

Withdrawn/Redacted Material

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Draft	Testimony of White House Officials Before Congressional Committees [2 PAGES RELEASED IN WHOLE ON PRA RE-REVIEW 08/26/2025] - To: All Executive Office of the President Staff - From: Alberto R. Gonzales	2	07/2001	

COLLECTION TITLE:

Counsel's Office, White House

SERIES:

Kavanaugh, Brett - Subject Files

FOLDER TITLE:

White House Officials Testimony to Congress

FRC ID:

9800

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
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Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

Withdrawn/Redacted Material **SUPERSEDED**

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- ① Holmstead issue
- ② testimony memo
- ③ Reagan records
- ④ Salvation Army

- Burton
- Lieberman - asens
- GAO - energy

Sent

DRAFT

July __, 2001

think about no 2nd & exceptions

MEMORANDUM FOR ALL EXECUTIVE OFFICE OF THE PRESIDENT STAFF

FROM: ALBERTO R. GONZALES

SUBJECT: Testimony of White House Officials Before Congressional Committees

power point

contempt

This Administration will adhere to the long-standing policy of Presidents of both parties that White House officials do not testify before congressional committees. Congress has long respected this Presidential policy, regardless of the party to which the President belonged and regardless of the party in control of Congress at any particular time. See generally Memorandum of Michael Small, Office of Legal Counsel (April 29, 1994).

regime

The policy is rooted in the separation of powers ordained by the Constitution: "The President is a separate branch of government. He may not compel Congressmen to appear before him. As a matter of separation of powers, Congress may not compel him to appear before it. The President's close advisors are an extension of the President." Memorandum from Theodore B. Olson, Assistant Attorney General, Office of Legal Counsel, at 2 (July 29, 1982). Accordingly, "not only can the President invoke executive privilege to protect [his personal staff] from the necessity of answering questions posed by a congressional committee, but he can also direct them not even to appear before the committee." Memorandum from John M. Harmon, Assistant Attorney General, Office of Legal Counsel, at app. 7 (August 11, 1977).

Burton

The officials who ordinarily will not testify before Congress include, among others, (i) the President's immediate advisors and (ii) other White House officers and employees who work closely either with the President or with the President's immediate advisors. The policy therefore applies to all officers and employees employed under 3 U.S.C. 105 or 3 U.S.C. 107(a), including the Chief of Staff, the Counsel to the President, the Counselor to the President, the Senior Advisor to the President, the Staff Secretary, the President's Domestic Policy advisor, the Director of Presidential Speechwriting, the Director of Legislative Affairs, the Director of Political Affairs, the Director of Public Liaison, the Director of Media Affairs, the White House Press Secretary, and the Cabinet Secretary. The policy also applies to all other assistants, deputy assistants, and special assistants to the President who work within the White House Office or the Office of Policy Development. Finally, the policy applies to the Assistant to the President for National Security Affairs and the staff of the National Security Council.

This traditional policy against testifying before Congress does not apply to officers and employees in the other units in the Executive Office of the President. Those units include the Office of Management and Budget, the Council of Economic Advisors, the Council on

Environmental Quality, and the Office of National Drug Control Policy. Nonetheless, the other privileges and protections that apply to all Executive Branch officers (such as the presidential communications, deliberative process, and attorney-client protections) continue to apply to these officers and employees.

This policy applies to oral and written testimony and statements. As a matter of procedure, if you receive a request or subpoena to testify before Congress, you should immediately notify the Counsel's office, and the Counsel's Office and the Office of Legislative Affairs will interact with the appropriate committee. We must insist on and ensure consistent adherence to this policy because "[a]ppearances by a Presidential adviser before Congressional committees on some occasions will leave the President open to the charge, however unfounded, that a subsequent refusal to provide testimony is because there is something to hide." Olson Memo at 3. That said, in truly extraordinary circumstances, the President may choose in his discretion to allow testimony by White House staff. For example, this long-standing policy has on occasion been waived when there has been an allegation of serious personal wrongdoing by the President or members of the White House staff, a congressional committee was conducting an appropriate and authorized investigation into such alleged personal misconduct, and the committee could not discover facts critical to its inquiry by other sufficient means.

If you have any questions about this policy, please do not hesitate to contact the Counsel's Office.