

This morning, in a telephone conversation, Mr. Young declined at this time to submit this implementation order to the subcommittee. I told Mr. Young that I thought this was unfortunate, that there should be greater cooperation between the executive branch and the legislative branch and that I thought that our studies and our hearings had given this subcommittee a degree of expertise that would help in the drawing up of an effective implementation order. I also suggested that if we had been permitted to participate in the drafting of this directive, we would be in a position where we could not be too critical, unless we told them ahead of time that we had certain points of reservation.

Unfortunately, this degree of cooperation which we have offered has not been accepted by the White House, and this is particularly regrettable because the matters we are discussing here are of the highest importance to this subcommittee and to the Congress as a whole.

I have been critical of the new Executive order. Some 6 weeks ago, I inserted into the Congressional Record (March 21, 1972, page E2774) a detailed, section-by-section comparative analysis of Executive Order 10501 and the new Executive Order 11652. I pointed out 11 major defects in that order. To date, my specific criticisms have not been refuted by anyone in the executive branch.

We had hoped that Mr. Young might be willing to discuss the document for which he has been given credit, or blame, as the case may be. The lack of any communication between Mr. Young and this subcommittee can only lead me to the conclusion that he is either unable or unwilling to defend his handiwork.

I hope that our witnesses today and next week will be able to answer the specific questions we have about the operational details of the new Executive order and the implementing directives.

Frankly, I have grave reservations that the new Executive Order 11652 will work at all because of the massive technical defects it contains. Perhaps we may be reassured by these witnesses today and others to appear before us as to its workability. More and more, however, I am convinced that only Congress, by statute, can provide the muscle to make any security classification system truly effective.

(The letters referred to follow :)

FOREIGN OPERATIONS AND GOVERNMENT INFORMATION SUBCOMMITTEE,  
Washington, D.C., April 24, 1972.

Mr. DAVID YOUNG,  
*Special Assistant to the National Security Council,*  
*The White House, Washington, D.C.*

DEAR MR. YOUNG: Early next month, the Foreign Operations and Government Information Subcommittee will begin our review of security classification problems affecting exemption (b) (1) of the Freedom of Information Act (5 U.S.C. 552).

As part of these hearings, we will examine the way in which the President's new Executive Order 11652 will affect the economic and efficient operation of our security classification system, the rationale behind its various provisions, and alternatives to the present approach.

We would very much like to have you as a witness from the executive branch because of your key role in developing the new system. Of course, we are aware of the usual reluctance of Executive Office officials to testify before congressional committees and would therefore agree in advance not to pose questions that might tend to impinge on your personal discussions with the President in this area.

In view of the vital importance of your testimony to the subject of our hearings, we would hope that a waiver along the lines of that recently granted in the

case of Mr. Peter Flanigan could be obtained to make it possible for you to appear before our subcommittee on Tuesday, May 2, at 10 a.m. in room 2154, Rayburn House Office Building.

We look forward to a favorable response because we know that you could make a positive and significant contribution to the subcommittee's inquiry into this most important subject.

With best regards,

Sincerely,

WILLIAM S. MOORHEAD,  
*Chairman.*

THE WHITE HOUSE,  
Washington, April 29, 1972.

HON. WILLIAM S. MOORHEAD,  
*Chairman, Foreign Operations and Government Information Subcommittee,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Mr. David Young has requested that I thank you and reply to your letter of April 24, inviting him to testify before your subcommittee regarding his role in the development of the new security classification system and Executive Order 11652.

As you know, it is a well-established principle that officials of the Executive Office do not appear before congressional committees to present testimony regarding advice and assistance they render the President. I am sure you appreciate that this practice is indeed fundamental to the preservation of the constitutional doctrine of separation of powers. Your offer to limit the questioning of Mr. Young in order to preserve the doctrine is greatly appreciated. However, since his work related solely to rendering advice and assistance to the President, any testimony he could give would be inconsistent with that principle. Therefore, Mr. Young must respectfully decline your invitation.

I should also note that Mr. Young's situation differs significantly from the recent instance to which your letter makes reference, when Mr. Peter Flanigan appeared before the Senate Judiciary Committee to present testimony regarding his limited involvement in certain aspects of the ITT merger cases. Mr. Flanigan's testimony dealt with contacts he had with individuals outside the executive branch and was unrelated to any advice or assistance he rendered the President. As noted above, such were not the circumstances in the case of Mr. Young's role in developing the new classification system.

While Mr. Young will not be in a position to accept your invitation, we are confident that the departments concerned with the operation of the security classification system will be able to provide your subcommittee with the information it seeks.

With best regards,

Sincerely,

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

Mr. MOORHEAD. We will hear first from Mr. J. Fred Buzhardt, General Counsel of the Department of Defense, and then from Mr. William D. Blair, Jr., who will testify in behalf of the State Department.

We welcome you both again to this subcommittee. The testimony you have given us in the past has always been helpful and I am sure that it will also be helpful today.

We will now administer the oath to both of you gentlemen.

Do you swear that the testimony you are about to give this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BUZHARDT. I do.

Mr. BLAIR. I do.

Mr. MOORHEAD. Thank you.

Mr. Buzhardt, would you proceed?