

THE WHITE HOUSE  
WASHINGTON

February 8, 1979

MEMORANDUM FOR THE WHITE HOUSE STAFF

FROM: ROBERT LIPSHUTZ *RL*  
SUBJECT: Congressional Testimony by Members  
of the White House Staff

The role of a White House aide is that of an adviser to the President. Frank and candid discussions between the President and his personal staff are essential to the effective discharge of the President's Executive responsibilities. Discussions of this type take place only if their contents are kept confidential.

A personal aide to the President does not have independent authority or responsibility. He or she generally acts as an agent of the President in implementing a Presidential instruction.

While the investigative power of Congressional committees is extremely broad, the personal staff of the President is immune from testimonial compulsion by Congress. This immunity is grounded in the Constitutional doctrine of separation of powers.

The concept of immunity does not apply to all Presidential advisers. Those advisers who are vested with statutory obligations (such as Dr. Frank Press) must be available to testify. Presidential advisers who hold dual roles, one of which is defined by a statute, are available to Congressional committees, but only to testify relative to their responsibilities under the statute and not with respect to any matter arising in the course of their official position of advising or formulating advice for the President.

The Constitution and court decisions make it clear that the President may properly regard his personal staff immune from an obligation to testify before a Congressional committee.

If you have any questions regarding this, contact Margaret McKenna on extension 6611.

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