

Opening Statement
Rep. Elijah E. Cummings, Chairman
“FOIA: Examining Transparency under the Trump Administration”
March 13, 2019

The Committee is holding this hearing on transparency under the Trump Administration during Sunshine Week. Sunshine Week is the time each year when we focus on the need for greater transparency in our government.

In 1966, Congress enacted the Freedom of Information Act (FOIA) so the American people could better understand the decisions being made by their government. FOIA is also critical to understanding who is influencing those decisions and how those decisions will affect their daily lives.

Today, we will hear from Melanie Pustay, the Director of the Office of Information Policy at the Department of Justice (DOJ). DOJ is responsible for carrying out FOIA implementation across the Executive Branch. In my opinion, DOJ needs to do a much, much better job because we are seeing far too much information being delayed and even withheld.

Earlier this week, during a Sunshine Week Kickoff Event, Jesse Panuccio, the Principal Deputy Associate Attorney General and Chief FOIA Officer for DOJ said this during a speech:

Unfortunately, as with everything in life, there are excesses, and those excesses strain the system. Some groups have turned FOIA into a means of generating attorneys’ fees or of attempting to shut down policymaking.

This statement is deeply troubling. This sounds like DOJ is framing requests for information as obstructions. The Trump Administration should be operating with a presumption of openness—as the law now requires—rather than maligning FOIA requesters who are seeking the truth.

We also will hear today from the Acting Director of the National FOIA Office for the Environmental Protection Agency (EPA), Tim Epp. Last year, our Committee uncovered troubling issues with the way EPA was responding to FOIA requests in an investigation of former Administrator Scott Pruitt and his senior staff.

The Chief of Staff stated during a transcribed interview with our Committee staff that EPA staff were referring “politically charged” FOIA requests to political appointees for review.

He also explained that certain requests were being deliberately delayed. Today, we will investigate whether these tactics are still being used.

Finally, also testifying today is the Acting Deputy Chief FOIA Officer from the Department of the Interior, Rachel Spector. On December 28—during the government shutdown—the Department proposed a new rule that would make it harder for requesters to obtain information.

Last week, I sent a letter to the Acting Secretary raising concerns about the proposed rule, and I was joined by Senator Patrick Leahy, Senator Chuck Grassley, and Senator John Cornyn. That letter was bipartisan, and oversight of FOIA compliance should always be bipartisan.

In 2013, when I was the Ranking Member of this Committee, I worked with our Republican Chairman at the time, Representative Darrell Issa, to introduce a FOIA reform bill.

For three long years, we worked together to advance this bipartisan bill through Congress. And then, with the help of Senator Cornyn and Senator Leahy, we got it over the finish line. President Obama signed the FOIA Improvement Act into law in 2016.

I am grateful to the many Members of this Committee who sponsored the legislation, including my Republican colleagues, Mr. Hice from Georgia and Mr. Gosar from Arizona.

The FOIA Improvement Act is a prime example of how Members of Congress from both parties can work together to achieve positive results for the American people.

That law made a lot of important changes, but the Trump Administration is failing to fully comply with the requirements of this new law.

Some agencies, including EPA, have not updated their regulations. Other agencies still have not published data on FOIA compliance for fiscal year 2018. The Department of the Interior did release its data on-time, but it shows that the Department proactively disclosed 58% less data than the last full year of the Obama Administration.

I know there are FOIA officers across the Executive Branch watching this hearing today, and I want to say to them that I know you need more resources and more support for the work you do. So let me be clear. This hearing will not be the end of our work as a Committee on these issues. We will fight to bring greater transparency to all operations of our government.

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