

## U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

### 5003.1: Congressional Hearing Policy

**Issue Date:** December 5, 2012  
**Effective Date:** December 5, 2012  
**Superseded:** This Directive is the originating and establishing document regarding the U.S. Immigration and Customs Enforcement (ICE) congressional hearing policy for authorizing committee hearings.

**Federal Enterprise Architecture Number: 306-112-002b**

1. **Purpose/Background.** The Office of Congressional Relations (OCR) assists ICE leadership in providing information and in responding to members of Congress and their staffs regarding ICE's missions, programs, operations, and initiatives. OCR serves as ICE's primary point of contact for all authorizing committee congressional liaison activities. This Directive outlines the congressional hearing policy for hearings held by the authorizing committees exercising congressional oversight of ICE, including pre-hearing preparation and post-hearing activities. OCR conducts all liaison activities in coordination with the Director, Deputy Director, Executive Associate Directors (EADs), Assistant Directors, Field Responsible Officials, and the Department of Homeland Security (DHS). The Office of the Chief Financial Officer (CFO) leads liaison activities relating to the appropriations committees, and this Directive does not apply to appropriations committee hearings.
2. **Policy.** Congressional hearings provide critical opportunities for ICE officials to convey and discuss ICE information in a formal and public setting, and ICE officials will be properly prepared to testify. The nature of congressional hearings requires a high degree of scrutiny in the preparation of testimony and statements, background materials and witnesses. Proper preparation of witnesses includes, but is not limited to, timely submission of briefing materials to witnesses and senior agency personnel; conducting pre-briefs on the proposed testimony; and identifying potential issues and questions likely to be raised by committee members during the hearing.
3. **Definitions.** The following definitions apply for purposes of this Directive only.
  - 3.1. **Briefing Book.** A book of ICE staff-generated materials addressing program, policy, legal, operational and/or financial issues expected to be raised during specific congressional hearings.
4. **Responsibilities.**
  - 4.1. **The Assistant Director (AD) of OCR** is responsible for leading the congressional preparation and briefing process.

- 4.2. **The Deputy Assistant Directors (DAD) of OCR** are responsible for developing, administering, and managing procedures for all OCR personnel preparing ICE officials for congressional engagements.
- 4.3. **OCR Branch Chiefs** are responsible for communicating and applying OCR procedures during congressional testimony preparation.
- 4.4. **Other Directorates and Program Offices** are responsible for:
  - 1) Providing OCR the necessary briefing book materials in a timely manner;
  - 2) Making themselves available for congressional hearing pre-briefs and other preparation meetings, as necessary; and
  - 3) Clearing testimony and other materials as needed.
5. **Procedures/Requirements.**
  - 5.1. **Pre-Hearing Procedures.** Prior to the hearing, OCR personnel will:
    - 1) Inform the Office of the Director (OD), the appropriate EADs, the appropriate Directorates and Program Offices, the Office of Public Affairs (OPA), and DHS Office of Legislative Affairs of congressional requests for ICE participation in hearings.
    - 2) Identify the proper ICE official(s) to participate in the hearing.
    - 3) Notify the DHS Executive Secretary (b)(7)(E) @dhs.gov when an official has been requested to appear as a witness before an authorizing committee per DHS guidelines, and notify relevant parties within ICE of deadlines for testimony submission.
    - 4) Add the hearing as an entry on the daily OCR Close of Business Report.
    - 5) As soon as practicable after notice of the hearing is given, communicate with the relevant Directorates and Program Offices and the OD regarding themes for the hearing, intended messaging of the testimony, and points for inclusion in the testimony.
    - 6) Immediately begin drafting testimony. To maintain consistency among all ICE testimony, the format in the ICE testimony template must be followed (Attachment 8.1).
    - 7) Ensure the witness' scheduler clears the witness' calendar for the date and time of the hearing.

- 8) Identify one individual within OCR to serve as the lead for coordinating materials for the hearing.
- 9) Collaborate with the responsible Directorate or Program Office to develop background materials to prepare the ICE witness for the hearing theme(s) to be discussed. Formally task appropriate Directorates and Program Offices for background materials.
- 10) Collaborate with the responsible Directorate or Program Office to produce potential questions and answers for the hearing theme(s) to be discussed.
- 11) Coordinate at least two pre-briefs with the ICE witness, directly inviting each of the following ICE personnel: EAD, Homeland Security Investigations (HSI); EAD, Enforcement and Removal Operations (ERO); EAD, Management and Administration (M&A); the CFO; the Principal Legal Advisor; the Chief of Staff to the Deputy Director; the Special Advisor to the Director; and any other staff as needed.
- 12) Deliver draft testimony, along with deadlines, to the Office of the Principal Legal Advisor, HSI, ERO, M&A, and the CFO for concurrence, and subsequently to the OD for final ICE clearance. Transmit OD-cleared testimony to DHS for final clearance.
- 13) Condense the witness's cleared testimony into an oral statement that is no longer than the length as specified by the committee (typically 5 minutes). Before providing the oral statement to the witness, read aloud and time the statement.
- 14) Prepare briefing books for principals (as described in section 5.2, below).
- 15) Check with congressional member staff and professional committee staff on a continual basis for additional information critical to the hearing including, but not limited to:
  - a) Likely attendance at the hearing;
  - b) Key concerns of each attending member;
  - c) Questions each member may ask; and
  - d) Potential problem areas for the witness or agency.
- 16) Print and deliver the appropriate number of copies of testimony to the committee, per the terms in the invitation letter from the committee.

- 17) As needed, schedule an advance phone call between the witness(es) and committee staff prior to the hearing date, and, if requested, a pre-brief with committee staff or members of Congress.
- 18) Offer and schedule a coordination phone call with other DHS or federal agency witnesses who are to testify at the same hearing.
- 19) No earlier than 36 hours before the hearing time, survey the committee staff for any updated information on member attendance and issues of interest. That information will be presented in a final "burning issues" hearing memo and must follow the format in the burning issues memo template (Attachment 8.2). This document is perhaps the most important document in the briefing book, and particular care should go into its completion and clearance.
- 20) As soon as possible, and no later than 24 hours prior to the start of the hearing, send to the ICE Office of the Executive Secretariat ([\[b\)\(7\)\(E\)@sp.ice.dhs.gov](mailto:(b)(7)(E)@sp.ice.dhs.gov)) for OD clearance and distribution by OPA a draft broadcast message announcing the hearing following the format provided in the OCR broadcast message template (Attachment 8.3), to be broadcast to the agency on the morning of the hearing.
- 21) Provide a cleared, final copy of the written testimony to OPA.
- 22) Determine, in coordination with the witness, the personnel to accompany the witness to the hearing. Witnesses will be accompanied by as few ICE personnel as necessary. This, for most hearings, will mean one OCR representative, one OPA representative, and one subject matter expert.
- 23) Designate OCR staff to view or attend the hearing in order to provide the summary described in post-hearing procedure 5.3, below.

## **5.2. Briefing Books.**

- 1) The briefing book will be cleared by the AD of OCR, and must contain the following:
  - a) Table of contents;
  - b) A copy of the official invitation from the congressional committee;
  - c) Member profiles (majority and minority);
  - d) Witness list with panel breakdown;
  - e) A copy of the prepared oral testimony;
  - f) A copy of the prepared written testimony;

- g) Copies of all other witness testimony;
  - h) A final “burning issues” hearing memo (as described in section 5.1, above);
  - i) Possible questions and answers from committee members (answers to each question should contain no more than three to four bullets of two to three sentences each, for easy delivery);
  - j) Copies of any outstanding congressional correspondence with Members of Congress on the committee; and
  - k) Additional background material as needed.
- 2) OCR will provide a hard copy of the briefing book to the witness as early as is practicable, but no later than close of business on the day before the first pre-brief for the hearing.
  - 3) OCR will provide an electronic copy of the briefing materials to each Directorate or Program Office invited to the pre-brief as early as is practicable, but no later than close of business on the day before any pre-brief. If it is impossible to meet this deadline, OCR will provide one hard copy of the materials to each invited Directorate and Program Office prior to the pre-brief.
  - 4) OCR will provide extra hard copies of the question and answer document described above at the pre-brief.

**5.3. Post-Hearing Procedures.** Following the hearing, OCR personnel will:

- 1) Prepare a brief hearing summary and distribute it to the AD OCR, DADs, and Branch Chiefs within 24 hours of the close of the hearing.
- 2) Obtain a transcript of the hearing; and
- 3) Review the draft hearing transcript to ensure that any factual errors are corrected, and submit revised testimony to the committee per the committee’s instructions.

**6. Recordkeeping.** OCR will retain electronic copies of hearing transcripts, summaries, and all briefing book materials for 10 years from the hearing dates.

**7. Authorities/References.**

**7.1.** Congressional Hearing Preparation for DHS Officials, Department of Homeland Security Management Directive System, MD Number 2110, issue date January 24, 2003.

**7.2.** Hearing Checklist, Department of Homeland Security Standard Operating Procedures, updated May 2010.

**8. Attachments.**

**8.1.** ICE Testimony Template.

**8.2.** Burning Issues Memo.

**8.3.** OCR Broadcast Message Template.

**9. No Private Right.** These guidelines and priorities are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.



**John Morton**

**Director**

**U.S. Immigration and Customs Enforcement**