

Congressional Investigations

Congress' Power of Inquiry

Ever since Congress established broad powers to enforce demands for information through two U.S. Supreme Court rulings in the 1920s, the legislative body has become increasingly aggressive in its pursuit of answers to questions on legislative concerns. In its landmark *McGrain v. Daugherty* decision, the Supreme Court defined Congress' power of inquiry by noting that a legislative body "cannot legislate wisely or effectively" without pertinent information, and if it lacks such information then "recourse must be had to others who possess it," according to the Congressional Research Service.

At Tully Rinckey PLLC, we know how alarming it can be to be on the receiving end of such congressional recourse. Congressional requests for information from individuals or businesses can come without warning or in response to what could be considered disasters from a business standpoint, such as an accident, security breach or allegations of questionable practices. Businesses then find themselves juggling the heavy demands of performing damage control and responding to congressional inquiries. Our attorneys will work to ensure a business does not "drop the ball" when it comes to responding to congressional investigations.

Sometimes congressional requests for information can be broad or seek sensitive – even confidential or personal – information. The consequences for failing to produce documents or to truthfully respond to questions in written statements or in oral testimony are severe. Refusals to comply with such requests could prompt subpoenas or contempt proceedings. The congressional investigation attorneys at Tully Rinckey PLLC can help individuals and businesses cooperate with Congress without unnecessarily divulging sensitive information.

Congressional Investigation Basics*

Requests for information: Must be authorized by Congress

Must serve a legislative purpose

Must explain to a witness the purpose of questioning

Cannot intrude on the adjudicatory process of departments or agencies

Subpoenas: Can be issued by all congressional committees and subcommittees

Can demand the attendance and testimony of a witness, the production of pertinent books, records, memoranda, papers and documents

Must specify when and where a witness must attend a public hearing, the documents sought and when they must be delivered

Are commonly delivered by committee staff or U.S. Marshall representatives

Reasons for refusing to cooperate: The documents or testimony sought are confidential or personal in nature or not pertinent to the investigation

Self-incrimination Congress can grant full or partial immunity to witnesses who assert their Fifth Amendment rights

Contempt provisions: Inherent contempt: Intended to pressure contemptors into providing testimony or documents by holding them in custody

Criminal contempt: Intended to punish contemptors with imprisonment or fines. This provision is a less time-consuming alternative to inherent contempt proceedings

Civil contempt: A recourse available only to the Senate, which can ask the U.S. District Court for the District of Columbia to order a contemptor to comply with a subpoena or order. The sanctions the court can impose on individuals who are in contempt of court can be used to pressure them into providing testimony or documents

Other criminal provisions: False statements

Perjury

Obstruction of committee proceedings

*According to the Congressional Research Service

Tully Rinckey PLLC Congressional Investigation Services

Requests for Information and Subpoenas

Requests for Testimony and Depositions

Negotiating the scope of congressional requests for documents so unnecessary confidential

or personal information is not disclosed

Preparing testimony for public hearings

Responding to congressional requests for information or subpoenas for documents

Preparing answers to the questions raised at public hearings

Establishing a systematic method for collecting and documenting requested or subpoenaed information

Advising witnesses of their rights at congressional depositions

Serving as a liaison to the requesting legislative body to maintain a spirit of cooperation and defuse tensions with Congress members or their staff

Reviewing drafts of congressional reports to ensure accuracy

Our Team

Tully Rinckey PLLC's congressional investigations practice is headed by a former four-term congressman who sat on the influential House Appropriations Committee and served as the vice chairman of one of its subcommittees. We are very familiar with the expectations and unique structures of various congressional committees and subcommittees, positioning us to better negotiate with their members and staffs and protect the interests of our clients.

Our lawyers will mobilize quickly to help you access what a congressional committee or subcommittee is requesting, what falls in or outside the scope of the investigation and the best way to respond to it. Congressional investigations run on fast timetables, so do not delay. Call Tully Rinckey PLLC 24 hours a day, 7 day a week at 703-525-4700 or via e-mail at info@fedattorney.com