

You are hereby requested to appear before the Subcommittee as a witness at 10:00 a.m., Wednesday, June 30, 1971 in Room 2247, Rayburn House Office Building. Your vast experience in the news field and the unique position you now hold in the present Administration will make your testimony particularly valuable to the Subcommittee.

In addition to your general views and comments on the broad scope of our inquiry, please be prepared to discuss the ways in which your office functions in its coordinating role in the dissemination of information to the public generally and what role your office plays in coordinating request for both routine and classified material by Congress.

Please be prepared to discuss also the extent of Executive compliance with the instructions issued by President Nixon on April 7, 1969 establishing procedures in the handling of Congressional demands for information. Please explain also what role your office has in enforcing the procedures set forth in that April 7, 1969 Memorandum.

With best regards,
Sincerely,

WILLIAM S. MOORHEAD,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FOREIGN OPERATIONS
AND GOVERNMENT INFORMATION,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., June 21, 1971.

HON. JOHN WESLEY DEAN III,
*Counsel to the President,
Washington, D.C.*

DEAR MR. DEAN: The Foreign Operations and Government Information Subcommittee of the House Government Operations Committee has scheduled a series of hearings to begin Wednesday, June 23, 1971, on U.S. Government information policies and practices.

Pursuant to the Subcommittee's legislative and investigative authority over Government information subjects, we will explore the Constitutional principles and operational practices involved in the public's "right to know" and the right of the Legislative Branch to information and documents from the Executive Branch that are deemed essential in the discharge of our duties as elected representatives of the American people.

You are hereby requested to appear before the Subcommittee as a witness at 10:00 a.m., Wednesday, June 30, 1971, in Room 2247, Rayburn House Office Building.

In addition to your general views and comments on the subjects included within the scope of our inquiry, please be prepared to discuss procedures and practices concerning the coordination of Executive implementation of the provisions of Executive Order 10501 (18 F.R. 7049) and Executive Order 10964 (26 F.R. 8932), relating to "Safeguarding Official Information in the Interests of the Defense of the United States," and the automatic downgrading and declassification procedures for documents, information, and other security material presently in effect.

With best regards,
Sincerely,

WILLIAM S. MOORHEAD,
Chairman.

[Excerpt from hearings entitled "U.S. Government Information Policies and Practices—The Pentagon Papers" (pt. 3), before a subcommittee of the Committee on Government Operations, House of Representatives, 92d Cong., 1st sess., p. 896]

Mr. MOORHEAD. I would also like to submit for the record, following the letters of invitation to the witnesses, the letter to me from Mr. John W. Dean III, Counsel for the President, declining our invitation to testify, on behalf of himself, Dr. Kissinger, and Mr. Herbert Klein.

[The letter follows:]

THE WHITE HOUSE,
Washington, June 28, 1971.

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

DEAR MR. CHAIRMAN: In response to your letters of June 21, 1971, to Dr. Henry Kissinger, Mr. Herbert Klein and myself requesting that we appear before your subcommittee on June 30, 1971. I wish to advise you that, as members of the immediate staff of the President, we must respectfully decline the invitation to testify.

Sincerely,

JOHN W. DEAN III,
Counsel to the President.

Mr. MOORHEAD. I also have been asked to keep the record open for insertion of relevant articles, statements, and studies to be inserted in the hearing record. Without objection, that will be so ordered.

These hearings will not close at this time. We expect to have testimony from the State Department now that the Supreme Court has handed down its decision, so the subcommittee will stand in recess subject to the call of the Chair.

(Whereupon, at 1:20 p.m., the hearing was adjourned to reconvene at 2 p.m., Thursday, July 7, 1971.)

(247-C(e))

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FOREIGN OPERATIONS
AND GOVERNMENT INFORMATION,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., February 11, 1972.

HON. HERBERT G. KLEIN,
*Director of Communications,
The White House, Washington, D.C.*

DEAR MR. KLEIN: Early next month the Foreign Operations and Government Information Subcommittee of the House Government Operations Committee will begin a comprehensive series of hearings into the administration and effectiveness of the Freedom of Information Act (5 U.S.C. 552). A copy of the Committee's press release announcing these hearings is enclosed.

The hearings will begin with panel discussions by leading experts in the fields of Government information policies and practices, in the legal ramifications of subject areas covered by the Act, and in the importance of the free flow of information about the activities of the Federal government to help inform our citizens.

On behalf of the Members of the Subcommittee, we would like to extend this invitation to you to participate in our panel discussion of experts in the field of Government information policies, practices, and problem areas in dealing with the public, the media, the internal agency bureaucracy, and the Congress.

This panel will be heard on Monday, March 6, at 10:00 a.m. in Room 2154, Rayburn House Office Building. We hope that initial statements by each panelist could be limited to ten minutes, to be followed by general discussion among the panel members and questioning by Subcommittee Members.

Because of the vital importance of these hearings and your own valuable experience in the field, we earnestly hope that it will be possible for you to arrange your schedule to appear. Please let us know at the earliest date if you can participate in our hearings. If there are questions, please contact the Subcommittee Staff Director, William G. Phillips—(202) 225-3741.

With best regards,
Sincerely,

WILLIAM S. MOORHEAD,
Chairman.

THE WHITE HOUSE,
Washington, February 18, 1972.

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

DEAR MR. CHAIRMAN: Thank you for your letter of February 11, 1972 inviting me to appear before the Foreign Operations and Government Information Subcommittee and to participate in its hearings on the administration and effectiveness of the Freedom of Information Act.

As a matter of long established principle and precedent, members of the President's immediate staff do not appear before Congressional committees to testify or to participate in discussions in regard to the performance of their duties on behalf of the President. This practice is, indeed, fundamental to the operation of our system of government. Therefore, I must respectfully decline your invitation.

With best regards,
Sincerely,

HERBERT G. KLEIN,
*Director of Communications
for the Executive Branch.*

(247-C(d))

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FOREIGN OPERATIONS
AND GOVERNMENT INFORMATION,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., February 4, 1972.

HON. DONALD RUMSFELD,
*Director, Cost of Living Council,
Washington, D.C.*

DEAR DON: I have read with interest the regulations promulgated by the Cost of Living Council regarding information access under the Freedom of Information Act, as published in the FEDERAL REGISTER on February 1, 1972.

As a former member of this subcommittee, you are of course aware of the necessity for the most complete access

by the public to Government information. For this reason and because this subcommittee is preparing for hearings on Government information policies, I thought I might comment on some of the provisions contained in the Cost of Living Council regulations.

Section 102.3(b) is confusing as it apparently limits access to information on investigations where no violations have occurred to the complainant or persons who have specific knowledge of a complaint. This appears to be in conflict with the Act, which provides access to information to all persons regardless of position, and appears to be in conflict with Section 102.10 of your regulations which states that "Any person may file a request for records."

Section 102.4(c) is of special interest as it exempts trade secrets and other matters under the authority of the Criminal Code. Perhaps this regulatory language could be explained.

Section 102.13 requires that a request for information shall be filed on a specified form. This subcommittee has always felt that administrative burdens on the public should be avoided. The requirement of a specified form is considered especially onerous. You will also note that the Administrative Conference of the United States has specifically recommended in Recommendation 24 (copy enclosed) that the use of a form not be required by agencies under the Freedom of Information Act. Many agencies have found that any request in writing or by telephone which clearly identifies the records sought is sufficient to initiate information access processing.

Section 102.40 (d) appears to fly in the face of the specific language and intent of the Freedom of Information Act. First, it implies that there is a "need to know" obligation on the part of the person requesting the record on appeal. The "cause" rule, as you know, was specifically removed on passage of the Freedom of Information Act. Second, the requirement in this subsection that the person filing an appeal may be required to present additional evidence or information in support of the request seems to shift the burden of proof from the agency to the individual. As you are aware, the Act specifically requires the agency to substantiate its refusal. There is no burden on the public to prove the negative.

Finally, the press release issued by the Cost of Living Council on January 10, 1972, again implies in paragraph one that there is a "need to know" which must be established prior to receipt of information. This again flies in the face of the spirit of the Act.

The hearings planned by the Subcommittee will begin about March 6th. We plan an in-depth review of Government information policies centering on the administration of the Freedom of Information Act. Since you have had the unique opportunity to serve on this subcommittee during your tenure in Congress and to administer this act as a member of the Executive Branch, your insights and recommendations will be of special interest to the Congress and the public.

I will look forward to an exploration of these matters at a mutually convenient date.

With best regards,
Sincerely,

WILLIAM S. MOORHEAD,
Chairman.