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THE WHITE HOUSE  
WASHINGTON

EVA

Per your request. This letter went to all the Cabinet members and we did send copies to the Counsel's office when it went out originally.

Eleanor

11/20/75

March 28, 1975

Dear Mr. Attorney General:

You will recall at the last Cabinet meeting there was a discussion of the procedures whereby Executive Branch witnesses appear before the Senate Budget Committee.

It was pointed out that the Committee appears to be developing new formats for soliciting information. One such technique is the seminar approach whereby the Executive Branch witness engages in a dialogue with the Committee in a relatively informal setting. This format is one which seems to enjoy the support of the Members of the Committee.

There is a variation of this approach, however, which raises serious questions. The format involves a joint appearance by an Executive Branch witness with one or more non-governmental witnesses. In some cases a panel of non-governmental witnesses would also participate in the conversations between the Executive Branch witness and the Committee. The President is concerned that such a procedure profoundly alters the traditional testimony relationship between the executive and legislative branches of the government.

The President has no objection to the seminar-type of hearings as they have been conducted so far, but he does not wish Executive Branch witnesses to appear jointly with non-governmental witnesses. Of course, this restriction does not apply to joint appearances with other witnesses from the Executive Branch where, prior to the hearings, there has been an agreement for such joint appearances.

I would appreciate it if you would advise your sub-Cabinet members and others from your Department who have occasion to testify on the Hill of this policy. If a question occurs, you should direct your inquiry to me or to the Office of Congressional Relations.



We would expect that in most cases prior consultation and cooperation with the Committee and staff before a hearing will resolve matters of the type raised in this letter, thereby leading to a mutually satisfactory arrangement for appearances which complies with these guidelines.

Sincerely,

James E. Connor  
Secretary to the Cabinet

The Honorable Edward H. Levi  
The Attorney General  
Washington, D. C.

JEC:ckb



May 6, 1973

*Desk file -  
Staff  
(testimony)* *Buchen*  
*F4I*

Dear Mr. Chairman:

I have your letter of April 28 inviting me to appear and testify before the Senate Subcommittee on Antitrust and Monopoly concerning the Antitrust Improvements Act of 1973 (S. 1284) and related Administration proposals.

The practice which has been established and given recognition by the Congress is that, absent the most compelling circumstances, members of the President's immediate staff do not appear before a Congressional committee with respect to responsibilities assigned by that President.

Although I must respectfully decline the invitation to appear and testify, I would like to note with favor the inclusion of the civil investigative demand provisions of Title II in S. 1284. As you know, this concept has been endorsed publicly by the President on a number of occasions.

Sincerely,

L. William Seidman  
Assistant to the President  
for Economic Affairs

Honorable Philip A. Hart  
Chairman, Subcommittee on  
Antitrust and Monopoly  
United States Senate  
Washington, D. C.

KAL:d1m



*Signed & given  
to Arneson 2/12  
per HWS*

February 12, 1975

Dear Senator Jackson:

I have your February sixth letter inviting me to appear and testify before the Senate Committee on Interior and Insular Affairs on February twelfth about the economic impacts of alternative energy policies. I would like to set down what was told last week to the Committee's Chief Counsel.

As you know, I am one of the "immediate staff assistants" provided to the President by law. 3 U.S.C. §105, 106. I understand that, in the absence of the most exceptional circumstances, members of the President's immediate staff do not appear before a Congressional committee to testify with respect to the responsibilities assigned them by the President. This limitation has been recognized as an aspect of the separation of governmental powers.

Although I must, therefore, respectfully decline your invitation, let me say that I appreciate your interest in my views. I would be happy to meet with you at any time to discuss them.

With kind regards.

Sincerely,

L. William Seidman  
Assistant to the President  
for Economic Affairs

Honorable Henry M. Jackson  
Chairman  
Committee on Interior and Insular Affairs  
United States Senate  
Washington, D. C. 20510

*02/11/75  
103*



THE WHITE HOUSE  
WASHINGTON

May 9, 1975

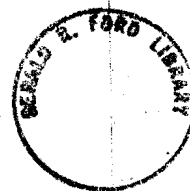
MEMORANDUM FOR: KEN LAZARUS  
FROM: PHILIP BUCHEN *P.W.B.*

You were going to do a memo for me on the policy of declining to have Presidential Advisers testify before Congress.

Attached is Senator John Sparkman's letter to the President and his enclosure from the Congressional Record. Please take these into account when preparing your memo to me.

Attachment

*Staff  
Testimony*



THE WHITE HOUSE

WASHINGTON

August 22, 1975

*Pliff  
Testimony*

MEMORANDUM FOR: JACK MARSH

FROM: PHILIP BUCHEN *Phil B.*

SUBJECT: Testimony before the Senate  
Committee on Budgets

At the Senior Staff meeting today, Jim Lynn reported that Senator Muskie as Chairman of the Committee on Budget would be asking Alan Greenspan and Jim to testify along with Alice M. Rivlin who is Director of the Congressional Budget office.

Jim expressed the view that he had no personal objection to appearing jointly with Ms. Rivlin but that to do so might undercut the policy we have tried to maintain of not allowing Administration witnesses to appear jointly before Congressional committees with non-Administration witnesses.

Your views on this matter would be appreciated.

cc: Jim Lynn  
Alan Greenspan





NINETY-FOURTH CONGRESS

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**U.S. House of Representatives**  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE  
309 CANNON HOUSE OFFICE BUILDING  
Washington, D.C. 20515

September 25, 1975

*Table  
Case 7*  
*Mr. B.  
has a  
copy*

The President  
The White House  
Washington, D. C. 20500

Dear Mr. President:

On September 17, 1975, I invited Mr. James A. Wilderotter, Associate Counsel to the President, to testify in public session before the Subcommittee on Manpower and Civil Service. By letter of September 22, 1975, and subsequent telephone confirmation, Mr. Wilderotter declined the invitation to appear before the Subcommittee on the scheduled date of September 24, 1975. Copies of the correspondence are enclosed.

Testimony heretofore taken by the Subcommittee indicates that Mr. Wilderotter is a necessary witness with regard to his knowledge acquired during the time he served as Executive Assistant to the Honorable James T. Lynn when Mr. Lynn was Secretary of the Department of Housing and Urban Development. I indicated to Mr. Wilderotter on September 17, by letter and telephone, that any hearing in which he appeared, Subcommittee Members would be instructed to confine their inquiries to the time period in which he served as Executive Assistant Secretary to Secretary Lynn, that is, the period prior to Mr. Wilderotter's appointment to the staff of the President. It would seem inappropriate to claim executive privilege for Mr. Wilderotter, thereby barring testimony regarding his knowledge and activities while serving in an executive department prior to his current assignment at the White House.

The Committee does not desire, at this time, to cause or otherwise provoke an unnecessary confrontation which might result from the issuance of a subpoena to gain Mr. Wilderotter's testimony. However, we do desire the appearance of Mr. Wilderotter in these hearings.



September 25, 1975

As I understand the situation, only the President may, by privilege, exclude the appearance of an executive branch official before a Congressional committee or subcommittee. I would hope that you would instruct him to appear as a witness in the Subcommittee investigative inquiry on alleged merit system abuses.

Respectfully,

DAVID N. HENDERSON  
Chairman

Enclosures



THE WHITE HOUSE

WASHINGTON

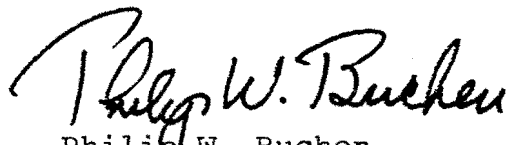
September 29, 1975

Dear Mr. Henderson:

The President has asked me to acknowledge in his behalf your letter of September 25, concerning our instruction to James A. Wilderotter, Associate Counsel to the President, that he respectfully decline to appear as a witness at your Subcommittee's public hearings last Wednesday. As you know, Mr. Wilderotter has previously cooperated with Subcommittee staff and restated in his letter to you his complete willingness to cooperate with the Subcommittee in any appropriate way.

It is still our preference, in light of the tradition of Legislative and Executive comity in these matters, that a means be worked out whereby Mr. Wilderotter's testimony can be provided without necessarily appearing at an open session of your Subcommittee. Nevertheless, if an alternative arrangement along these lines is not satisfactory, Mr. Wilderotter will be happy to appear as requested by your Subcommittee to deal with information he acquired during the time he served as Executive Assistant to former Secretary James Lynn when they were both at the Department of Housing and Urban Development. I understand that Mr. Wilderotter has already orally advised you to this effect.

Sincerely,



Philip W. Buchen  
Counsel to the President

The Honorable David N. Henderson  
Chairman, Subcommittee on  
Manpower and Civil Service  
Committee on Post Office and Civil Service  
House of Representatives  
Washington, D. C. 20515



THE WHITE HOUSE  
WASHINGTON

Date: 9-27-75

TO:

~~Max L. Friedersdorf~~ *Phil Buchan*

FROM: Max L. Friedersdorf

For Your Information ✓

Please Handle ✓

Please See Me \_\_\_\_\_

Comments, Please \_\_\_\_\_

Other

*We have not  
acknowledged.*

Septemeber 27, 1975  
11:30 a. m.

Nancy:

Attached was just rec'd and I believe  
Max should handle. We have not acknowledged.  
Please let us know -- I have kept a copy.

VO



DAVID N. HENDERSON, N.C., CHAIRMAN

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WILLIAM (BILL) CLAY, MO.  
PATRICIA SCHROEDER, COLO.  
WILLIAM LEHMAN, FLA.  
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**U.S. House of Representatives**  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE  
309 CANNON HOUSE OFFICE BUILDING  
Washington, D.C. 20515

September 25, 1975

The President  
The White House  
Washington, D. C. 20500

Dear Mr. President:

*enc*  
*MP*  
On September 17, 1975, I invited Mr. James A. Wilderotter, Associate Counsel to the President, to testify in public session before the Subcommittee on Manpower and Civil Service. By letter of September 22, 1975, and subsequent telephone confirmation, Mr. Wilderotter declined the invitation to appear before the Subcommittee on the scheduled date of September 24, 1975. Copies of the correspondence are enclosed.

Testimony heretofore taken by the Subcommittee indicates that Mr. Wilderotter is a necessary witness with regard to his knowledge acquired during the time he served as Executive Assistant to the Honorable James T. Lynn when Mr. Lynn was Secretary of the Department of Housing and Urban Development. I indicated to Mr. Wilderotter on September 17, by letter and telephone, that any hearing in which he appeared, Subcommittee Members would be instructed to confine their inquiries to the time period in which he served as Executive Assistant Secretary to Secretary Lynn, that is, the period prior to Mr. Wilderotter's appointment to the staff of the President. It would seem inappropriate to claim executive privilege for Mr. Wilderotter, thereby barring testimony regarding his knowledge and activities while serving in an executive department prior to his current assignment at the White House.

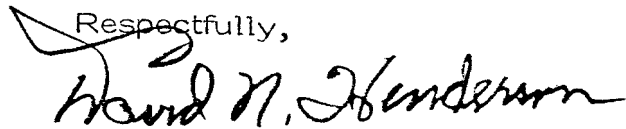
The Committee does not desire, at this time, to cause or otherwise provoke an unnecessary confrontation which might result from the issuance of a subpoena to gain Mr. Wilderotter's testimony. However, we do desire the appearance of Mr. Wilderotter in these hearings.



September 25, 1975

As I understand the situation, only the President may, by privilege, exclude the appearance of an executive branch official before a Congressional committee or subcommittee. I would hope that you would instruct him to appear as a witness in the Subcommittee investigative inquiry on alleged merit system abuses.

Respectfully,

A handwritten signature in cursive script, reading "David N. Henderson". The signature is written in dark ink and is positioned below the word "Respectfully,".

DAVID N. HENDERSON  
Chairman

Enclosures

September 23, 1975

MEMORANDUM TO:

JACK MARSH  
DON RUMSFELD  
DICK CHENEY

FROM:

RUSS ROURKE

I have spoken with Roy Mesker (Subcommittee Staff Director) re the attached correspondence between Chairman Dave Henderson and Jim Wilderotter. As you know, the Committee is attempting, among other things, to get witnesses in order to explore the operation of the "special referral unit" at HUD. While Wilderotter's refusal to appear did not meet with any violent reaction by Mesker, it did give rise to other significant questions. Mesker is now concerned that Jim Lynn might also use one of the two hats he wears as the basis for similar refusal to testify.

Secondly, and perhaps more importantly, Mesker advised me on an informal basis that what the Committee is really after is the "core of the problem", viz., the operating personnel "who were issuing these directives from the White House. Mesker indicated that "since it is the White House personnel operation that we are really trying to analyze, only people like Jerry Jones and John Vickerman can tell us about that operation during the time period with which we are concerned". Naturally, I was completely noncommittal on this unsolicited offering by Mesker, since the only purpose of my call was a courtesy to Mesker and Dave Henderson. I thought, however, that it might be helpful for you to give some advance thought to this prospective problem.

RAR:cb

cc: PBuchen ✓



THE WHITE HOUSE  
WASHINGTON

September 22, 1975

Dear Mr. Chairman:

This is in response to your letter of September 17, 1975 requesting me to testify on September 24 in connection with your Subcommittee's investigative hearings on alleged violations and abuses of merit principles in Federal employment.

As you know, I was pleased to meet last July with Subcommittee staff to answer whatever questions they had about personnel matters at the Department of Housing and Urban Development, and to offer my thoughts as to ways in which the system of referral and recruitment of individuals for employment at Departments such as HUD can be improved. As you noted in your letter, I advised the staff at that time of my reservations concerning a possible appearance as a witness before your Subcommittee in view of my current position and responsibilities. However, I also advised that I wished to cooperate with the Subcommittee in any way possible, and offered to provide whatever written answers or statement the Subcommittee deemed desirable in order to complete its factual record. Your staff informed me that they appreciated the unique circumstances involved, and indicated that a written statement or answers to the questions might well be an acceptable alternative way to proceed.

I appreciate your assurances that any questions I might be asked in a hearing would be confined to the period of time I served in the Department of Housing and Urban Development as Executive Assistant to Secretary Lynn. Nevertheless, in view of my current position as a commissioned member of the President's immediate staff, I have been advised that it would be inappropriate for me to testify even as to matters pertaining to my past Federal service. Accordingly, I have been instructed to respectfully decline your





invitation to appear as a witness at the Subcommittee's hearings. I trust that you will appreciate the difficult questions of principle and precedent that compel this position.

At the same time, I should like to restate my willingness to cooperate in any appropriate way with the important work of your Subcommittee. To this end, I remain willing to answer in writing for the Subcommittee's factual record any questions that you deem appropriate, and am available at your convenience to do so.

With best personal regards, I am

Sincerely yours,

*James A. Wilderotter*

James A. Wilderotter  
Associate Counsel  
to the President

Honorable David N. Henderson  
Chairman  
Subcommittee on Manpower  
and Civil Service  
Committee on Post Office  
and Civil Service  
U. S. House of Representatives  
Washington, D. C. 20515



DAVID N. HENDERSON, N.C., CHAIRMAN  
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# U.S. House of Representatives

SUBCOMMITTEE ON MANPOWER AND CIVIL SERVICE

OF THE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

B-370(S) RAYBURN HOUSE OFFICE BUILDING

Washington, D.C. 20515

September 17, 1975

*Rec'd 10/16  
 but called  
 beforehand -  
 letter closed  
 here 9/20 -  
 Russ Pourke  
 talked to  
 9/22 + JW  
 talked 9/22  
 to Chairman  
 witness  
 list*

Mr. James Wilderotter  
 Associate Counsel to the President  
 Room 182, Old Executive Office  
 The White House  
 Washington, D. C.

Dear Mr. Wilderotter:

The Subcommittee on Manpower and Civil Service, as you know, is conducting investigative hearings on alleged violations and abuses of merit principles in Federal employment. By developing this factual record, it is the intent of the subcommittee to establish a basis from which corrective action may be pursued.

Recently, the subcommittee has received testimony from past and present officials of the Department of Housing and Urban Development. To complete the subcommittee's record as it pertains to HUD, I would like to have you appear as a witness on September 24, 1975 at 9:30 A.M. The subcommittee wishes to develop information with reference to the period of time you served in the Department of Housing and Urban Development as Executive Assistant to Secretary Lynn. I have noted your reservations to appear as a witness in public session. However, I will instruct the Members of the subcommittee to confine their questions to the period of time served at HUD. I have every assurance that this will be done.

With reference to the public session, the subcommittee is particularly interested in the handling of personnel matters relating to the referral and recruitment of individuals for Federal employment at HUD. In this regard the subcommittee expects the areas of inquiry to include your knowledge of and activities with the operation of Special Assistant Stanley Armstrong's office and the office of Deputy Under Secretary Robert Ruddy.

*Stan Armstrong  
 - reported directly to Jim Lynn*



Mr. Wilderotter

2

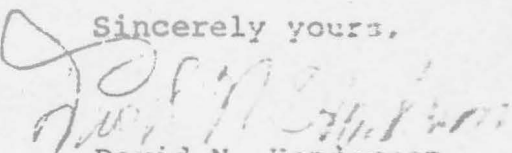
September 11, 1975

The September 24 hearing will be held in Room 111 of the Cannon House Office Building. Please find enclosed a copy of the Committee Rules. As in other hearings, an opening statement is permissible.

If you have any questions regarding the hearings, please contact Mr. Roy Mesker, the subcommittee staff director, at 225-2321.

With best personal regards, I am

Sincerely yours,

  
David N. Henderson  
Chairman

Enclosure



Wid Staff  
Testimony

Wednesday 10/1/75

12:10 Charlie Mott called to say as an Army reservist 254-9787  
he has been called to testify before the Subcommittee on  
Military Personnel, of the House Armed Forces Committee,  
as to reserve forces and their readiness, etc. --  
at 10 a.m. tomorrow (Thursday 10/2). He is one of  
several they are calling.

Felt someone at the White House should be alerted;  
suggested he call Ken, which he will do, but thought perhaps  
you should know.

If not at the above number, he can be reached at 767-5225  
Bolling Field .



W.H. Staff  
Testimony  
Wednesday 10/22/75

1:55 Called Barry to let him know Mr. Buchen sees no objection but thinks it should be cleared with the people for whom he worked.

Feels the Cheney group should know what we're doing -- that's the main thing.

Barry said O. K.



1:05 p.m.

Wednesday, October 22, 1975

Barry called to advise that:

1. Mortensen has no objection to former WH employees testifying before Congress.
2. Jerry Jones has no knowledge of anyone using any such form to prohibit future discussions concerning WH duties.
3. Due to the testimony which is slated for Friday, Ken hopes that we can reach a speedy decision.



THE WHITE HOUSE  
WASHINGTON

October 20, 1975

MEMORANDUM FOR: PHIL BUCHEN  
FROM: KEN LAZARUS *pl*  
SUBJECT: Henderson Subcommittee Request

Today I received a phone call from the General Counsel of the Civil Service Commission with respect to a request made by Representative Henderson, Chairman of the Subcommittee on Manpower of the House Committee on Post Office and Civil Service, for the appearance of Mr. Horace Lewis, an employee of the Commission.

Henderson's subcommittee is investigating political influence in the hiring practices of the departments and agencies during the administration of President Nixon. During the period February 1969-June 1970, Mr. Lewis was detailed to the White House Personnel Office, where he assisted Peter Millspaugh and Alan Kaupin~~sen~~. At the time of his release as a detailee to the White House, Mr. Lewis signed a routine form wherein he pledged not to publicly reveal any information relating to services which he performed while at the White House.

Congressman Henderson has requested that Mr. Lewis submit himself to questions by members of the subcommittee staff with the possibility of his subsequently being called as a witness at a public hearing. Additionally, I am advised that Congressman Moss has also demonstrated some interest in receiving testimony from Mr. Lewis.

The General Counsel at CSC indicates that Mr. Lewis feels bound by this pro forma embargo which he signed in 1970 and intends not to provide any information to the subcommittee without a clearance from the White House.



My gut reaction is that the Ford Administration ought not interpose any objection to Mr. Lewis' testimony but at the same time

- 2 -

recognize the availability of a claim of Executive Privilege by former President Nixon. CSC advises that they will not have to get back to Congressman Henderson for a week or so.

Can we discuss this question sometime later this week?





THE WHITE HOUSE  
WASHINGTON

October 28, 1975

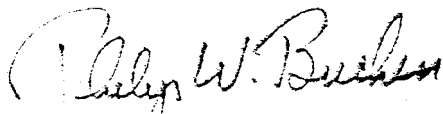
W/H —  
Testimony

Dear Mr. Scott:

This is in response to your letter of this date concerning a statement signed by Mr. Horace Lewis on June 30, 1970 in which Mr. Lewis indicated that he would not reveal or discuss matters pertaining to his detail to the Office of Harry S. Flemming, without authorization from the Executive Offices.

This is to confirm that we do not intend to interpose any objection to Mr. Lewis' testimony before Congressional committees on matters relating to his detail.

Sincerely,



Philip W. Buchen  
Counsel to the President

Joseph B. Scott, Esquire  
Assistant General Counsel  
Civil Service Commission  
Washington, D. C. 20415



THE WHITE HOUSE

WASHINGTON

June 18, 1976

20 H 5/14/6  
T. R.

MEMORANDUM FOR: JIM CANNON

THROUGH: ED SCHMULTS

FROM: BARRY ROTH

ES  
BR

I spoke with Mr. James Spensley, Counsel to the Subcommittee on Fisheries and Wildlife Conservation and the Environment, concerning the Subcommittee's request that you testify on June 30 concerning long-range planning in the Federal Government. I explained that as one of the "immediate staff assistants" provided to the President by law, it is customary that you not appear before a Congressional Committee to testify with respect to the responsibilities assigned to you by the President. Mr. Spensley understood and agreed that the Subcommittee would not push for you to testify. He also indicated that they were primarily interested in having Jim Lynn or Paul O'Neill appear to discuss, in part, the idea of establishing an Office of Strategic Policy Assessment in the Executive Office of the President. However, both Lynn and O'Neill have declined the invitation to appear.

Spensley plans to go ahead with the hearings with CEQ participation and to come back to us after the hearings to see what interest there might be at the White House and OMB on this issue. While I indicated that later participation by you in a hearing situation posed a problem, I left open the possibility that there could be some means of informal communication with respect to the Domestic Council's views on long-range planning. Mr. Spensley appreciated our call and indicated that this satisfied their request for the time being.

I have prepared for your signature a suggested response to this effect.

cc: Phil Buchen ✓  
Max Friedersdorf

