

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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MEMORANDUM

March 11, 2019

To: Committee Members

Fr: Majority Staff

Re: Hearing on “FOIA: Examining Transparency Under the Trump Administration”

On Wednesday, March 13, 2019, at 9:30 a.m., in room 2154 of the Rayburn House Office Building, the Committee will hold a hearing on the compliance of federal agencies with the Freedom of Information Act (FOIA).

I. BACKGROUND

FOIA fosters government transparency by enabling public access to federal records. The statute requires federal agencies to release records within prescribed time limits upon receiving written requests that reasonably describe the requested records.¹ The Supreme Court has described the purpose of FOIA as “vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.”²

In 2016, Congress passed the FOIA Improvement Act of 2016, which broadened access to records and made the requesting process less burdensome for requesters.³ The FOIA Improvement Act amended FOIA to require agencies to respond to requests with a presumption of openness, increased the independence of the Office of Government Information Services, and created a Chief FOIA Officers Council, in addition to other changes to strengthen FOIA.

On March 5, 2019, Chairman Cummings, joined by Senator Patrick Leahy, Senator Chuck Grassley, and Senator John Cornyn, sent a letter to Acting Secretary of the U.S. Department of the Interior (DOI) David Bernhardt to express significant concern with the rule recently proposed by DOI concerning its FOIA procedures. That bipartisan letter noted that “the proposed rule would make the process more confusing and potentially expose it to politicization

¹ See 5 U.S.C. § 552.

² *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

³ P.L. 114-185.

and unnecessary litigation,” and urged Acting Secretary Bernhardt to reconsider the proposed rule.⁴

II. PURPOSE OF HEARING

The Committee has jurisdiction over FOIA. The hearing will examine the compliance of federal agencies with FOIA, including the extent to which agencies have implemented the FOIA Improvement Act of 2016.

III. WITNESSES

Ms. Melanie Ann Pustay
Director, Office of Information Policy
U.S. Department of Justice

Ms. Rachel Spector
Acting Deputy Chief Freedom of Information Act Officer
U.S. Department of the Interior

Mr. Timothy R. Epp
Acting Director, National FOIA Office
U.S. Environmental Protection Agency

Staff contacts: Krista Boyd, Kadeem Cooper, or Brandon Rios at (202) 225-5051.

⁴ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, Senator Patrick Leahy, Senator Charles E. Grassley, and Senator John Cornyn to Acting Secretary David Bernhardt, Department of the Interior (March 5, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-05.EEC%20Leahy%20Grassley%20Cornyn%20to%20Bernhardt-DOI%20re%20FOIA_0.pdf).