

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.

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Senate Committee Hearings: Arranging Witnesses

Betsy Palmer, Government and Finance Division

February 22, 2007

Abstract. Selecting witnesses is one of the most important aspects of planning a Senate 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 or subcommittee in order to testify, standing committees and their subcommittees also may subpoena reluctant witnesses to appear at a hearing.

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Summary

Selecting witnesses is one of the most important aspects of planning a Senate 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; standing committees and their subcommittees also may subpoena reluctant witnesses. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>.

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Selecting witnesses is one of the most important aspects of planning a Senate 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; standing committees and their subcommittees also may subpoena reluctant witnesses. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>.

Selecting and Inviting Witnesses

To testify, a witness must be invited by a committee. 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 and local 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.

Generally, committees strive to ensure that a range of views are represented. For instance, rules of the Committee on Finance direct staff to try and schedule witnesses so as to attain a balance of views early in the hearing. In other cases, only witnesses expressing particular points of view might be invited. Senate rules allow the minority-party members of a committee (except Appropriations) 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 XXVI, paragraph 4(d)). The Committee on Finance explicitly allows every member of the committee to choose witnesses to testify. On many committees the minority members work informally with the majority to invite witnesses representing their views.

Once witnesses are identified, the committee chair usually sends each witness a formal letter of invitation. This letter generally provides the witness with basic information on the proposed hearing, including its purpose, subject, date, time, and location. In addition, the letter might indicate a limitation on the length of a witness's oral testimony.

The committee also might send a witness additional information. This information could include a list of committee members, the committee's rules, a copy of the measure under consideration (if legislation is the goal), and published articles relating to the issue. The letter of invitation might also request that a witness send the committee biographical information and an advance copy of written testimony, the latter being required at least one day before a witness testifies (except before the Appropriations Committee, Rule XXVI, paragraph 4(b)). A committee may reimburse a witness for expenses related to testimony, and, if reimbursement is expected, the letter of invitation might address this point. Often, the letter indicates a staff contact. Committee staff will sometimes meet with witnesses prior to a hearing to answer questions and to review procedure.

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 a person declines to appear by invitation, a standing committee may require a witness to appear through a subpoena (Rule XXVI, paragraph 1). Committees also may subpoena documents. Subpoenas are used sparingly but are most common at investigative hearings.

The rules of many committees delineate the procedure for authorizing a subpoena. Some committees delegate this authority to the chair and ranking minority member, while other committees require majority approval to authorize subpoenas. Still other committees allow subpoenas to be authorized by either committee leaders or a committee majority, or have other detailed procedures.

Format and Order of Witness Testimony

Committees determine the format and order of witness testimony. A common format is that a witness makes a statement and then responds to questions from committee members. 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 joint hearings, field hearings, 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 other high-level government officials. Celebrity witnesses may be judiciously placed in the lineup to generate media coverage and public attention to an issue. Testimony from academics, interest-group representatives, and other private citizens may be arranged to ensure that committee members hear different perspectives in the most desirable order, for instance, to allow one individual to refute arguments made by another.

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