

Testimony of Frederick J. Sadler
Before the House of Representatives,
Committee on Oversight and Reform, Sub-committee on Government Operations
February 27, 2015

Good morning Chairman Meadows, Rep. Connolly, Rep. Cummings, and members of the Sub-Committee. It's both a pleasure and a privilege to have been invited to join you this morning to discuss the Freedom of Information (FOI) program in the federal government. As you know from my biographical information which was previously submitted, I have worked with this statute as a federal government manager, for more than 40 years. I have also frequently interacted with the Department of Justice's Office of Information Policy (OIP), the Office of Government Information Services (OGIS), have been invited to provide instruction and training in the implementation of the FOIA in multiple agencies, and have twice served as the national president of the American Society of Access Professionals (ASAP), a non-profit, independent organization comprised primarily of federal employees working with the FOIA and the Privacy Act, focusing on education and training. ASAP was founded as a professional forum to bring government FOIA and Privacy Act personnel together with representatives of the requester community, and I am drawing from my experiences with all of the above referenced offices.

At the outset, I would like to note that this testimony reflects solely my personal opinion, and is not necessarily that of the agency or the department, in which I proudly served.

The Sub-committee's invitation requested that I provide comments on my experience with the FOIA as it is currently functioning, as well as comment on the proposed FOI reform bill, H.R. 653, "FOIA Oversight and Implementation Act of 2015." It is difficult to condense 40 years of experience into a single statement, but many of the issues which I would like to raise for your consideration are also reflected in the draft bill. Accordingly, I would like to consider some alternative applications within the draft.

Many of the issues under discussion for reform have existed for years, and I believe it would be unfair to lay these solely at the feet of the present administration, as some critics have done. Many FOI officers feel that their voices have not, historically, been heard.

The FOIA has always been an unfunded mandate, leaving program managers to compete internally for scarce resources. Having said that, if one wishes to determine whether the government takes its role seriously in this process, I would note that 2013 statistics indicate that the overall cost to the taxpayers to implement the FOI approached \$450 million, and that government agencies processed more than 675,000 requests. Clearly, the statute is functioning well, in the main. Equally as clear, there are concerns or problems with some requests and the application of policy when addressing these requests, but these have not been quantified and in my opinion, anecdotal data doesn't represent the overall status, or success, of the program. Attempting to pass legislation to fix a problem without fully identifying the causes is akin to a physician prescribing a treatment without examining the patient.

Some additional study on the nature of these problematic requests should be undertaken, to include litigation costs, volume of materials requested, subject matter complexity (particularly when dealing with scientific, medical, or proprietary information that has significant commercial value to a

competitor), the resource levels dedicated to the agency programs and whether those levels are sufficient for its purpose, attempts at mediation or narrowing a request down to a more manageable level, etc. I am aware of agencies which have received multiple requests for records that exceed one million pages, and of at least two cases in which litigation was filed citing, among other issues, non-production within statutory timeframes of 20 working days. Regardless of the number of resources that are dedicated to this effort, it has been, and probably always will be, an impossible task to locate, review, consult, redact and release records within the statutory time frame, for every request. In the agency which I served, we spent more than 120 staff years, at a cost of more than \$32 million, to answer 11,000 requests. And, even at that level, we issued final responses to approximately 48 percent of the requests within 20 working days.

There appears to be, in certain cases, an essential misunderstanding on part of some requesters, as to the intent of Congress when the FOIA was enacted. There may not be a full recognition that the FOIA wasn't intended to serve as a replacement for an agency's Office of Public Affairs. The statute, by design, authorizes an agency to respond within one month (or less, if possible, such as when the records were already available or had been previously released), and offers the possibility of an extension in response time, in limited circumstances, such as when records are voluminous or located in multiple locations or agencies.

Complaints need to be tempered with the understanding that a thorough and diligent search for agency records frequently requires desk-to-desk searches, examining multiple databases or field offices around the country, and records which overlap with other federal agencies. Instructions on the complexity of that issue have been issued by the Dept. of Justice. This consultation and referral process can be a critical component of the review process prior to release of a record, since one agency may not have current information on the status of a regulatory process, law enforcement procedure, document classification, or what might have already been released, or withheld, by another agency.

With regard to the reforms proposed in H.R. 653, I would concur that some changes are clearly appropriate, and think that select updates to the Act would be generally helpful. I believe that there are a number of work and program issues which, if appropriately addressed, would benefit both the federal FOIA program, and the requester community. With regard to some of the components of HR 653, I would raise the following for your consideration.

The "foreseeable harm" test, which is included in the draft bill, would be a codification of a policy that has been in place for a number of years, by instruction of the current administration. As I understand the draft bill, those exemptions which mandate withholding (Exemption. 1, for national security; Ex. 3, for records exempted by other statutes; Ex. 4, for trade secret and confidential commercial information; Ex. 6, for unwarranted invasion of personal privacy) would not be required to conduct a separate foreseeable harm examination, meaning that once the statutory or threshold requirements for these Exemptions are met, these records would not require additional review or documentation subject to this test.

However, those exemptions which have even a minimal discretionary component (Ex. 2, personnel rules and practices; Ex. 5, attorney work product, attorney-client communications, and internal deliberative and predecisional information; and some components of Ex. 7, for open investigatory records, privacy of individuals identified in a law enforcement record and information relating to confidential sources, etc.) would be subject to the application of the foreseeable harm test.

I believe the application of this process as proposed has the potential to delay the issuance of responses, unintentionally increase backlogs, and will almost inevitably increase disclosure-based litigation.

First, I believe that the Supreme Court definition of records subject to withholding under Ex. 2 is sufficient in and of itself, to justify withholding. Accordingly, I do not believe that the purposes of the statute, including shedding light on the internal workings of government, would be served by putting personnel records through this type of test. In my opinion, ex. 2 should not be subject to the foreseeable harm test.

Additionally, I believe that the thresholds established by federal courts, and the restrictions contained within Ex. 7 (which addresses law enforcement and open investigatory records), are sufficient to remove this Exemption from the mandatory review for foreseeable harm. Exemption 7 is complicated, in that it encompasses six different categories of law enforcement records. Some of these subparts are considered to require mandatory withholding (e.g., protection of confidential witnesses, and protection of the privacy of individuals identified in a law enforcement record), while other parts of Ex. 7 have an element of discretion. Specifically Ex. 7(a) states that information may be withheld if release could reasonably be expected to interfere with enforcement proceedings. Clearly, by definition, this component of Ex. 7 is temporal – once an enforcement proceeding has been concluded, the protection afforded by 7(a) is no longer applicable, and that Exemption is no longer available to a FOI officer. Therefore, I believe that Ex. 7 should also be exempted from the foreseeable harm test.

This would then focus the foreseeable harm test solely on Ex. 5, which appears to be the real area of concern raised by the requester community. As you are aware, the foreseeable harm test has been policy for all federal FOI officers for the past few years, and I believe that clarification on the use of this Exemption, within certain limits, might benefit the requester community. I would again note that Ex. 5 encompasses covers three distinct categories of records (attorney work product; attorney-client communications; and internal, deliberative, and predecisional records). In my experience, most of the concerns which I have seen raised, dealt with the deliberative and predecisional component of the exemption, and not with general counsel records.

I can appreciate why the test was included in the draft – in many cases, the requester is unable to determine, from the information provided by the FOI official, which of the three categories of Ex. 5 records are in play. I would suggest that it would be beneficial to both the requester community and the federal FOI program to require a breakout of Ex. 5, similar to what has been done for Ex. 7, in 1974. Because the statute already requires insertion of the Exemption number at the site of every redaction made to a record being released, thereby enabling the recipient to determine what justification was used in support of the redaction, it may simplify the process to mark redactions as 5(a) for internal, deliberative and predecisional process; 5(b) for attorney-client communications, and 5(c) for attorney-work product.

The application of this revision would assist in clarifying how the Exemption was used, and since there is traditionally little disagreement on the use of the attorney-client communication, or attorney work-product components of Ex. 5, my expectation is that the requester's interests would be enhanced by designating which category of records was at issue. My expectation is that requester concerns with this exemption are only at issue in select situations – the Annual FOI Report for the Equal Employment Opportunity Commission, for example, indicates that this agency used Ex. 5 nearly 15,000 times in the past year, yet this agency's responses have not been raised as problematic by the requester community.

I would note that portion-marking would be a new application, would require re-programming of every agency's internal tracking system, and therefore could not be implemented immediately. However, it would be both workable, and enforceable since it would enable both sender and recipient to quantify the use of this exemption, something which is not tracked in most agency databases.

Regardless of how the foreseeable harm test is applied, there needs to be some additional clarification with regard to the test's application. Would the analysis need to be prepared in a formal document? Would that determination need to be confirmed by an expert in the subject matter under discussion? Would those analyses be releasable under the FOIA? If the latter were to be the case, as I suspect would be under consideration, there are two potential issues which bear examination. First, the analysis itself could contain information otherwise protected under another Exemption, particularly if the deliberation related to regulatory matters, examination of public health issues, national security, foreign policy, or trade secrets. Therefore, if a written analysis was required, and subject to release, there is every possibility that it could not be released in its entirety.

Second, the redaction and release of these records will almost assuredly result in increased litigation. One expectation is that many requesters will demand to see the analysis of the harm that would result, and then challenge that analysis. I would suggest that this could even result in retro-active litigation for those records previously released, or have a long term impact on records being captured and retained in the National Archives and Records Administration for political appointees and members of the Senior Executive Service, under the new "Capstone" program.

As drafted, it appears that only Ex. 5 would have a 25 year retention period on the use of the Exemption. This appears to function along the same lines as the Presidential Records Act (PRA). While I believe my co-presenters have a greater expertise on the PRA, I understand that this timeframe has only rarely been at issue. This revision would work well with deliberative process material, but has the potential to be problematic if applied to records subject to the attorney-client, and attorney-work product privileges. Those privileges should continue past that timeframe, and any change may be a concern within the legal community.

The issue of posting frequently requested records, or indeed all records released under the FOIA, may be among the most problematic to implement. There is a fundamental conflict between the posting expectation under the FOIA, and the implementation of section 508 of the Americans with Disabilities Act (ADA). In that section of the ADA, federal agencies are required to ensure that any records posted to a federal agency website are in a software form which is capable of being verbalized by program software, enabling visually impaired individuals to access federal records. While most federal agencies create records in a 508 compatible form (although this is an issue that, to the best of my knowledge, has not been studied in across the board), many records are not in a compatible form/format. Specifically, records submitted to the government, or otherwise obtained by an agency, are frequently not in a 508 compliant form. The answer is to "remediate" or convert the records, creating a 508 compliant document, and then to post the records. Most, if not all, agencies do not have the statutory authority to mandate submission of records in a specific form or format.

Remediation of records is extremely time consuming, and can be very expensive. In my former agency, we had a 250,000 page document that was required by statute to be made publicly available. Lacking the time and resources to remediate the record in-house, the agency consulted with contractors who could handle the remediation (note that this is particularly an issue when dealing with graphs, charts,

photographs, foreign languages, etc.). The lowest bid for the remediation was \$90,000. This is not a cost that can be sustained given the volume of records at issue, across the government.

I would also note that there is no software program on the market at this time which has the capability of remediating records such that the FOI officer would not have to review the entire record after processing. There are numerous examples of misreading, which can substantially change the context of the record, or the information contained within that record. Using such software is helpful, but doesn't reduce the time needed to review the record prior to release.

One alternative available to an agency FOI officer is to submit a formal request for a waiver to post non-remediated records on a federal website. There are no permanent waivers for FOIA released records, in any agency. In my former office, we were able to obtain temporary authorization to post records, but only for a period of time not to exceed 21 days. On day 21, either the remediated records had to be available on line, or the records had to be removed. Since government records are usually created in a 508 compliant manner, granting a permanent waiver could apply only to the posting of records which had been submitted to the government, and then redacted and released under the FOIA. Without some consensus on how this conflict between posting frequently requested records and 508 compliance should be handled, FOI officers may be faced with having to choose which law to violate.

One other aspect of the bill which bears clarification is that of pro-actively posting categories of records. For the past few years, efforts have successfully been made government-wide, to post databases and certain categories of records. However, without further clarification, this has the potential to require an agency to spend scarce resources on redacting and posting records which are infrequently, if ever, requested. In my former agency, we conducted nearly 22,000 inspections of regulated facilities annually. Roughly 7,000 of these records were requested under the FOIA. Does this now require the agency to review, redact, prepare and post all records in this category, because roughly one-third of the records were requested? I would suggest that clarification is appropriate, so that agencies do not misdirect staff time, and thereby unintentionally increase backlogs, by spending time in pro-active release of records which are of little or no interest to the requester public.

Restoration of Ex. 2 protections which were lost in the Supreme Court ruling, Milner v. Dep't of the Navy, 131 S. Ct. 1259 (2011) are not addressed in this bill. This ruling overturned a policy established by the DC Circuit court in 1992.

Essentially, Ex. 2 was divided into separate applications - "low 2" and "high 2," and these distinctions enabled federal agencies to protect information which, if released, could result in the "circumvention" of a statute. It was this case which originally authorized the Internal Revenue Service to withhold from release under the FOIA, the criteria used to determine which income tax filings would be subject to audits. Federal agencies also used this interpretation to protect information such as guard schedules for federal installations, IT security procedures, instructions to counsel, etc. For more than 20 years, this usage was referred to as the "circumvention argument." That usage was voided in the Supreme Court ruling, which restricted the use of Ex. 2 solely to personnel issues (also see the reference to this exemption above, under the discussion on foreseeable harm).

Many federal agencies have been struggling with ways in which to protect critical infrastructure information. Unfortunately, this issue is not addressed in the draft. Some method of protection seems appropriate. The Dept. of Defense proposed statutory reform which would either re-define Ex. 2 to

restore the lost protections, or add the circumvention argument to a new exemption (i.e., exemption 10), after obtaining input from the Dept. of Justice. To the best of my knowledge, that proposal has been under consideration for nearly 2 years, and its current status is unknown.

The application of new policies relating to authorization for a waiver of fees are insufficient to actually correct some of the problems which federal staff must address.

I would suggest that the fee structure is unnecessarily complicated to apply, and believe that it has resulted in lengthy and costly litigation which may not have been the best use of limited resources. However, charging by the GS (grade level) of the employees performing the work, the type of requester (commercial, non-profit, consumer) and then for administrative costs (search, review, reproduction, certification, etc.), is all contained within the statute. To compound that, the 2007 FOIA revisions discount certain fees, when requests aren't processed within the statutory 20 day timeframe.

If there are issues relating to the granting of fee waivers for media, public interest groups or other non-profit organizations, then it seems appropriate to address those issues separately, while reviewing the overall fee schedule in its entirety. In some agencies, nearly all requesters are either consumers (such as Social Security recipients, veterans, etc.), or are commercial users (manufacturers seeking information on other firms working in their field, or contract bids) and waivers are much less of an issue in these agencies. Some federal staff spend excessive time determining the correct charges, and may be involved in litigation when those charges are challenged. This drain on limited resources of both the FOI officer and general counsel, could be simplified.

Efforts should be considered which would reduce the impact of disclosure-based litigation. Litigation may result when an agency is simply unable to identify, locate, copy and review vast numbers of records (see above examples of excessive volume of records at issue) in the statutory timeframes.

Efforts have clearly been made to reduce litigation, through the establishment of Public Liaisons, and more successfully through the creation of the Office of Government Information Services (OGIS). Those efforts have been somewhat successful, and I will address some thoughts on OGIS separately, below. However, I believe that there should be additional steps taken to save resources, expedite the response process and resolve the requester community's concerns.

There are insufficient incentives for a requester to participate in mediation with a federal agency. In my experience, the major national and international media organizations have not been as interested in pursuing litigation as other requester categories. More often, law firms, public interests groups and trade press are the least cognizant of the difficulties that an agency may face when searching, redacting and releasing agency records.

By comparison, the Canadian government's approach to their FOI equivalent statute, the Access to Information Act requires mediation prior to litigation. As a result only a minimal number of cases are ever pursued in the courts. I would suggest that the requester community's interests might be better served by examining the success which our neighbors to the north have experienced.

The additional responsibilities, and expansion of OGIS' functions, are extraordinary. I would defer to my co-panelist, Miriam Nisbet, the founding director of OGIS, to comment on the many proposals. However, I feel strongly that mediation services, with the proper inducements for the requester community, has the potential to save time and taxpayer money. These changes would require

substantial increases in the OGIS budget, but the sooner that dispute resolution is initiated, the more likely it will be that potential litigation is reduced, and that the concerns of the requester community will be addressed.

I would commend OGIS in their efforts, which have in all probability saved the government substantial amounts of money through mediation, such that cases are not pursued in court. As noted, there is little in the way of incentives for the requester communities to work hand-in-hand with the federal sector, or to focus the scope of overly-broad requests. Many requesters are unaware of how agency records are accessed, where they are located, or the form or format in which they are maintained. As a result, agencies receive overly broad or vague requests on a routine basis. This makes it difficult to interpret, and when a FOI officer contacts a requester in an attempt to work through the questions or issues, there is little incentive for a requester to comply. OGIS has fulfilled this function successfully, but not to the extent that it could if additional resources were made available.

I would also suggest that, in my opinion, OGIS' authority be amended to include mediation for cases relating to the Privacy Act. This was considered in the recent past, but the proposal was not forwarded to this body.

This draft would require all federal agencies to update their FOI implementing regulations within 180 days. I would suggest that this is not necessarily the best option, particularly given the resources that such revisions require. This is an insufficient timeframe in which to effectively promulgate a regulation.

Rather, I would suggest that Congress amend the language within the statute which has been interpreted as constraining the Justice Department's Office of Information Policy from revising the administrative portions of the FOI regulations, government wide. Specifically, the statute states that "...each agency must promulgate regulations, pursuant to notice and receipt of public comment..." If this provision is enacted, nearly 100 federal agencies will be required to conduct internal reviews as quickly as possible, draft proposals which meet the standards of general counsel and the Federal Register, schedule the proposed revisions for publication, issue a proposal which must be made subject to notice and public comment, review and address every comment on the proposal, and then finalize the regulations. If DOJ/OIP had the necessary statutory authority, the process could be undertaken and completed once, rather than nearly 100 times.

There is a current effort in OIP/DOJ, to standardize the general administrative components of FOIA implementing regulations. This effort is noteworthy because of the scope of its endeavors and because of its complexity. While it is impossible to establish a single, government wide set of regulations because of the various Exemption 3 statutes, the varying types of records created and maintained, and individual agency charges, this change would clearly resolve issues related to consistency.

The issue of establishing a single, government-wide portal for submission of a FOIA request, is interesting, but will potentially create an entirely new tracking system which may be problematic on several levels. No existing agency office has the capacity to handle the potentially hundreds of thousands of incoming requests. The draft is not sufficiently specific as to where this function would be placed, when the response time frame would begin (i.e., on receipt in the portal, or when received by the correct federal agency), whether this would replace existing tracking systems, how requester confidentiality should be handled (i.e., when a request should be logged as "John Doe" because of the nature of the request or the records at issue), how delays in forwarding a request to multiple agencies

would be handled, or how it would address timeframes if a request was forwarded to the incorrect agency. This is clearly an issue of concern from many perspectives and should be reviewed with an eye towards clarification.

The issue of hiring, retaining and training of qualified FOI officers is not addressed. While this may be beyond the scope of the draft bill, the issue continues to be problematic. The Office of Personnel Management (OPM) created a job series for FOI & Privacy Act officers as mandated by the 2007 FOIA revisions. However, OPM's original position was that job series and promotion potential should be solely the purview of individual agencies, thus assuring inconsistency. The American Society of Access Professionals (ASAP) addressed the issue with OPM and, at least in part as a result, a job series for FOI and Privacy Act officers was created. The job criteria does not provide standards which a FOI or Privacy officer must meet in order to qualify for a promotion, nor has there been an established series of duties for which these federal officers should be responsible.

There continues to be a need for in-depth training on all aspects of the FOIA program implementation. OIP clearly shoulders the primary responsibility for training, and does so with great success (in the spirit of full disclosure, I would note that I have been invited to assist in providing training on behalf of that office, in the past). However, while that office has suffered budget issues along with the rest of the federal government, they remain the only source of training in the full implementation of the FOIA without cost to federal employees. ASAP remains one of the primary alternative organizations which provides training in the implementation of both the FOIA and the Privacy Act.

It should also be noted that in many agencies, the nature of the records with which a FOI officer works are of such complexity, that a background in the field of study may be needed. For example, it may be necessary to utilize the talents of an engineer, to review and correctly redact records that deal with this specialty; and this is only one limited example.

Additionally, correctly applying the exemptions may require 6 to 12 months of internal training and monitoring, before a new FOI officer has been adequately mentored, his/her work given a second level review prior to release, and the employee given authority to directly release records to the requester public. Further, some staff may be assigned responsibility for responding to FOIA requests as a collateral duty, on an infrequent basis, and their skill set may never reach that level of independence. Any allocation of new staffing resources should be expected to slow production in the short run, as the more experienced officers divert their time to mentor and train staff, and conduct second level reviews of records before release. An injection of new resources should not be expected to result in an immediate reduction in backlogs, or expedited processing of pending FOI requests.

One tangential issue relating to retention, is that FOI officers can be named as respondents in FOIA based litigation. I am unaware of any agency which provides professional malpractice insurance and as a result, few (if any) FOI officers have this coverage.

The creation of a FOIA Council, comprised of the Chief FOI Officers, is a laudable concept. I created such a council for my agency more than a decade ago, and meetings were conducted at least quarterly, or on an ad hoc basis when issues arose which needed to be considered as a group. I would strongly support

the creation of such as council with the caveat that in some cases the Chief FOI officer may not be the most knowledgeable person to represent an agency. It would seem appropriate to require agency representation at the highest level possible, when that individual is also the most knowledgeable. Past experience has shown that not every Chief FOI Officer has that skill set since this is, by definition, not necessarily that individual's specialty.

Resources dedicated to the Justice Department's Office of Information Policy (DOJ/OIP) should be reviewed, particularly in light of the number of additional responsibilities that are under consideration for that office. DOJ/OIP has done an outstanding job in providing guidance and training to the federal workforce. Without their efforts, the government's FOI workforce would be functioning inconsistently, and without access to legal interpretation. OIP issues the FOI Post internet bulletin, conducts best practices workshops; issues the FOIA Guide (colloquially referred to as the FOI Bible, which provides working FOI officers with interpretations on application of the various components of the statute that result from litigation; the Guide exceeds 1,000 pages); is implementing the National Action Plan review to update regulations in federal agencies; maintains the FOI.Gov internet page; reviews and requires that Annual Reports submitted under the FOIA are published on the internet, among other outreach opportunities. If this component had the amplified resources to expand training to locations across the country in which there are high concentrations of federal employees, provide guidance and enhance its current presence, it would better assist both the federal and private sectors in understanding and applying the statute.

Certainly, no process is so perfected that it can't be improved, particularly when technology changes, and the needs of the citizenry evolve. FOIA was, as noted previously, an unfunded mandate and must compete for scarce resources, against other mandated programs in federal agencies. The FOIA program, at the federal level, does have a backlog of unanswered requests for a number of reasons, many of which have not been studied.

Finally, I note that in the media discussions relating to this bill, there have been references to increases in the number of times that certain exemptions, particularly those which are discretionary, have been used. I would suggest caution in making determinations based such statements. Increases in the use of certain Exemptions may be simply the outcome of the DOJ focus on backlog reduction, such that responding to more requests than in the previous year would also result in an increased use of Exemptions, although that might not actually reflect an increase in the percentage of times that an agency withheld information.

Thank you for the opportunity to speak with you today, and I look forward to answering any questions that you may have.

Frederick J. Sadler (Fred)

Fred retired from federal service in November 2014, after serving for more than 40 years in the Food and Drug Administration's Freedom of Information program.

During his tenure in that agency, he served as the director of two Agency component Centers (the Center for Devices and Radiological Health; and the Center for Biologics Evaluation and Research); then served as the FDA's FOI Denials and Appeals Officer, before being selected to serve as the Agency's Freedom of Information Officer, and Senior Official for Privacy, in the Office of the Commissioner.

Fred oversaw and directed the work efforts of approximately 132 staff agency-wide, and was instrumental in reducing the overall backlog of pending agency FOI requests by 91%, over a 5 year period. As part of those efforts, Fred created the first agency-wide FOIA tracking system, and established the first agency-wide FOI Council, which was responsible for ensuring consistent application of the statute and the Agency's implementing regulations.

Fred assisted with FOI related litigation (declarations, Vaughn indices, etc.), and served on various agency working groups dealing with disclosure issues to include "Re-engineering" the FOIA process within the agency, which resulted in his receiving the FDA Commendable Service Award. In addition to more than 40 other awards, Fred also received the HHS Secretary's Award for Distinguished Service.

As part of his continuing program improvement efforts, Fred worked directly with the Public Health Service (PHS) and the Dept. of Health and Human Services (HHS), on pending issues, litigation, equities in non-agency offices or departments, with the media, and other members of the requester community.

Throughout his service in FDA, Fred provided extensive training in the theory, process and application of the FOI within his agency, the Department, in more than a dozen other federal agencies (by invitation), and has been a frequent speaker for the Department of Justice's Office of Information Policy, and the American Society of Access Professionals (ASAP). Fred was also elected, twice, to serve as the national president of ASAP.

Fred is also accredited by the International Association of Privacy Professionals (IAPP) as both a Certified Information Privacy Professional for Federal Government privacy programs (CIPP/G) and a Certified Information Privacy Manager (CIPM).

Name: JABIG, FREDERICK J.

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

None - Not applicable

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Not applicable. Testifying solely on my own behalf.

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None - Not applicable

I certify that the above information is true and correct.

Signature:

Frederick J. Abig

Date:

Feb. 24, 2015