

Public Law 98-368
98th Congress

Joint Resolution

July 17, 1984
[H.J. Res. 548]

Authorizing the President's Commission on Organized Crime to compel the attendance and testimony of witnesses and the production of information, and for other purposes.

Crimes and misdemeanors.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TAKING OF TESTIMONY AND RECEIPT OF EVIDENCE

18 USC 1961
note.
3 CFR, 1983
Comp., p. 202.

SECTION 1. The Commission established by the President by Executive Order 12435, dated July 28, 1983 (hereinafter in this joint resolution referred to as the "Commission"), may hold hearings. The powers authorized by this resolution shall be limited to the purposes set forth in section 2 of that Executive order. The Commission, or a member of the Commission or member of the staff of the Commission designated by the Commission for such purpose, may administer oaths and affirmations, examine witnesses, and receive evidence.

SUBPENNA POWER

Courts, U.S.
18 USC 1961
note.

SEC. 2. (a) The Commission, or any member of the Commission when so authorized by the Commission, shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of information relating to a matter under investigation by the Commission. A subpoena may require the person to whom it is directed to produce such information at any time before such person is to testify. Such attendance of witnesses and the production of such evidence may be required from any place within the jurisdiction of the United States at any designated place of interview or hearing. A person to whom a subpoena issued under this subsection is directed may for cause shown move to enlarge or shorten the time of attendance and testimony, or may move to quash or modify a subpoena for the production of information if it is unreasonable or oppressive. In the case of a subpoena issued for the purpose of taking a deposition upon oral examination, the person to be deposed may make any motion permitted under rule 26(c) of the Federal Rules of Civil Procedure.

28 USC app.

(b)(1) In case of contumacy or refusal to obey a subpoena issued to a person under this section, a court of the United States within the jurisdiction of which the person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application by the Attorney General, issue to such person an order requiring such person to appear before the Commission, or before a member of the Commission or a member of the staff of the Commission designated by the Commission for such purpose, there to give testimony or produce information relating to the matter under investigation, as required by the subpoena. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

(2) The Commission is an agency of the United States for the purpose of rule 81(a)(3) of the Federal Rules of Civil Procedure.

28 USC app.

(c) Process of a court to which application may be made under this section may be served in a judicial district wherein the person required to be served is found, resides, or transacts business.

TESTIMONY OF PERSONS IN CUSTODY

SEC. 3. A court of the United States within the jurisdiction in which testimony of a person held in custody is sought by the Commission or within the jurisdiction of which such person is held in custody, may, upon application by the Attorney General, issue a writ of habeas corpus ad testificandum requiring the custodian to produce such person before the Commission, or before a member of the Commission or a member of the staff of the Commission designated by the Commission for such purpose.

18 USC 1961
note.

IMMUNITY

SEC. 4. The Commission is an agency of the United States for the purpose of part V of title 18 of the United States Code.

18 USC 1961
note.
18 USC 6001.

SERVICE OF PROCESS; WITNESS FEES

SEC. 5. (a) Process and papers issued pursuant to this resolution may be served in person, by registered or certified mail, by telegraph, or by leaving a copy thereof at the residence or principal office or place of business of the person required to be served. When service is by registered or certified mail or by telegraph, the return post office receipt or telegraph receipt therefor shall be proof of service. Otherwise, the verified return by the individual making service, setting forth the manner of such service, shall be proof of service.

18 USC 1961
note.

(b) A witness summoned pursuant to this resolution shall be paid the same fees and mileage as are paid witnesses in the courts of the United States, and a witness whose deposition is taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

ACCESS TO OTHER RECORDS AND INFORMATION

SEC. 6. (a)(1) The investigative activities of the Commission are civil or criminal law enforcement activities for the purposes of section 552a(b)(7) of title 5, United States Code, except that section 552a(c)(3) shall apply after the termination of the Commission.

Law
enforcement.
Public
information.
18 USC 1961
note.

(2) The Commission is a Government authority, and an investigation conducted by the Commission is a law enforcement inquiry, for the purposes of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.). Any delay authorized by court order in the notice required under that Act shall not exceed the life of the Commission, including any extension thereof. Notwithstanding a delay authorized by court order, if the Commission elects to publicly disclose the information in hearings or otherwise, it shall give notice required under the Right to Financial Privacy Act a reasonable time in advance of such disclosure.

(b) For the purposes of section 2517 of title 18, United States Code, and as limited by subsection (c), the members and members of the staff of the Commission are investigative or law enforcement offi-

18 USC 2516.

cers, except that in the case of a disclosure to or by any member or member of the staff of the Commission of any of the contents of a communication intercepted under section 2516(1) of such title, such disclosure may be made only after the Attorney General or the Attorney General's designee has had an opportunity to determine that such disclosure may jeopardize Federal law enforcement interests and has not made that determination, and in the case of a disclosure to or by any member or member of the staff of the Commission of any of the contents of a communication intercepted under section 2516(2) of such title, such disclosure may be made only after the appropriate State official has had an opportunity to make a determination that such disclosure may jeopardize State law enforcement interests and has not made that determination.

(c)(1) A person to whom disclosure of information is made under this section shall use such information solely in the performance of such person's duties for the Commission and shall make no disclosure of such information except as provided for by this joint resolution, or as otherwise authorized by law.

18 USC 2510
et seq.

(2) A disclosure or use by a member or a member of the staff of the Commission of the contents of a communication intercepted under chapter 119 of title 18 of the United States Code may be made solely in the course of carrying out the functions of the Commission as such functions were established by Executive Order 12435, dated July 28, 1983.

3 CFR, 1983
Comp., p. 202.

FEDERAL PROTECTION FOR MEMBERS AND STAFF OF THE COMMISSION

18 USC 1961
note.

SEC. 7. Conduct, which if directed against a United States attorney would violate section 111 or 1114 of title 18, United States Code, shall, if directed against a member of the Commission or a member of the staff of the Commission, be subject to the same punishments as are provided by such sections for such conduct.

CLOSURE OF MEETINGS

18 USC 1961
note.
5 USC app.

SEC. 8. The functions of the President under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. 10(d)) shall be performed by the Chairman of the Commission.

RULES AND PROCEDURES OF THE COMMISSION

18 USC 1961
note.

SEC. 9. (a) The Commission shall adopt rules and procedures (1) to govern its proceedings; (2) to provide for the security of records, documents, information, and other materials in its custody and of its proceedings; (3) to prevent unauthorized disclosure of information and materials disclosed to it in the course of its inquiry; (4) to provide the right to counsel to all witnesses examined pursuant to subpoena; and (5) to accord the full protection of all rights secured and guaranteed by the Constitution of the United States.

(b) No information in the possession of the Commission shall be disclosed by any member or employee of the Commission to any person who is not a member or employee of the Commission, except as authorized by the Commission and by law.

(c) The term "employee of the Commission" means a person (1) whose services have been retained by the Commission, (2) who has been specifically designated by the Commission as authorized to have access to information in the possession of the Commission, and (3) who has agreed in writing and under oath to be bound by the

rules of the Commission, the provisions of this resolution, and other provisions of law relating to the nondisclosure of information.

EFFECTIVE DATES OF RESOLUTION

SEC. 10. This joint resolution shall take effect on the date of enactment and shall remain in effect until the expiration of the Commission, including any extensions thereof, or two years, whichever event occurs earlier.

18 USC 1961 note.

Approved July 17, 1984.

SECTION 10. This joint resolution shall take effect on the date of enactment and shall remain in effect until the expiration of the Commission, including any extensions thereof, or two years, whichever event occurs earlier.

LEGISLATIVE HISTORY—H.J. Res. 548 (S.J. Res. 233):

- HOUSE REPORT No. 98-734 (Comm. on the Judiciary).
- SENATE REPORT No. 98-501 accompanying S.J. Res. 233 (Comm. on the Judiciary).
- CONGRESSIONAL RECORD, Vol. 130 (1984):
 - May 7, considered and passed House.
 - June 15, considered and passed Senate, amended, in lieu of S.J. Res. 233.
 - June 26, House concurred in Senate amendment.