

Chairman Jason Chaffetz
Opening Statement
As Delivered

Nothing makes government more accountable than making its actions open and transparent to those who are paying the bills.

The Freedom of Information Act, otherwise known as FOIA, gives the public a tool to gain insight into how their government functions: what it did well, what it didn't do well, what it should have done, what it shouldn't have done. And clearly in retrospect, looking back with 20/20 vision, you can go back with great clarity. But that's why it's important to do this and understand.

A request must simply be in writing and reasonably describe the records being requested. That's it. That's the way at least it should be.

But navigating the FOIA process is complicated and varies across government agencies. Something like 550,000 times in just the time since I've served in Congress – which is the same amount of time as when President Obama took office – 550,000 times FOIAs were rejected because there was some type of exemption that took place.

In responding to a FOIA request, each agency has its own set of standards, which may or may not be updated to reflect the current law. One of the great frustrations is agency by agency there seems to be different standards and different practices. When we get to the hearing tomorrow, this is one of the things we'd like to explore with our witnesses. What one agency deems as a reasonable description of documents requested may not be adequate for another agency.

For example, the State Department rejected a request because it didn't include the contract number when FCC doesn't require that information at all.

Congress must ensure that when it comes to FOIA, agencies are following the law. The FOIA statute requires agencies to give a preliminary response within 20 business days of the request. In practice, agencies take the 20 day time limit merely as a suggestion, rather than as a rule. Most of it is just laughed off and doesn't even come close to meeting the 20 day rule, as prescribed by law. Some agencies don't even bother to go through the process of responding at all within the 20 days.

Syracuse University recently learned this the hard way when only 7 of 21 agencies provided a satisfactory response to the exact same request for records kept by every FOIA office. The inconsistency is amazing.

Three agencies didn't even bother to respond at all. The unresponsive agencies were the Bureau of Alcohol, Tobacco, and Firearms; the Department of Justice Executive Office of the United States Attorneys; and the Department of Justice National Security Division.

The FOIA law requires documents to be released unless those documents fall into the exemptions outlined in the statute. And exemptions are far narrower than most agencies claim.

The Committee reviewed redacted and unredacted versions of documents from the FCC and found numerous redacted emails with no statutory justification, in our opinion.

Of note, the FCC redacted the Chairman's initials from all documents under a privacy exemption, while failing to redact email addresses and other contact information for third parties. Inconsistent to say the least.

We also found some agencies redacted basic information already available to the public. Redacting information that can easily be found on an agency's website does not suggest a government interested in ensuring transparency.

For example, in 2011, Immigration and Customs Enforcement (ICE) at the Department of Homeland Security provided the National Security Archive with 111 pages of documents already available to the public, including news clippings, media alerts, even congressional testimony. Yet in those public documents, ICE chose to redact information like the name of the board agent that sang the national anthem at the conference.

These types of redactions not only have no legal basis, but they defy common sense and they make it more timely, more expensive to go through the process of redacting the person who sang the national anthem, than just allowing the American people to know who that person was. So requesters who actually receive a response must literally read between the blacked-out lines. And every time we see such questionable redactions, we have to wonder "if they are hiding this, what else are they hiding?"

Congress intended for FOIA to increase accountability by giving taxpayers a view into the inner-workings of their government – and it's not just taxpayers, it's the media as well. That no longer appears to be the case.

We have two full panels of witnesses here today with extensive professional experience with the Freedom of Information Act. And all have at one time or another struggled with the FOIA process.

I look forward to hearing from all of our witnesses about their experiences with FOIA and entertain suggestions that they might have to ensure disclosure of information is timely, it's accurate, it's routine, and something that is more common practice than it is here today. So we appreciate all the witness and look forward to a good robust hearing. We have three panels: two today, one tomorrow. And with that, I now like to recognize the distinguished ranking member, Mr. Cummings of Maryland, for his opening statement.