

THE WHITE HOUSE,
Washington, November 22, 1971.

HON. SAM J. ERVIN, JR.,
*Chairman, Subcommittee on Constitutional Rights, Committee
on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: The President has asked me to respond to your letter of November 12, 1971, in which you expressed concern over the recent incident involving Mr. Daniel Schorr of the Columbia Broadcasting System and the possible appearance of harassment of the news media by the government.

This matter has been fully and carefully reviewed. There are no indications of any intent on the part of anyone on the White House staff to harass or intimidate Mr. Schorr by initiating an investigation into his background.

Upon reviewing the incident, the President has ordered that no routine background investigation will be initiated on an individual without prior notification to the person that the investigation is to be conducted. I am sure that this policy change will help to eliminate any possible misinterpretation of personnel investigations in the future.

Your interest in this matter is greatly appreciated and understood, as it has always been the policy and concern of this Administration to take all steps necessary to insure and guarantee the preservation of every citizen's First Amendment rights and freedoms.

Sincerely,

JOHN W. DEAN, III,
Counsel to the President.

U.S. SENATE,
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS,
COMMITTEE ON THE JUDICIARY,
December 3, 1971.

HON. RICHARD M. NIXON,
*The President,
The White House,
Washington, D.C.*

DEAR MR. PRESIDENT: I have received a letter from Mr. John W. Dean III, of the White House staff, in response to my earlier letter to you of November 12, 1971, concerning the recent FBI investigation of Mr. Daniel Schorr. I was encouraged to learn that you have ordered that no routine background investigation shall be initiated on an individual without prior notification to the person involved.

While I welcome Mr. Dean's assurances that no member of the White House staff intended to intimidate Mr. Schorr, or the news media in general, I believe this incident has raised serious questions and lingering suspicions in the minds of many Americans. In my judgment, these questions and suspicions cannot be laid to rest, nor should they be, with the simple assurances from those involved that no intimidation was intended. This is why, in my first letter to you, I requested an inquiry on your part and a report of the information developed therefrom.

Specifically, the Subcommittee would like to know when the investigation of Mr. Schorr was begun, how long it was continued, its nature and scope, and the specific authority under which it was conducted. We should also

like to know for which position or positions in the government Mr. Schorr was being considered. We would like to find out what has happened to the information which was collected on Mr. Schorr. Was any official investigative file on him established in connection with this background check, and, if so, is it still in existence? This and similar information is absolutely necessary to clarify what actually occurred in the course of the investigation of Mr. Schorr and to put to rest the considerable anxiety over the reasons for this investigation.

It is obvious that only public testimony by those involved can erase the serious questions and suspicions which this unfortunate affair has produced.

In this instance, our Subcommittee's hearings will serve to reinforce the assurances that nothing untoward was involved. Because of the importance of this incident to our study of the relationship between government and the press, I have invited Mr. Charles W. Colson and Mr. Frederic V. Malek to present to the Subcommittee their understanding of what actually occurred with respect to the investigation of Mr. Schorr. I am enclosing copies of my letters of invitation. In my opinion, not only the Congress but the public has a right and a need to have a complete explanation of a development which has raised understandable fears and suspicions on the part of many Americans.

With kindest wishes,
Sincerely yours,

SAM J. ERVIN, JR.,
Chairman.

[Excerpt from hearings entitled "Freedom of the Press," before the Subcommittee on Constitutional Rights, of the Committee on the Judiciary, U.S. Senate, 92d Cong., 1st and 2d sess.]

THE WHITE HOUSE,
Washington, D.C.
(Undated)

HON. SAM J. ERVIN, JR.,
*U.S. Senate,
Washington, D.C.*

DEAR SENATOR ERVIN: This is in response to your letters of December 3, 1971 to the President, Mr. Frederick V. Malek and Mr. Charles W. Colson concerning the investigation of Mr. Daniel Schorr.

You have indicated in your letter to the President that your inquiry is prompted by concerns and suspicions which have arisen in connection with this matter and the need to put them to rest. We fully agree that any concerns and suspicions which have arisen must be eliminated and we have moved to do just that by publicly stating the precise reason the investigation of Mr. Schorr was conducted. Also, upon reviewing this matter, the President has made it the policy of this Administration that such preliminary job clearance investigations will not be initiated without prior notification to the person being investigated.

Despite some inaccurate conjecture to the contrary, the facts in this situation are quite simple. Mr. Schorr was being considered for a post that is presently filled and a routine job investigation was commenced without notifying Mr. Schorr. Mr. Malek's office was performing in its general area of talent searching in this matter.

Mr. Colson's office was not involved in the matter at all. Given these facts, there is nothing more we believe can be added to clarify the situation.

With respect to your request for the appearance of Mr. Malek and Mr. Colson before your Subcommittee, it has been a matter of long-established principle and precedent that members of the President's immediate staff do not appear before Congressional committees to testify in

regard to the performance of their duties as members of the President's staff. This practice is, indeed, fundamental to the operation of our system of government.

Therefore, I wish to advise you that Mr. Malek and Mr. Colson respectfully decline the invitation to testify.

Sincerely,

JOHN W. DEAN III,
Counsel to the President.