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House Committee Hearings: Arranging Witnesses

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August 25, 2015

Congressional Research Service

7-5700

www.crs.gov

98-304

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 may also subpoena reluctant witnesses to appear at a hearing.

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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 hearing day. 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)(5)). Rule XI also requires witnesses appearing in a non-governmental capacity to include in their written testimony a curriculum vitae and disclosure of the amount of each federal grant or subgrant recently received.

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 a person will not appear by invitation, a committee may require a witness to appear through a subpoena (Rule XI, clause 2(m)). (Committees may also subpoena documents.) Subpoenas are used infrequently, usually in the course of investigations.

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. Although there is no formal rule on the subject, protocol dictates that a Member of Congress generally testifies before other witnesses, and a similar privilege is often extended to high-ranking executive branch officials and to former Members and high-level government officials. Celebrity witnesses are placed in the lineup carefully, 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 respond to arguments made by another witness.

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Acknowledgments

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