

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The text is centered within the hourglass shape.

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House Committee Hearings: Arranging Witnesses

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August 16, 2007

Abstract. Selecting witnesses is often one of the most important issues in planning a House hearing. Committees and subcommittees pay careful attention to which viewpoints will be represented, who should testify, and the order and format for presenting witnesses. A witness must be invited by a committee in order to testify; committees and subcommittees also may subpoena reluctant witnesses to appear at a hearing.

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Summary

Selecting witnesses is often one of the most important tasks in planning a hearing. House committees and subcommittees pay careful attention to which viewpoints will be represented, who should testify, and the order and format for presenting witnesses. Witnesses do not have an inherent right to appear at a hearing, but must be invited by a committee or subcommittee in order to testify; committees and subcommittees also may subpoena reluctant witnesses to appear at a hearing. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>.

Contents

Selecting and Inviting Witnesses.....	1
Subpoena Power.....	1
Format and Order of Witness Testimony	2

Contacts

Author Contact Information	2
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Selecting witnesses is often one of the most important tasks in planning a hearing. House committees and subcommittees pay careful attention to which viewpoints will be represented, who should testify, and the order and format for presenting witnesses.¹ Witnesses do not have an inherent right to appear at a hearing, but must be invited by a committee or subcommittee in order to testify; committees and subcommittees also may subpoena reluctant witnesses to appear at a hearing. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>.

Selecting and Inviting Witnesses

Before officially inviting a witness, committee staff identify and often interview prospective witnesses. Committees consider people from diverse backgrounds, including individuals from the executive branch; state, local, or other regional governments; academia; business; and interest groups, as well as other private citizens. A committee may invite as many witnesses as it chooses, and may schedule multiple days of hearings.

In some cases, a committee will strive to make sure that all reasonable points of view are represented, while in other cases witnesses expressing only particular points of view will be invited. Typically, the minority works informally with the majority to invite witnesses representing its views. House rules allow the minority party members of a committee to call witnesses of their choice on at least one day of a hearing. A majority of the minority members must make this request to the committee chair before completion of the hearings (Rule XI, clause 2(j)(1)).

Once suitable witnesses are identified, the committee chair usually sends each witness a formal letter of invitation. This letter generally provides the witness some basic information on the proposed hearing, including the purpose, subject, date, time, and location. In addition to specifying the aspects of a measure or issue the witness should address, the letter might indicate a limitation on the length of a witness's oral testimony.

The letter of invitation might also request that the witness send the committee biographical information and an advance copy of his or her written testimony, the latter generally being required under House rules (Rule XI, clause 2(g)(4)). Certain committee rules also specify that witnesses should submit copies of proposed testimony in electronic format.

The committee might also send the witness additional information. This information could include a list of committee members, the committee's rules, a copy of the measure under consideration, and articles relating to the issue. Often, a staff contact is indicated. Committee staff will often meet witnesses before a hearing to answer questions and to review procedure. A committee may reimburse a witness for expenses related to testimony, and the letter of invitation may address this point.

Subpoena Power

Most individuals respond favorably to an invitation to testify, believing it to be a valuable opportunity to communicate and publicize their views on a question of public policy. However, if

¹ This report was written by Thomas P. Carr, formerly an Analyst at CRS.

a person will not appear by invitation, a committee may require a witness to appear through a subpoena (Rule XI, clause 2(m)). (Committees also may subpoena documents.) Subpoenas are used infrequently, usually at investigative hearings.

A committee may authorize and issue a subpoena with a majority quorum present. A committee may, however, delegate this authority to its chair, under any limitations it establishes. In practice, many committees generally require majority approval to issue a subpoena; other committees have delegated general subpoena authority to the chair.

Format and Order of Witness Testimony

Committees determine the format and order of witness testimony. The traditional format is that a witness makes a statement and then takes questions from committee members before the next witness testifies. Committees may also employ a panel format, often for witnesses with divergent viewpoints. It is normally the practice in this case for all panel members to make statements, then for committee members to pose questions to the panel or to various panelists. Some observers believe this format stimulates debate and elicits more pertinent information. Committees sometimes use other formats for gathering information such as seminars, roundtable discussions, and “video conferencing,” with witnesses who may be located almost anywhere in the world.

The order in which witnesses testify is arranged at the discretion of the committee. Protocol dictates that a Member of Congress generally testifies before other witnesses, and a similar privilege often is extended to high-ranking executive branch officials, and to former Members and high-level government officials. Celebrity witnesses are carefully placed in the lineup because they often generate media coverage and public attention to an issue. Testimony from academics, interest-group representatives, and other private citizens may be arranged in a way that most favorably presents information and communicates the intent of the committee. For example, a committee may arrange its witnesses to allow one individual to refute arguments made by another witness.

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