

[The information follows.]

THE WHITE HOUSE,  
Washington, D.C., November 22, 1972.

HON. WAYNE N. ASPINALL,  
Chairman, Committee on Interior and Insular Affairs,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: By letters of November 13-14, 1972, you have requested Messrs. John Ehrlichman, Leonard Garment, Egil Krogh, Bradley Patterson and myself, all members of the President's personal staff, to appear and testify at hearings before your Subcommittee on Indian Affairs regarding the recent seizure and occupation of the Bureau of Indian Affairs Headquarters building. On behalf of all of the above individuals receiving invitations, I wish to thank you and respond.

As you know, it is a matter of well established principle and precedent that members of the President's staff do not appear before Congressional committees to testify in respect to the performance of their duties on behalf of the President. This practice is, indeed, fundamental to the operation of our system of government. I must, therefore, respectfully advise you that the members of the President's staff that you have invited to testify must decline.

Sincerely,

JOHN W. DEAN III,  
Counsel to the President.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, D.C., November 22, 1972.

HON. WAYNE N. ASPINALL,  
Chairman, Committee on Interior and Insular Affairs,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have your letter of November 13, 1972, regarding proposed hearings by the Subcommittee on Indian Affairs in connection with the recent illegal seizure and occupation of the Bureau of Indian Affairs Headquarters building.

I must respectfully decline your invitation to appear and testify at the proposed hearings. As I am sure you are aware, the Department of Justice has undertaken a comprehensive investigation of possible violations of the federal law in connection with the alleged theft and destruction of Bureau of Indian Affairs property. For me to appear before your Committee during the pendency of our investigation would be inappropriate and quite possibly prejudicial to the conduct of that investigation.

I understand a similar invitation to appear and testify has been directed to Wayne Colburn, Director of the United States Marshals Service. Inasmuch as the Marshals Service involvement in these matters has been under my general supervision, the same consideration applies to the Marshals Service. Accordingly, you should consider my declination to appear and testify to relate to Mr. Colburn as well.

The Department does not wish in any way to deny the Committee access to information that you may consider helpful. However, I am sure you can realize the restraints under which we must conduct ourselves at this critical point in time.

Finally, as you know, court action was undertaken to obtain the eviction of the occupants during the illegal seizure and occupation of the Bureau of Indian Affairs Headquarters. The pleadings and court records are, of course, readily available to your Committee. For your convenience, we would be pleased to supply you copies of those documents upon request.

Sincerely,

RALPH E. ERICKSON,  
Deputy Attorney General

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
U.S. HOUSE OF REPRESENTATIVES,  
Washington, D.C., November 30, 1972.

MR. RALPH E. ERICKSON,  
Deputy Attorney General, Department of Justice,  
Washington, D.C.

DEAR MR. ERICKSON: I have your letter dated November 22, 1972 refusing to attend the hearings by the Subcommittee on Indian Affairs on December 4, 5, and 6, and refusing to permit Mr. Wayne Colburn to attend.

The information desired by the subcommittee has nothing to do with your investigation of possible violation of law in connection with the alleged theft and destruction of Federal property. The subcommittee wishes to know the facts regarding the assembling of a police force on the night of November 2 for the purpose of evicting the Indians from the building. I am informed that the United States Marshals were among that group, and the subcommittee wishes to question the United States Marshal in charge of that group.

I have no desire to interfere with your investigation of possible violations of law, but I hope that you will choose to cooperate with the subcommittee in this request. Please call the committee office on Code 180 Extension 2761 and give the name of the representative of the Marshal's office who can testify regarding the facts.

You indicated that you would provide copies of the judicial proceedings initiated by the Department of Justice. Those papers, without any explanation of the facts which lead to their filing, will not meet the needs of the subcommittee. The subcommittee is entitled to know why you chose to initiate judicial proceedings, as a substitute for police arrest action, and since you are the responsible Federal official involved we regard your testimony on that subject as necessary. I must, therefore, request that you attend the hearings for that limited purpose. You will not be required to make premature disclosures that would affect your criminal investigation.

Sincerely yours,

WAYNE N. ASPINALL, Chairman.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, D.C., December 1, 1972.

HON. WAYNE N. ASPINALL,  
Chairman, Committee on Interior and Insular Affairs, House of  
Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have your letter of November 30, 1972, reiterating your request that a representative of the U.S. Marshals and I attend and testify at the forthcoming hearings by the Subcommittee on Indian Affairs.

As I stated in my letter of November 22, 1972, the Department of Justice is currently involved in a comprehensive investigation of possible violations of federal law in connection with the illegal seizure and occupation of the Bureau of Indian Affairs Building and theft and destruction of government property. I appreciate your suggestion regarding limiting the scope of our testimony, however, I remain of the opinion that any testimony on our part at this time would be inappropriate and possibly prejudicial to the conduct of that investigation.

Under the circumstances, I must again respectfully decline your invitation to appear and testify at the proposed hearings.

Sincerely,

RALPH E. ERICKSON,  
Deputy Attorney General.