

**Opening Statement
Ranking Member Elijah E. Cummings**

Hearing on “Ensuring Transparency Through the Freedom of Information Act”

June 2, 2015

Thank you, Mr. Chairman, for calling today’s hearing, as well as our hearing tomorrow on the Freedom of Information Act. FOIA is the cornerstone of our open government laws, and it has been used by countless journalists, watchdog groups, and citizens to obtain information about their government and its actions.

FOIA helped the families of 9/11 victims trace the actions and whereabouts of their loved ones. FOIA led to the discovery in 2002 that one in five FDA scientists felt pressured to approve unsafe drugs. And following the shooting of Michael Brown in Ferguson, Mississippi, FOIA helped highlight the transfer of military equipment to police departments.

We will hear today from witnesses who use FOIA and know first-hand how important it can be. I appreciate each of you taking the time to share your experiences with us, and I look forward to your testimony.

Today, I would like to make one simple, but critical point—Congress cannot continue to slash agency budgets, starve them for resources, and cut their staffs, all while expecting them to tackle the increasing number of FOIA requests that are now at an all-time, historic high.

Let me give you the [specifics](#). First, the number of FOIA requests has skyrocketed from 2009 to 2014. In 2009, when President Obama took office, there were about 558,000 FOIA requests submitted to federal agencies. By 2014, that number rose dramatically to more than 714,000.

From 2009 to 2014, the overall number of FOIA requests submitted to federal agencies increased by 28%, with new records set in each of the past four years in a row.

The problem is that the total number of FOIA personnel has now dropped to its lowest point at any time since President Obama took office. In 2009, the number of full-time FOIA staff at federal agencies was 4,000. In 2014, the number of full-time FOIA staff dropped to 3,838—a decrease of about 4%.

Is there any wonder why we have FOIA backlogs? The number of requests has been skyrocketing, but agency budgets have been slashed by draconian sequestration cuts—resulting in fewer staff to handle impossible workloads.

These trends are simply not sustainable if we truly want a FOIA system that works for the American people.

With that said, I know there is one thing that every Member of this Committee agrees on, and that is the need for legislation to update and improve FOIA. **On February 2, Representative Darrell Issa, our former Chairman, and I joined together on a bipartisan basis to introduce the FOIA Oversight and Implementation Act, and we passed it out of our Committee unanimously several months ago.**

This legislation would codify the presumption of openness that President Obama put in [place](#) by Executive Order on his first day in office. The bill would also codify Attorney General Eric Holder's directive that the Department of Justice will not defend FOIA denials unless agencies reasonably foresee that disclosures would harm an interest protected by a FOIA exemption, or if disclosure is prohibited by law.

The bill would also make other improvements. It would put a 25-year sunset on exemption 5 of FOIA—the deliberative process exemption—and limit the scope of records that agencies could withhold under that exemption. It would require the Office of Management and Budget to create a central portal to allow FOIA requests to any agency through one website, and it would strengthen the independence of the Office of Government Information Services by allowing it to submit testimony and reports directly to Congress.

Our bill has widespread support. **A coalition of 47 open government groups supports the bill, yet it still has not been scheduled for the House floor. I believe the House should pass this bill quickly so we can work with the Senate to get it to the President's desk.**

With that, let me close by reading from an editorial that was published in the New York Times on February 18, which said this:

For Republicans, this is a rare chance to log a significant bipartisan accomplishment in the public interest—one that Mitch McConnell, the Senate majority leader, and Mr. Boehner should promptly seize. The availability of information that sheds light on the workings of government is essential for a healthy democracy. Strengthening the law will help ensure that basic principles of transparency are not a matter of executive discretion.

Mr. Chairman, I do hope we seize this opportunity, and I thank you for calling these critical hearings.