procedural detail ("have not been passed into law"). It retains other repetition needed for accuracy in context ("use of cell phones by all drivers").

Summary and Preview

To persuasively ask for government action, you must know what government has done, has not done, or has intended in regard to your concern. Legislative records research informs you. Legislative history reporting enables you to inform others. This chapter prepares you to do both. Chapter 5, next, prepares you to use your knowledge of the record to make your argument.

a different example. They may be either inside or outside government. They are experts in using quantitative and qualitative methods to examine problems and options for solving problems. Analysts might advise policy makers on the choice of policy instruments or provide research results to aid the formulation of policy.

Active Citizens

Ordinary people in daily life inform and influence public policy making when they

- write or email officials;
- provide formal written remarks on their experience relevant to a problem or a policy in response to a call for comment;
- testify about effects of a problem or a policy on their life or their livelihood;
- conduct letter-writing campaigns, create email lists, and use phone trees;
- form a coalition to cooperate in solving a problem;
- create a mechanism, such as a lawsuit or a boycott, to force response by institutional authorities;
- lobby as a representative of civic organizations, trade associations, professional associations, communities of interest, or constituencies.

The milk labeling case in chapter 1 illustrates citizen participation in several of these ways.

A General Method of Communicating in a Public Process

In this chapter so far, you have been introduced to expectations and roles with associated communication practices typically found in public policy work.

Change reading gears here, please. What follows is a method for writing (or speaking) fitted to the culture of public policy making. It translates the culture into practical, routine questions you should ask when considering the motivation, context, and situation for a

communication. At the end of the questions are two checklists that compile the expected qualities that public policy documents or talks should have. The checklists are intended for your use in assessing a policy document you have written or a talk you have planned.

Now, you should only read the outline and checklists for perspective and for familiarity. Later, when you have an actual need to communicate (for instance, in a course or a policy workplace), use the method to plan before you write. Use the checklists after you write.

If your writing experience has been mainly in the classroom, you may be surprised by the method's questions. They represent real world writing conditions. For quick orientation to real world writing, see any basic guide for professional communicators.

Ask and answer the method's questions to plan and produce a communication. They prompt you to consider all the usual components of a writing situation and to take note of significant particulars that might affect your work. Your answers to the questions are your guide to writing or planning the needed product.

Practice this procedure methodically (even if laboriously at first) until it becomes routine to ask these questions each time you have a need to communicate. At first, jotting down your answers and keeping your notes nearby as you write will be helpful. Later, when you habitually use this method to prepare for communicating, you will routinely adapt it to particular demands. A word of caution: Even if you skip some questions, do not omit whole steps in the method. All the steps are needed to cover the basics. Omitting a step in the preparation wastes time when you are writing or causes other trouble later.

If you are writing for someone else or if you are producing a document with many contributors (the state budgeting case illustrates both), remember to consult with others as needed to answer the questions.

STEP 1: Prepare

First, ask questions about the policy process.

Policy

- To what policy action (underway or anticipated) does this communication relate?
- Does a policy already exist?

Problem

- What conditions are problematic?
- What problem do these conditions present?
- How do I define the problem?
- How do others define the problem?

Actors

- Who are the actors?
- What are their roles?
- What are their interests?
- Who else has a significant role or interest in the process?

Politics

- What are the major disagreements or conflicts?
- What are the major agreements or common interests?
- Which actors are most likely to influence the process or the outcome?

STEP 2: Plan

Second, ask questions about the communication.

Purpose

- Why is this communication needed?
- What do I want to accomplish?

Message

- What is my message?
- How does my message differ from others on the topic?
- What argument will I make to support my message?
- How does my argument relate to others on the topic?

Role

- What is my role in this process?
- What is my interest in the outcome?

Authority

- Whose name will be on the document(s): Mine? Another's? An organization's?
- For whom does the communication speak?

Reception

- Who is (are) the named recipient(s)?
- Who will use the information?
- Will the document(s) be forwarded? Circulated? To whom? Represented? By whom?

Response

- What will recipients know after reading the document(s)? What will users of its information do?
- What is likely to happen as a consequence of this communication?

Setting and Situation

- What is the occasion? What is the time frame for communicating?
- Where, when, and how will this communication be presented?
- Where, when, and how will it be received? Used?

Form and Medium

- Is there a prescribed form, or do I choose?
- What is the appropriate medium for presentation and delivery? A written document? A telephone call? Email?

Contents

- What information will support the message?
- Where will a succinct statement of the message be placed?
- How should the contents be arranged to support the message?
- How will the document's design make information easy to find?

Tone and Appearance

- How do I want this communication to sound? What attitude do I want to convey?
- How do I want the document(s) to look? Is a style or layout prescribed, or do I choose how to present the contents?

Document Management

- Who will draft the document? Will there be collaborators?
- Who will review the draft? Who will revise it?

STEP 3: Produce

Based on your preparation and planning, write the document. Do it in three separate passes: draft first, review second, and revise third. Do not mix the tasks. Separating those tasks allows you to manage your time and handle distractions while you write, and to communicate better in the end.

The tasks are outlined here. Use this outline to stay on track if you're working alone, or under pressure, or producing a short document. If you're collaborating or team-writing, or if you're creating a multidocument product (such as the budget described in chapter 1), adapt the task outline to your circumstances.

Draft

- Produce a complete working draft in accordance with your preparation and plan (your answers to the questions above).

Review

- Compare the draft to the plan and highlight any differences.
- Get additional review of the draft by others, if advisable.
- Refer to the checklists (shown below) to assess the draft's effectiveness and quality and to highlight needs for revision.

Revise

- Make the changes called for by review.

Two Checklists

Features of Effectiveness. A public policy communication is most likely to be useful if it addresses a specific audience about a specific problem, has a purpose related to a specific policy action, represents authority accurately, uses the appropriate form, and is designed for use.

- Addresses a specific audience about a specific problem: In policy work, time is scarce. Specifying a communication's audience or intended recipient(s) and the subject or problem(s) saves thinking time for writer and reader (or speaker and listener). The information's relevance for the recipient should be made clear.
- Has a purpose related to a specific policy action: Policy cycles have several phases. Multiple actions and cycles are underway simultaneously. Timing matters. Agendas change. Stuff happens. Therefore, explicitly stating a communication's purpose and relevance to the recipient makes it more likely to get timely attention.
- Represents authority accurately: Policy communications do more than present information; they also represent a type of participation and power. For a policy communication to be taken seriously, to have influence, and to influence rightly, the communicator's role and status—a citizen with an opinion, an expert with an opinion, a spokesperson for a non-governmental organization, a government official—must be accurately represented.
- Uses appropriate form: Settings of policy work have their own conventions for communicating. Use the document type, style, and tone of presentation that are expected for the purpose and that accommodate working conditions in the setting of its reception.
- Is designed for use: People's attention is easily distracted in settings of policy work. Dense, disorganized text will not be read or heard. For people to comprehend under conditions of time pressure and information overload, contents must be easy to find and to use. Written documents should chunk information, use subheadings, and organize details in bulleted lists or paragraphs or graphics. Spoken texts should cue listeners' attention with similar devices.

Measures of Excellence. No two communications are exactly alike, but every public policy communication should try to meet criteria for clarity, correctness, conciseness, and credibility.

- ❑ Clarity: The communication has a single message that intended recipients can find quickly, understand easily, recognize as relevant, and use.
- ❑ Correctness: The communication's information is accurate.
- ❑ Conciseness: The communication presents only necessary information in the fewest words possible, with aids for comprehension.
- ❑ Credibility: A communication's information can be trusted, traced, and used with confidence.

Summary and Preview

Multiple actors in varied roles do policy work. They recognize the significance of communication in the process. Distilled into a general method for practical writing and speaking, their working knowledge of the process and communication's power can guide you to think about the fundamentals whenever you participate in a policy making process. Those fundamentals are role (who am I? what is my authority?); genre (what type of document or talk should I create?); purpose (what do I want to accomplish?); message (what do I want to say?); audience and reception (to whom, under what circumstances?); medium (how should I convey this message?); and effect (what might happen as a result of this communication?). This method keeps you on track, enables you to produce under pressure and to behave ethically, and supports accountability. Use it to write a problem definition in chapter 3, next.

Further Reading

- Allison, L., and M. F. Williams. 2008. *Writing for the government*. The Allyn & Bacon Series in Technical Communication. New York: Pearson Longman.
- Svara, J. 2007. *The ethics primer for public administrators in government and nonprofit organizations*. Sudbury, MA: Jones and Bartlett Publishers.

CHAPTER 3



Definition: Frame the Problem

Key Concepts

- Advocacy to get a problem on the public agenda
- Analysis of solutions
- Persuasion

This chapter applies communication and rhetoric principles to the definition of policy problems and the analysis of policy solutions.

How does public policy making begin? Typically, it starts with perception of a problem. Somebody perceives a condition in society or the environment to be wrong. Perceptions of a problem differ, so finding a solution often involves conflict. Or, it might enable cooperation.

Problems come to public attention in various ways. Sometimes the problem chooses you. Something happens, you are affected by it, and you seek public action to address the problem. The triggering event might be large scale, as when the destructive hurricanes Katrina and Rita damaged American coastal cities and states in 2005. After those storms, families of victims, local governments, and other collectives sought compensation or other action by federal government. In contrast, a triggering event might be small scale, even personal and singular. Following her child's death owing to a drunk driver, a parent formed the national nonprofit organization Mothers Against Drunk Driving to influence national law enforcement standards for drunk driving.