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U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

[REDACTED]

This concerns your Freedom of Information Act (FOIA) request dated December 20, 2015, and received in this Office on December 30, 2015, in which you requested copies of the records requested by the Freedom of the Press Foundation in their April 3, 2015 FOIA request. This response is made on behalf of the Office of Information Policy (OIP).

Please be advised that we recently processed records in connection with the above-referenced request made by the Freedom of the Press Foundation. Specifically, searches were conducted in OIP and OLA, and of the electronic database of the Departmental Executive Secretariat, which maintains records of formal Department correspondence with Congress, and 112 pages were located that are responsive to your request. I have determined that these documents are appropriate for release with excisions made pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6), which pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. For your information, the withheld material consists of certain personal contact information. Where the redaction of contact information has concealed the identity of an individual, we have added a text box stating that individual's identity, for your reference. Finally, I note that limited portions of the enclosed documents are not responsive to your request, inasmuch as they consist of internal Department communications or personal asides or other comments unrelated to the FOIA legislation. Those portions are marked accordingly.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2012). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal at <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or

electronically transmitted within sixty days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Vanessa R. Brinkmann
Senior Counsel

Enclosures

From: Boyd, Krist (b) (6) >
Sent: Monday, April 14, 2014 4:40 PM
To: Wilson, Karen L (OLA)
Subject: RE: call

2157 Rayburn

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Monday, April 14, 2014 4:14 PM
To: Boyd, Krista
Subject: RE: call

11:30 works for us. Where should we meet?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Boyd, Krist (b) (6)
Sent: Monday, April 14, 2014 4:00 PM
To: Wilson, Karen L (OLA)
Subject: RE: call

Yes, I think a bipartisan meeting would make sense. Tomorrow works for us. How about 9:30 a.m. or 11:30?

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Monday, April 14, 2014 3:29 PM
To: Boyd, Krista
Subject: RE: call

We are cleared to meet with you about our comments. We don't have clearance to share something written. Can we meet this week? I assume this will be a bipartisan meeting? Melanie and I are available tomorrow all day and Wednesday until 12:30. Would those times work for you?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Boyd, Krist (b) (6)
Sent: Wednesday, March 12, 2014 3:40 PM

To: Wilson, Karen L (OLA)
Subject: RE: call

Hi, Karen,

Just wanted to check back in on H.R. 1211. Does DOJ have written comments that can be shared? I know you previously said there was a paper being drafted.

Thanks,
Krista

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Tuesday, February 25, 2014 3:35 PM
To: Boyd, Krista
Subject: RE: call

I have a hearing at 10 as well. We'll figure out a time that works for all of us after hearings. Thanks

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Boyd, Krista (b) (6)
Sent: Tuesday, February 25, 2014 3:32 PM
To: Wilson, Karen L (OLA)
Subject: Re: call

I won't be back at my desk until probably 6. We're on the floor now and then have a bill in the Rules Committee. Can we talk tomorrow afternoon? I have a hearing at 10 and it should be over by 2.

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Tuesday, February 25, 2014 03:22 PM
To: Boyd, Krista
Subject: RE: call

We have 3 items we'd like to discuss this afternoon and we have begun to draft another paper that would include a few other issues. Do you have time to talk?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Boyd, Krista (b) (6)
Sent: Tuesday, February 25, 2014 11:15 AM
To: Wilson, Karen L (OLA)
Subject: RE: call

We can do 11:20. Peter Warren (majority staff) and Mark Stephenson (minority staff) will also be on. How logistically do you want to do this? I can call the other staff then call you if you'd like.

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]

Sent: Tuesday, February 25, 2014 11:06 AM

To: Boyd, Krista

Subject: call

Melanie and I could talk at 11:15 or 11:20. Would that work for you and Ali?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658

Fax: 202-514-9353

From: Boyd, Krist (b) (6) >
Sent: Thursday, April 17, 2014 12:09 PM
To: Wilson, Karen L (OLA)
Subject: RE: Comments on FOIA bill

Thank you, Karen.

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Wednesday, April 16, 2014 4:19 PM
To: Boyd, Krista; Ahmad, Ali; Stephenson, Mark
Subject: Comments on FOIA bill

Please find attached the talking points we used yesterday in our meeting. Let me know if you have any questions.

Karen L. Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

H.R. 1211 - FOIA OVERSIGHT AND IMPLEMENTATION ACT OF 2014

GENERAL COMMENTS

- The Administration strongly opposes passage of H.R. 1211. The Administration views H.R. 1211 as an attempt to impose on the Executive Branch multiple administrative requirements concerning its internal management of FOIA administration, which are not appropriate for legislative intervention and would substantially increase costs and cause delays in FOIA processing. In this respect in particular, this bill is vastly different from past amendments to the FOIA, which addressed substantive issues connected with access to government records.
- We are committed to improving FOIA administration across the government, and we believe that the President's FOIA Memorandum and the Attorney General's FOIA Guidelines provide the best framework for those improvements. In the five years since their issuance, agencies have achieved many real successes, processing more requests, improving response time, and making more information available proactively. Furthermore, in the December 2013 National Action Plan for Open Government, the Administration laid out five key initiatives as part of its FOIA modernization effort. Through these five initiatives the Administration has committed to:
 - Exploring the best way to launch a consolidated online FOIA service;
 - Standardizing FOIA practices across agencies;
 - Improving internal agency FOIA processes;
 - Establishing a FOIA Advisory Committee; and
 - Improving FOIA training across the government.

Efforts to implement these initiatives are already ongoing and these commitments can be seen in more detail here:

http://www.whitehouse.gov/sites/default/files/docs/us_national_action_plan_6p.pdf.

Additionally, the Justice Department has undertaken a number of steps to improve the FOIA process as discussed in recent testimony. Pustay, Melanie Ann. "Open Government and Freedom of Information: Reinvigorating the Freedom of Information Act for the Digital Age," testimony, March 11, 2014, before the Senate Judiciary Committee. Text available at:

<http://www.judiciary.senate.gov/imo/media/doc/03-11-14PustayTestimony.pdf>.

- As a result, the Administration believes that the changes proposed in H.R. 1211 are not necessary and, in many respects, will undermine the successes achieved to date by diverting scarce processing resources. While there are some provisions in the bill that we do not object to, such as establishment of a FOIA Advisory Committee, and continued focus on the role of agency Chief FOIA Officers, such matters can be – and are already being – addressed administratively, without legislation.

MAJOR CONCERNS

- "Foreseeable harm"; proposed § 552(b): First, the Administration strongly opposes the bill's addition of a "foreseeable harm" standard into the FOIA exemptions. By inserting a separate

requirement that agencies demonstrate that disclosure “would cause specific identifiable harm,” before any withholding would be permissible, the bill effectively amends each and every one of the existing exemptions in a manner that is fatally vague and subjective. This addition would vastly increase FOIA litigation and would undermine the policy behind each of the existing exemptions. It would require judges to determine, on a document-by-document basis, whether disclosure of a record protected by an exemption would cause “identifiable harm.” By removing agency discretion to determine when a document covered by an exemption should be released, it would create massive uncertainty and would chill intragovernmental communication. The proposed amendment is unacceptably damaging to the proper administration of FOIA and of the government as a whole.

- Review of existing records; proposed § 552(a)(8): Second, the Administration strongly opposes the bill's attempt to impose a requirement for agencies to review all their existing records, determine whether their release would contribute to public understanding of the operations of the agency, and if so, to process them for disclosure. Given the vast quantities of records agencies hold, this requirement is so sweeping in nature that it is completely unworkable. We support proactive disclosure of records and, indeed, that is a key aspect of the President’s FOIA Memorandum and the Attorney General’s FOIA Guidelines, but the goal of increasing such disclosures can be achieved in a more thoughtful way that does not unnecessarily increase costs or divert resources from conducting agency operations and processing actual FOIA requests.
- Single FOIA website; proposed § 552(m) and §3 of bill: Third, while the Administration believes that it is beneficial to study the feasibility of establishing a single website for the making of FOIA requests, and has already committed to doing so, we also believe that, given the many challenges posed by creation of such a site, it is premature and would be counterproductive to mandate establishment of a pilot program, with required participation by multiple agencies, prior to completion of the feasibility study.
- OGIS; proposed § 552(h) and others: Fourth, the bill also inserts multiple references to the Office of Government Information Services (OGIS) that are often unnecessary and in some instances are counterproductive or inconsistent with the role of an office that is charged with providing mediation services. OGIS has a clearly defined role in the statute that we support, but the bill would give OGIS responsibilities that, in some cases, would unduly burden agencies, create inefficiencies, conflict with the neutrality required of a mediator, and have the potential to needlessly detract from DOJ’s authority to guide the Executive Branch with regard to FOIA.

PROBLEMATIC PROVISIONS OF THE BILL

Section 2 - Freedom of Information Act Amendments

- New FOIA Website Requirement. As discussed above, the bill would add a new § 552(m), which would require OMB – “[n]ot later than one year after” enactment – to “ensure the existence and operation of a single website” for the public to (1) submit FOIA requests to agencies; (2) receive automated information about the status of their FOIA requests; and (3) file appeals. The Administration objects to this provision. The Administration believes that further study is needed to assess the feasibility of establishing a single website to make and track requests. Given that

there are 99 agencies subject to the FOIA, with vastly different FOIA needs, the technical and fiscal challenges of attempting to establish a single site for both submission and tracking of requests are great. Agencies' existing capabilities and operational needs, including appropriate handling of classified records and integration with agency record-keeping systems and systems that support FOIA workflow, would all need to be assessed and compared against what could be offered by a uniform system. It will be critical to assess the costs as well as the benefits of deploying a single system before making a decision on how to proceed. Otherwise, the pilot program could cause not only disruption of agency FOIA programs, but the undermining of agencies' ability to comply with existing DOJ reporting and data migration requirements. In addition, the Administration believes that DOJ should retain the role of setting FOIA policy and objects to provisions assigning new FOIA roles and responsibilities to OMB.

- Disclosure of Information. As discussed above, the bill would add a new § 552(a)(8), which would require all agencies to affirmatively review all their records to determine which would be of public interest, and to then affirmatively process all such records, and make them available in an electronic, publicly accessible format. First, the breadth of this provision is staggering, since virtually every agency would have millions of records to review. Second, to affirmatively review all the records an agency possesses to determine which are in the public interest, and redact portions of them that contain sensitive information, like information protected by the Privacy Act or Trade Secrets Act, would impose a crushing burden on agencies. Third, the bill does not take account of agency obligations to ensure that all posted records are accessible to individuals with disabilities, as required by Section 508 of the Rehabilitation Act of 1973, an obligation that is commonly fulfilled by the same people who process FOIA requests. The FOIA already contains a provision that requires agencies to post records that are likely to be frequently requested, and that provision offers a more structured and workable way to promote affirmative disclosures. In addition, the President's and Attorney General's FOIA Memoranda encourage proactive disclosures of records above and beyond the statutory requirements. For these reasons, the Administration strongly objects to the proposed new paragraph.
- Presumption of Openness - Amendments to 5 USC 552(b). As discussed above, the Administration strongly opposes the bill's addition of a narrow version of a "foreseeable harm" standard into the FOIA exemptions. While we would strongly oppose any attempt to codify such language, the bill language is particularly pernicious because, while seemingly analogous to the Attorney General's "foreseeable harm" standard contained in his 2009 FOIA Guidelines, it expands on that standard in a way that significantly changes FOIA's carefully crafted exemption scheme. The bill, like the Attorney General's FOIA Guidelines, recognizes that withholding is appropriate under the FOIA when "disclosure is prohibited by law." In all other situations, however, rather than requiring agencies to "reasonably foresee[] that disclosure would harm an interest protected by one of the statutory exemptions," the bill provides that agencies may not withhold information unless they reasonably foresee "that disclosure would *cause specific identifiable* harm to an interest protected by an exemption." (emphasis added) This is a much higher threshold to meet and would put a vast array of information at risk of disclosure. The risk is most obvious with regard to exemptions that typically do not allow discretionary releases, such as the exemptions that cover classified information and protect personal privacy, but it would have a devastating effect with regard to every exemption. To be clear, we do not believe that this is fixable by amending the language, because any codification of a foreseeable-harm standard would

undermine proper FOIA administration by requiring judges to determine on a document-by-document, subjective basis whether withholding is proper.

- Chief FOIA Officers Council - Amendments to 5 U.S.C. 552(k). While the Administration does not necessarily object to the concept of creation of a Chief FOIA Officers Council, we do not believe it is necessary or appropriate to mandate it, or prescribe its makeup, through legislation. The Administration believes that the authority of any Chief FOIA Officers Council should be subject to existing OMB and DOJ authority in these areas. However, proposed § 552 (k)(6)(C) and (D) could be read as providing the Council with policy and/or oversight authority that more appropriately belongs with OMB and DOJ.
- Regulations - Bill, § 2(k). The amendments proposed by the bill would not, by themselves, require implementing regulations and so it does not make sense for the bill to direct agencies to issue new FOIA regulations within 180 days of enactment “in accordance with the amendments made” by the bill. We question which of the requirements in this bill would require regulatory changes by agencies that already have FOIA regulations in place. Furthermore, to the extent that this paragraph is itself affirmatively directing agencies to include “procedures for engaging in dispute resolution” in their regulations, the Administration objects to the paragraph. While we support notifying requesters of the availability of such services, it would be counterproductive to require formal, regulatory procedures for the actual interaction with dispute resolution providers, given that such procedures are voluntary at their core and are enhanced by the providers’ ability to be fluid and flexible in how they proceed. Given our objection to any need to promulgate regulations as a result of the proposals contained in this bill, we likewise object to the requirement of a report detailing which agencies have amended their regulations.
- Shifting Certain Authorities to Implement FOIA from DOJ to the Office of Government Information Services (OGIS) - Amendments to 5 U.S.C. 552(h). The Administration believes that it is important for DOJ to retain its role as the provider of FOIA guidance to the Executive Branch. While we support the current statutory role of OGIS in reviewing agency FOIA policies, and while it is free to provide input, we feel strongly that actual guidance to agencies should come from DOJ. Thus, the Administration strongly objects to new § 552(h)(2)(D), which would require OGIS to “provide guidance to agencies on the use of fees and fee waivers.” Because this is a subset of the many FOIA issues on which DOJ provides guidance to agencies, requiring OGIS to provide such guidance is inefficient, could lead to confusion and inconsistency, and is contrary to the neutrality required of OGIS given its role in providing mediation services. As a result, this provision would be harmful, rather than beneficial, to the FOIA process. Likewise, we object to the lack of clarity of the proposed language in new § 552(h)(2)(C), which would require OGIS to “identify” methods for improving compliance with FOIA, because it fails to specify what OGIS is to do once it has made such identification.

Constitutional Issues in Section 2

- The bill would add new § 552(h)(4)(A), which would require OGIS to submit a report to certain committees of Congress containing “legislative and regulatory recommendations to improve the administration of [the FOIA].” This provision infringes on the President’s prerogative under the Recommendations Clause to “recommend to [Congress’s] Consideration such Measures as *he*

shall judge necessary and expedient,” U.S. Const. art. II, § 3 (emphasis added), because it requires an official in the executive branch who is subject to the President’s direction to make legislative recommendations that advance particular policies or objectives. To avoid conflict with the Recommendations Clause, we advise that the provision be revised to make clear that it is precatory, such as by insertion of the phrase “if deemed appropriate” after “recommendations.”

- The bill would also require, in new § 552(h)(4)(D), that the report discussed above, as well as testimony and other communications with Congress “be submitted directly to [certain congressional] committees and the President, without any requirement that any officer or employee outside of the Office of Government Information Services, including the Archivist . . . and the Director of [OMB] review such report, testimony, or other communication.” This provision raises separation of powers concerns by interfering with the President’s supervision of the executive branch in the exercise of his constitutionally assigned function “to take Care that the Laws be faithfully executed,” U.S. Const. art. II, § 3. It is analogous to a concurrent reporting requirement—a requirement that an executive branch agent report simultaneously to Congress and to the President (or supervising executive branch officials)—in that it prevents the President from supervising the executive branch in its communications to Congress. (We recognize that § 552(h)(4)(D) would literally allow OGIS to sidestep supervision by “any officer or employee outside of the Office of Government Information Services”, which we would not construe to include the President himself, but it still would severely burden the President in the exercise of his “take care” responsibilities by disabling him from relying on subordinate executive branch officials to supervise OGIS in its communications to Congress.) We have long taken the position that such provisions are presumptively objectionable, for they “clearly weaken the President’s control over the executive branch and by doing so increase[s] congressional leverage on the President and other officials of the executive branch.” *The Constitutional Separation of Powers Between the President and Congress*, 20 Op. O.L.C. 124, 175 (1996). We therefore object to this provision.

Section 3 - Pilot Program

- As discussed above, the Administration strongly opposes provisions of the bill that would require OMB to establish a 3-year pilot program to review the benefits of “a centralized portal to process requests and release information,” including the requirement that no less than three agencies that are not currently using such a portal be compelled to do so. This section fails to take into account the resource and contractual implications associated with mandating use of a particular FOIA system, not to mention the significant disruption that would be caused to those agencies’ FOIA programs. We therefore object to Section 3 (Pilot Program) in its entirety. The feasibility and makeup of a consolidated online FOIA portal is currently being evaluated through the existing Administration effort to explore the best way to launch a consolidated FOIA website. Legislation is counterproductive, unnecessary, and premature as any determination on how to establish such an online service should wait until this review concludes.

Section 4 – Inspector General Review

- The Administration objects to Section 4(b) of the bill, which provides that withholding information “in a manner inconsistent with the requirements of” the FOIA or any “rules,

regulations, or other implementing guidelines” shall be a “basis for disciplinary action.” While the reference to disciplining employees may be an attempt to hold agency employees accountable for FOIA decisions, and to encourage greater disclosure, it is problematic in several respects. First, the standard is too vague and difficult to apply and it is unclear who “the appropriate supervisor” is referring to. Second, it would have very negative effect of discouraging agency employees from making FOIA decisions in a timely fashion as their concerns about whether they will be disciplined down the road, and this in turn would significantly bog down and back up an already overwhelmed FOIA system at agencies. Lastly, it has the negative effect of discouraging individuals from coming to work in the FOIA field in the first instance, knowing that they could be subject to disciplinary action if any of their good faith decisions are later deemed to be “inconsistent” with statutory and regulatory standards.

- Currently, every employee is already subject to discipline for poor job performance, in accordance with established standards. In addition, the FOIA already contains a provision addressing discipline of agency personnel for acting “arbitrarily or capriciously with respect to [a] withholding.” 5 U.S.C. 552(a)(4)(F). This existing provision targets malfeasance more clearly than the bill would and there is no reason to believe that any other provision is needed.

From: Wilson, Karen L (OLA)
Sent: Thursday, June 19, 2014 7:00 PM
To: Carson, April (Judiciary-Dem)
Cc: Betourney, Chanda (Judiciary-Dem)
Subject: RE: FOIA bill

Thanks, April

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
[U.S. Department of Justice](#)

Direct: 202-616-0658
Fax: 202-514-9353

From: Carson, April (Judiciary Dem) [[mailto:](#)(b) (6)]
Sent: Thursday, June 19, 2014 5:33 PM
To: Wilson, Karen L (OLA)
Cc: Betourney, Chanda (Judiciary Dem)
Subject: RE: FOIA bill

Karen,

We pushed it till early next week.

April

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, June 19, 2014 4:47 PM
To: Carson, April (Judiciary Dem)
Cc: Betourney, Chanda (Judiciary Dem)
Subject: FOIA bill

Hi April, I was just checking in to see when you were introducing your bill. You had mentioned it might be the end of this week. Or, do you think it will be next week? I am trying to move things along over here. Thanks.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
[U.S. Department of Justice](#)

Direct: 202-616-0658
Fax: 202-514-9353

From: Wilson, Karen L (OLA)
Sent: Thursday, June 26, 2014 5:34 PM
To: (b) (6); Betourney, Chanda (Judiciary-Dem)
Subject: (b) (6)
FOIA bill
b6: April Carson and Chanda Betourney email addresses (Senate)

April and Chanda, is it possible to come up on Wednesday of next week to talk about the bill?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Wilson, Karen L (OLA)
Sent: Thursday, July 10, 2014 2:58 PM
To: (b) (6)
Subject: Re: FOIA bill

b6: Chanda Betourney email address (Senate)

Thanks for understanding.

From: Betourney, Chanda (Judiciary Dem) [mailto:(b) (6)]
Sent: Thursday, July 10, 2014 02:44 PM Eastern Standard Time
To: Wilson, Karen L (OLA)
Subject: RE: FOIA bill

Thanks Karen I understand, and will wait to hear from you on timing. Right now I am fairly open tomorrow after 11:30 or so, and will make this conversation a priority and clear time to talk if you can get something cleared tomorrow.

Chanda

From: Wilson, Karen L (OLA) [mailto:Karen.L.Wilson@usdoj.gov]
Sent: Thursday, July 10, 2014 2:42 PM
To: Betourney, Chanda (Judiciary Dem)
Subject: Re: FOIA bill

I am sorry this process is quite frustrating. I am awaiting word as to whether we will have something cleared for tomorrow or if we will have to meet early next week. We are using all the pressure that can be brought to bare to clear so we can meet tomorrow.

From: Betourney, Chanda (Judiciary Dem) [mailto:(b) (6)]
Sent: Thursday, July 10, 2014 02:35 PM Eastern Standard Time
To: Wilson, Karen L (OLA)
Subject: RE: FOIA bill

Karen any word on whether you will be ready to talk sometime tomorrow about FOIA? Many thanks,

Chanda

From: Wilson, Karen L (OLA) [mailto:Karen.L.Wilson@usdoj.gov]
Sent: Wednesday, July 09, 2014 10:37 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Carson, April (Judiciary Dem)
Subject: RE: FOIA bill

Great, Chanda. Not Responsive I will keep you posted on Friday.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658

Fax: 202-514-9353

From: Betourney, Chanda (Judiciary Dem) [mailto:(b) (6)]
Sent: Wednesday, July 09, 2014 9:52 AM
To: Wilson, Karen L (OLA)
Cc: Carson, April (Judiciary Dem)
Subject: RE: FOIA bill

Hi Karen,

Friday works for me, preferably after 12 pm but before 4:30 pm. As for timing, I think it is possible that we list it next week and, assuming a week holdover, that we would markup the following week. Nothing is firm yet, but it's on the table. **Not Responsive**

Chanda

From: Wilson, Karen L (OLA) [mailto:Karen.L.Wilson@usdoj.gov]
Sent: Tuesday, July 08, 2014 6:59 PM
To: Betourney, Chanda (Judiciary Dem)
Cc: Carson, April (Judiciary Dem)
Subject: FOIA bill

Chanda **Not Responsive** I want to followup on our meeting of last week. We are trying very hard to get something cleared so we can have further discussions. Do you think we might be able to chat on Friday? Do you have a better sense of your timing on markup?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Wilson, Karen L (OLA)
Sent: Thursday, July 10, 2014 7:18 PM
To: Haren, Eric (Judiciary-Dem)
Subject: RE: FOIA

Unfortunately, I haven't connected with Elliot so I don't know what he told you. Let me talk to him first.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Haren, Eric (Judiciary Dem) [mailto:(b) (6)]
Sent: Thursday, July 10, 2014 7:13 PM
To: Wilson, Karen L (OLA)
Subject: RE: FOIA

Yes. And, I assume that means that whether we have a call tomorrow or not is somewhat up in the air?

From: Wilson, Karen L (OLA) [mailto:Karen.L.Wilson@usdoj.gov]
Sent: Thursday, July 10, 2014 7:13 PM
To: Haren, Eric (Judiciary Dem)
Subject: RE: FOIA

Eric, I understand you spoke to Elliot. I assume you will share that conversation with Jonathan?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Haren, Eric (Judiciary Dem) [mailto:(b) (6)]
Sent: Thursday, July 10, 2014 5:57 PM
To: Wilson, Karen L (OLA)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: RE: FOIA

I can do 3

From: Wilson, Karen L (OLA) [mailto:Karen.L.Wilson@usdoj.gov]
Sent: Thursday, July 10, 2014 5:56 PM
To: Haren, Eric (Judiciary Dem)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: RE: FOIA

After 3pm would work best for me, with the caveat that my boss is trying to schedule a meeting for tomorrow afternoon that might require a little flexibility on your part.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Haren, Eric (Judiciary Dem) [mailto:(b) (6)]
Sent: Thursday, July 10, 2014 5:48 PM
To: Wilson, Karen L (OLA)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: RE: FOIA

What time works for you? My day has a good chunk of free time. We understand there may be some outstanding DOJ concerns with the bill and want to get a sense of them.

From: Wilson, Karen L (OLA) [mailto:Karen.L.Wilson@usdoj.gov]
Sent: Thursday, July 10, 2014 5:47 PM
To: Haren, Eric (Judiciary Dem)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: RE: FOIA

Hi Eric and Jonathan: What time were you thinking? My day is really tight.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Haren, Eric (Judiciary Dem) [mailto:(b) (6)]
Sent: Thursday, July 10, 2014 4:43 PM
To: Wilson, Karen L (OLA)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: FOIA

Hi Karen

Do you have some time tomorrow to talk about Senator Leahy's FOIA bill?

Best,
Eric & Jonathan

From: Betourney, Chanda (Judiciary-Dem) (b) (6)
Sent: Friday, July 11, 2014 5:59 PM
To: Wilson, Karen L (OLA)
Subject: RE: FOIA bill

Hi Karen yes, I am here but only for a short while longer. I can be reached a (b) (6), feel free to give a call.

Chanda

From: Wilson, Karen L (OLA) [mailto:Karen.L.Wilson@usdoj.gov]
Sent: Friday, July 11, 2014 5:27 PM
To: Betourney, Chanda (Judiciary Dem)
Subject: RE: FOIA bill

Are you still there? Can we talk? Can you call my number or give me one to contact you?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Betourney, Chanda (Judiciary Dem) [mailto:(b) (6)]
Sent: Friday, July 11, 2014 3:59 PM
To: Wilson, Karen L (OLA)
Subject: RE: FOIA bill

11 am works for me. Do you want to come here to SD-224, or have a conference call?

From: Wilson, Karen L (OLA) [mailto:Karen.L.Wilson@usdoj.gov]
Sent: Friday, July 11, 2014 3:54 PM
To: Betourney, Chanda (Judiciary Dem)
Subject: RE: FOIA bill

How about 11am?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Betourney, Chanda (Judiciary Dem) [mailto:(b) (6)]
Sent: Friday, July 11, 2014 9:38 AM

To: Wilson, Karen L (OLA)
Subject: RE: FOIA bill

Hi Karen I can do Monday, but earlier is better. Would sometime before 1 or 2pm work? If it needs to be later in the day I could move some things around, if absolutely needed.

Thanks,

Chanda

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 10, 2014 7:10 PM
To: Betourney, Chanda (Judiciary Dem)
Subject: RE: FOIA bill

I apologize for the late reply. We will not be able to meet tomorrow (Friday). As I am sure you can appreciate, the comments will reflect not just DOJ views, but the views of other agencies as well. They need to be fully vetted. What does your Monday look like?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Betourney, Chanda (Judiciary Dem) [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Thursday, July 10, 2014 4:42 PM
To: Wilson, Karen L (OLA)
Subject: RE: FOIA bill

That's quite funny. I missed it the first time around!

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 10, 2014 4:41 PM
To: Betourney, Chanda (Judiciary Dem)
Subject: RE: FOIA bill

Not Responsive



Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Betourney, Chanda (Judiciary Dem) [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Thursday, July 10, 2014 2:44 PM
To: Wilson, Karen L (OLA)
Subject: RE: FOIA bill

Thanks Karen I understand, and will wait to hear from you on timing. Right now I am fairly open tomorrow after 11:30 or so, and will make this conversation a priority and clear time to talk if you can get something cleared tomorrow.

Chanda

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 10, 2014 2:42 PM
To: Betourney, Chanda (Judiciary Dem)
Subject: Re: FOIA bill

I am sorry this process is quite frustrating. I am awaiting word as to whether we will have something cleared for tomorrow or if we will have to meet early next week. We are using all the pressure that can be brought to bare to clear so we can meet tomorrow.

From: Betourney, Chanda (Judiciary Dem) [<mailto:> (b) (6)]
Sent: Thursday, July 10, 2014 02:35 PM Eastern Standard Time
To: Wilson, Karen L (OLA)
Subject: RE: FOIA bill

Karen any word on whether you will be ready to talk sometime tomorrow about FOIA? Many thanks,

Chanda

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Wednesday, July 09, 2014 10:37 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Carson, April (Judiciary Dem)
Subject: RE: FOIA bill

Great, Chanda. Not Responsive I will keep you posted on Friday.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Betourney, Chanda (Judiciary Dem) [<mailto:> (b) (6)]
Sent: Wednesday, July 09, 2014 9:52 AM
To: Wilson, Karen L (OLA)
Cc: Carson, April (Judiciary Dem)
Subject: RE: FOIA bill

Hi Karen,

Friday works for me, preferably after 12 pm but before 4:30 pm. As for timing, I think it is possible that we list it next week and, assuming a week holdover, that we would markup the following week. Nothing is firm yet, but it's on the table. Not Responsive

Chanda

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Tuesday, July 08, 2014 6:59 PM
To: Betourney, Chanda (Judiciary Dem)
Cc: Carson, April (Judiciary Dem)
Subject: FOIA bill

Chanda Not Responsive I want to followup on our meeting of last week. We are trying very hard to get something cleared so we can have further discussions. Do you think we might be able to chat on Friday? Do you have a better sense of your timing on markup?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Williams, Elliot (OLA)
Sent: Monday, July 14, 2014 4:16 PM
To: Betourney, Chanda (Judiciary-Dem)
Cc: Wilson, Karen L (OLA)
Subject: Re: FOIA briefing

Many thanks.

Sent from my iPad

> On Jul 14, 2014, at 3:54 PM, "Betourney, Chanda (Judiciary-Dem)" <(b) (6)> wrote:

>
> Yes - please come by at 4:30. See you then.

>
> Chanda

> -----Original Message-----

> From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]

> Sent: Monday, July 14, 2014 3:54 PM

> To: Betourney, Chanda (Judiciary-Dem)

> Cc: Wilson, Karen L (OLA)

> Subject: FOIA briefing

>
> Chanda - I'm not sure if we've met. I'm the deputy assistant attorney general in DOJ's legislative affairs office. You've been corresponding with Karen Wilson on a brief we'd like to do on the FOIA bill. We finally got clearance to come talk to you! We are up on the hill now; is there any chance you could meet with us at 4:30?

>
> Sent from my iPad

From: Haren, Eric (Judiciary-Dem) (b) (6) >
Sent: Thursday, July 17, 2014 5:19 PM
To: Wilson, Karen L (OLA)
Subject: RE: FOIA

(b)(6) look forward to it

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 17, 2014 5:17 PM
To: Haren, Eric (Judiciary Dem)
Subject: RE: FOIA

On my way back to my office. Can call in about 10 mins. What number?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Haren, Eric (Judiciary Dem) [**Sent:** Thursday, July 17, 2014 5:04 PM
To: Wilson, Karen L (OLA)
Subject: RE: FOIA

Hi Karen

Do you have a sec to chat?

Thanks,
Eric

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 10, 2014 8:07 PM
To: Haren, Eric (Judiciary Dem)
Subject: Re: FOIA

We won't be able to talk tomorrow. Hopefully, sometime Monday or Tuesday after our comments have cleared.

From: Haren, Eric (Judiciary Dem) [**Sent:** Thursday, July 10, 2014 07:13 PM Eastern Standard Time
To: Wilson, Karen L (OLA)
Subject: RE: FOIA

Yes. And, I assume that means that whether we have a call tomorrow or not is somewhat up in the air?

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 10, 2014 7:13 PM
To: Haren, Eric (Judiciary Dem)
Subject: RE: FOIA

Eric, I understand you spoke to Elliot. I assume you will share that conversation with Jonathan?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
[U.S. Department of Justice](#)

Direct: 202-616-0658
Fax: 202-514-9353

From: Haren, Eric (Judiciary Dem) [<mailto:> (b) (6)]
Sent: Thursday, July 10, 2014 5:57 PM
To: Wilson, Karen L (OLA)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: RE: FOIA

I can do 3

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 10, 2014 5:56 PM
To: Haren, Eric (Judiciary Dem)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: RE: FOIA

After 3pm would work best for me, with the caveat that my boss is trying to schedule a meeting for tomorrow afternoon that might require a little flexibility on your part.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
[U.S. Department of Justice](#)

Direct: 202-616-0658
Fax: 202-514-9353

From: Haren, Eric (Judiciary Dem) [<mailto:> (b) (6)]
Sent: Thursday, July 10, 2014 5:48 PM
To: Wilson, Karen L (OLA)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: RE: FOIA

What time works for you? My day has a good chunk of free time. We understand there may be some outstanding DOJ concerns with the bill and want to get a sense of them.

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 10, 2014 5:47 PM
To: Haren, Eric (Judiciary Dem)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: RE: FOIA

Hi Eric and Jonathan: What time were you thinking ? My day is really tight.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Haren, Eric (Judiciary Dem) [[mailto:\(b\) \(6\)](#)]
Sent: Thursday, July 10, 2014 4:43 PM
To: Wilson, Karen L (OLA)
Cc: Thessin, Jonathan (Judiciary Dem)
Subject: FOIA

Hi Karen

Do you have some time tomorrow to talk about Senator Leahy's FOIA bill?

Best,
Eric & Jonathan

From: Williams, Elliot (OLA)
Sent: Wednesday, July 23, 2014 7:39 PM
To: Betourney, Chanda (Judiciary-Dem)
Cc: Wilson, Karen L (OLA)
Subject: Re: FOIA legislation

That's helpful. Thanks.

Of course, we'd be most interested in the feedback on the other proposed changes we suggested, given their importance to the department, and the level of concern they presented for folks on our end. But a call to touch base would be good. Tomorrow, we'll float some possible times for a call that week of August 4. Have a good evening.

Sent from my iPad

On Jul 23, 2014, at 6:28 PM, "Betourney, Chanda (Judiciary-Dem)" (b) (6) > wrote:

Re: #1 We are considering both options, and I do not know which it will be. That is, we may list it next week and hold it over for mark up the first week we get back, or we may list it the first week we are back, and with a week holdover it would be marked up the second week. Does that clarify?

Re: #2 I have already sent language to Karen on the portal for feedback, and I hope to circulate something on fees to share as well. We have not drafted any other changes at this time. In hopes of keeping dialogue open, I was just envisioning a short call to touch base and to provide additional feedback on the other proposed changes you suggested, but we can hold off if you like.

Chanda

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Wednesday, July 23, 2014 5:51 PM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Thanks for the update. Two quick questions:

1. So I understand you, does that mean you're still weighing introducing it at next week's markup, and holding over until the first week after recess? Or not even introducing for markup until the first week after the break? (Only asking because there could be two possible readings of "markup the first week.") Hope that makes sense.
2. We'd be happy to sit down that first week if recess to talk through where things stand, but will you be likely to have revised language in advance of that? That way, we could have folks here look at the language, and from our perspective, we'd be able to have a more productive meeting. Otherwise, there really isn't a ton new that we'd have to say about the bill.

Let us know. Thanks again for reaching out.

Elliot

From: Betourney, Chanda (Judiciary Dem) [mailto:[\(b\) \(6\)](#)]
Sent: Wednesday, July 23, 2014 2:03 PM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Elliot,

Just an update on timing while it is not set in stone, and has not been yet been listed on the calendar, all signs point to a FOIA markup either the first or second week in September after recess. Since we will have August to work on this bill, perhaps it makes sense for us to touch base the first week of recess on the outstanding items?

Chanda

From: Williams, Elliot (OLA) [mailto:Elliot.Williams@usdoj.gov]
Sent: Tuesday, July 22, 2014 11:32 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Many thanks.

From: Betourney, Chanda (Judiciary Dem) [mailto:[\(b\) \(6\)](#)]
Sent: Tuesday, July 22, 2014 11:31 AM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

That is accurate. For reasons unrelated to FOIA, we are not having a markup this week. We are still working on timing on listing FOIA and I will let you know when I have something certain to report.

From: Williams, Elliot (OLA) [mailto:Elliot.Williams@usdoj.gov]
Sent: Tuesday, July 22, 2014 11:25 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Just checking in again.

Also, I was hearing that there may not even be a markup this week at all. Is that accurate?

From: Betourney, Chanda (Judiciary Dem) [mailto:[\(b\) \(6\)](#)]
Sent: Monday, July 21, 2014 9:55 AM
To: Williams, Elliot (OLA)
Subject: RE: FOIA legislation

We're working on the agenda today I will keep you posted.

From: Williams, Elliot (OLA) [mailto:Elliot.Williams@usdoj.gov]
Sent: Monday, July 21, 2014 9:34 AM
To: Betourney, Chanda (Judiciary Dem)
Subject: RE: FOIA legislation

Got it. Thanks much for the quick response. Just to clarify you mean you're still bringing it up and holding over? Or not even bringing it up yet?

From: Betourney, Chanda (Judiciary Dem) [[mailto:](#) (b) (6)]

Sent: Monday, July 21, 2014 9:32 AM

To: Williams, Elliot (OLA)

Cc: Wilson, Karen L (OLA)

Subject: RE: FOIA legislation

Elliot,

Thanks for reaching out. We are still working on things on our end and the Chairman is eager to move forward, but we will not be marking it up this Thursday. I will reach back out again when we know more.

Chanda

Chanda Betourney
Senior Counsel
Chairman Patrick Leahy
U.S. Senate Judiciary Committee

(b) (6)

(b)(6) (direct)

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]

Sent: Monday, July 21, 2014 9:26 AM

To: Betourney, Chanda (Judiciary Dem)

Cc: Wilson, Karen L (OLA)

Subject: FOIA legislation

Chanda hope you had a nice weekend. We just wanted to see where things stand with the FOIA bill. Do you have a new draft, and are you still shooting for scheduling it for markup this Thursday? Obviously, this remains one we have concerns with, but we'd still be happy to work with you and the Chairman to get something we can all live with. Thanks again.

*Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice*

From: Brodziak, Maya (Judiciary-Dem) (b) (6) >
Sent: Thursday, July 24, 2014 5:22 PM
To: Wilson, Karen L (OLA); Simon, Sam (Blumenthal)
Subject: RE: Talking FOIA

Great, thanks!

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 24, 2014 5:21 PM
To: Brodziak, Maya (Judiciary Dem); Simon, Sam (Blumenthal)
Subject: RE: Talking FOIA

Will do.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Brodziak, Maya (Judiciary Dem) [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Thursday, July 24, 2014 5:18 PM
To: Wilson, Karen L (OLA); Simon, Sam (Blumenthal)
Subject: RE: Talking FOIA

Hi,

Would 10 work? You can call me a (b)(6).

Maya

From: Wilson, Karen L (OLA) [<mailto:Karen.L.Wilson@usdoj.gov>]
Sent: Thursday, July 24, 2014 5:17 PM
To: Simon, Sam (Blumenthal)
Cc: Brodziak, Maya (Judiciary Dem)
Subject: RE: Talking FOIA

Sure. I am around until 1 tomorrow. What time is best for you and what number do I call?

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Simon, Sam (Blumenthal) [[mailto:](#) (b) (6)]
Sent: Thursday, July 24, 2014 5:15 PM
To: Wade Tyson, Jill C (OLA)
Cc: Brodziak, Maya (Judiciary Dem); Wilson, Karen L (OLA)
Subject: RE: Talking FOIA

Thanks, Jill. Karen, can we give you a call tomorrow?

From: Wade Tyson, Jill C (OLA) [<mailto:Jill.C.Wade@usdoj.gov>]
Sent: Tuesday, July 22, 2014 10:27 AM
To: Simon, Sam (Blumenthal)
Cc: Brodziak, Maya (Judiciary Dem); Wilson, Karen L (OLA)
Subject: RE: Talking FOIA

Hi, Sam. Adding Karen Wilson, who is running point. Here contact info is below. Thanks.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice
Direct: 202-616-0658
Fax: 202-514-9353

From: Simon, Sam (Blumenthal) [[mailto:](#) (b) (6)]
Sent: Tuesday, July 22, 2014 10:06 AM
To: Wade Tyson, Jill C (OLA)
Cc: Brodziak, Maya (Judiciary Dem)
Subject: Talking FOIA

I have a question on Leahy's FOIA bill that I wanted to run by someone over there. Can you point me in the right direction?

Sam Simon
Senior Counsel
Senator Richard Blumenthal

From: Williams, Elliot (OLA)
Sent: Tuesday, July 29, 2014 9:20 AM
To: 'Betourney, Chanda (Judiciary-Dem)'
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Can you chat on Thursday, August 7? Melanie, who was at the briefing with us last time, will be out of the office until the 6th.

From: Betourney, Chanda (Judiciary Dem) [mailto:[\(b\) \(6\)](#)]
Sent: Wednesday, July 23, 2014 6:28 PM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Re: #1 We are considering both options, and I do not know which it will be. That is, we may list it next week and hold it over for mark up the first week we get back, or we may list it the first week we are back, and with a week holdover it would be marked up the second week. Does that clarify?

Re: #2 I have already sent language to Karen on the portal for feedback, and I hope to circulate something on fees to share as well. We have not drafted any other changes at this time. In hopes of keeping dialogue open, I was just envisioning a short call to touch base and to provide additional feedback on the other proposed changes you suggested, but we can hold off if you like.

Chanda

From: Williams, Elliot (OLA) [mailto:Elliot.Williams@usdoj.gov]
Sent: Wednesday, July 23, 2014 5:51 PM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Thanks for the update. Two quick questions:

1. So I understand you, does that mean you're still weighing introducing it at next week's markup, and holding over until the first week after recess? Or not even introducing for markup until the first week after the break? (Only asking because there could be two possible readings of "markup the first week.") Hope that makes sense.
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Let us know. Thanks again for reaching out.

Elliot

From: Betourney, Chanda (Judiciary Dem) [mailto:[\(b\) \(6\)](#)]
Sent: Wednesday, July 23, 2014 2:03 PM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Elliot,

Just an update on timing while it is not set in stone, and has not been yet been listed on the calendar, all signs point to a FOIA markup either the first or second week in September after recess. Since we will have August to work on this bill, perhaps it makes sense for us to touch base the first week of recess on the outstanding items?

Chanda

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Tuesday, July 22, 2014 11:32 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Many thanks.

From: Betourney, Chanda (Judiciary Dem) [<mailto:> (b) (6)]
Sent: Tuesday, July 22, 2014 11:31 AM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

That is accurate. For reasons unrelated to FOIA, we are not having a markup this week. We are still working on timing on listing FOIA and I will let you know when I have something certain to report.

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Tuesday, July 22, 2014 11:25 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Just checking in again.

Also, I was hearing that there may not even be a markup this week at all. Is that accurate?

From: Betourney, Chanda (Judiciary Dem) [<mailto:> (b) (6)]
Sent: Monday, July 21, 2014 9:55 AM
To: Williams, Elliot (OLA)
Subject: RE: FOIA legislation

We're working on the agenda today I will keep you posted.

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Monday, July 21, 2014 9:34 AM
To: Betourney, Chanda (Judiciary Dem)
Subject: RE: FOIA legislation

Got it. Thanks much for the quick response. Just to clarify you mean you're still bringing it up and holding over? Or not even bringing it up yet?

From: Betourney, Chanda (Judiciary Dem) [<mailto:> (b) (6)]
Sent: Monday, July 21, 2014 9:32 AM

Elliot,

Just an update on timing while it is not set in stone, and has not been yet been listed on the calendar, all signs point to a FOIA markup either the first or second week in September after recess. Since we will have August to work on this bill, perhaps it makes sense for us to touch base the first week of recess on the outstanding items?

Chanda

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Tuesday, July 22, 2014 11:32 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Many thanks.

From: Betourney, Chanda (Judiciary Dem) [[mailto:\(b\) \(6\) \[REDACTED\]](mailto:(b) (6) [REDACTED])]
Sent: Tuesday, July 22, 2014 11:31 AM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

That is accurate. For reasons unrelated to FOIA, we are not having a markup this week. We are still working on timing on listing FOIA and I will let you know when I have something certain to report.

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Sent: Tuesday, July 22, 2014 11:25 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Just checking in again.

Also, I was hearing that there may not even be a markup this week at all. Is that accurate?

From: Betourney, Chanda (Judiciary Dem) [[mailto:\(b\) \(6\) \[REDACTED\]](mailto:(b) (6) [REDACTED])]
Sent: Monday, July 21, 2014 9:55 AM
To: Williams, Elliot (OLA)
Subject: RE: FOIA legislation

We're working on the agenda today I will keep you posted.

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Monday, July 21, 2014 9:34 AM
To: Betourney, Chanda (Judiciary Dem)
Subject: RE: FOIA legislation

Got it. Thanks much for the quick response. Just to clarify you mean you're still bringing it up and holding over? Or not even bringing it up yet?

From: Betourney, Chanda (Judiciary Dem) [[mailto:\(b\) \(6\) \[REDACTED\]](mailto:(b) (6) [REDACTED])]
Sent: Monday, July 21, 2014 9:32 AM

To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Elliot,

Thanks for reaching out. We are still working on things on our end and the Chairman is eager to move forward, but we will not be marking it up this Thursday. I will reach back out again when we know more.

Chanda

Chanda Betourney
Senior Counsel
Chairman Patrick Leahy
U.S. Senate Judiciary Committee

(b) (6)

(b) (6) (direct)

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Monday, July 21, 2014 9:26 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: FOIA legislation

Chanda hope you had a nice weekend. We just wanted to see where things stand with the FOIA bill. Do you have a new draft, and are you still shooting for scheduling it for markup this Thursday? Obviously, this remains one we have concerns with, but we'd still be happy to work with you and the Chairman to get something we can all live with. Thanks again.

Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice

From: Williams, Elliot (OLA)
Sent: Tuesday, August 05, 2014 2:05 PM
To: 'Betourney, Chanda (Judiciary-Dem)'
Subject: RE: FOIA legislation

Checking schedules stand by.

From: Betourney, Chanda (Judiciary Dem) [mailto:[\(b\) \(6\)](#)]
Sent: Tuesday, August 05, 2014 10:59 AM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Elliot,

Yes, I think a call would be great. I am finally back in the office and digging out. Any chance Friday, August 8th works? I am fairly open.

Chanda

From: Williams, Elliot (OLA) [mailto:Elliot.Williams@usdoj.gov]
Sent: Monday, August 04, 2014 11:13 AM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

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Sent: Wednesday, July 23, 2014 6:28 PM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

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Let us know. Thanks again for reaching out.

Elliot

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To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

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Subject: RE: FOIA legislation

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To: Williams, Elliot (OLA)
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Chanda Betourney
Senior Counsel
Chairman Patrick Leahy
U.S. Senate Judiciary Committee

(b) (6)
(b) (6) (direct)

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Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs

From: Williams, Elliot (OLA)
Sent: Tuesday, August 05, 2014 9:48 PM
To: Betourney, Chanda (Judiciary-Dem)
Cc: Wilson, Karen L (OLA)
Subject: Re: FOIA legislation

We can call you.

Sent from my iPad

On Aug 5, 2014, at 4:16 PM, "Betourney, Chanda (Judiciary-Dem)" (b) (6)

> wrote:

Great let's talk at 1:30 pm. Do you want to call me directly, or shall I circulate a dial-in?

Chanda

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Tuesday, August 05, 2014 4:13 PM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Yep. Before 10:30, between 1:30-4:30, and after 5. Let me know what works. Thanks.

From: Betourney, Chanda (Judiciary Dem) [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Tuesday, August 05, 2014 4:07 PM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Unfortunately, I will be out much of Thursday. Would the following Monday work?

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Tuesday, August 05, 2014 4:06 PM
To: Betourney, Chanda (Judiciary Dem)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

Any chance you can do Thursday instead? A couple of us who would be on the call are going to be out on Friday.

From: Betourney, Chanda (Judiciary Dem) [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Tuesday, August 05, 2014 10:59 AM
To: Williams, Elliot (OLA)
Cc: Wilson, Karen L (OLA)
Subject: RE: FOIA legislation

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Chairman Patrick Leahy
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Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice

Not Responsive

From: Carson, April (Judiciary Dem) [[mailto:\(b\) \(6\)](#)]
Sent: Friday, June 06, 2014 4:34 PM
To: Wilson, Karen L (OLA)
Subject: Confidential Draft

Karen,

I realize I don't have Melanie's email. Please loop her on this chain.

See attached. Looking forward to your comments.

Thank you,
April

April Carson
Counsel
Senator Patrick Leahy
United States Senate Judiciary Committee

(b) (6)

(b) (6) (direct)

113TH CONGRESS
2D SESSION

S. _____

To amend the Freedom of Information Act.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice
and referred to the Committee on

A BILL

To amend the Freedom of Information Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the **["**_____ **Act**
5 **of _____"]**.

6 **SEC. 2. AMENDMENTS TO FOIA.**

7 Section 552 of title 5, United States Code, is amend-
8 ed

9 (1) in subsection (a)

10 (A) in paragraph (2)

11 (i) in the matter preceding subpara-
12 graph (A), by striking “for public inspec-

1 tion and copying” and inserting “for public
2 inspection in an electronic format”;

3 (ii) by striking subparagraph (D) and
4 inserting the following:

5 “(D) copies of all records, regardless of form or
6 format

7 “(i) that have been released to any person
8 under paragraph (3); and

9 “(ii)(I) that because of the nature of their
10 subject matter, the agency determines have be-
11 come or are likely to become the subject of sub-
12 sequent requests for substantially the same
13 records; or

14 “(II) that have been requested not less
15 than 3 times; and”;

16 (iii) in the undesignated matter fol-
17 lowing subparagraph (E), by striking
18 “public inspection and copying current”
19 and inserting “public inspection in an elec-
20 tronic format, and copying current”;

21 (B) in paragraph (4)(A)(viii)

22 (i) by striking “An agency” and in-
23 serting “(I) Except as provided in subpara-
24 graph (II), an agency”;

1 (ii) by striking “paragraph (6),” and
2 all that follows through “the request.” and
3 inserting “paragraph (6).”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(II)(aa) If an agency determines that un-
7 usual or exceptional circumstances exist (as
8 those terms are defined for the purposes of sub-
9 paragraphs (B) and (C) of paragraph (6), re-
10 spectively) apply to the processing of the re-
11 quest, the agency shall provide written notice to
12 the requester of the circumstances that justify
13 the determination. Upon such notice, the agen-
14 cy shall be granted not more than 10 additional
15 working days to process the request.

16 “(bb) An agency may not charge search
17 fees (or in the case of a requester described
18 under clause (ii)(II), duplication fees) under
19 this subparagraph, if

20 “(AA) the agency fails to provide
21 written notice as required under item (aa);
22 or

23 “(BB) except in cases of unusual cir-
24 cumstances (as defined in paragraph
25 (6)(B)(iii)(II)), the agency fails to process

1 the request within the 10 additional work-
2 ing days provided under clause (aa).

3 “(cc) In the case of unusual circumstances
4 (as defined in paragraph (6)(B)(iii)(II)), an
5 agency may charge search fees (or in the case
6 of a requester described under clause (ii)(II),
7 duplication fees) if the agency provides written
8 notice as required under item (aa).”;

9 (C) in paragraph (6)

10 (i) in subparagraph (A)(i), by striking
11 “making such request” and all that follows
12 through “determination; and” and insert-
13 ing the following: “making such request
14 of ”

15 “(I) such determination and the rea-
16 sons therefore;

17 “(II) the right of such person to seek
18 assistance from the FOIA Public Liaison
19 of the agency; and

20 “(III) in the case of an adverse deter-
21 mination

22 “(aa) the right of such person to
23 appeal to the head of the agency,
24 within a period determined by the
25 head of the agency that is not less

1 than 90 days after the receipt of such
2 adverse determination; and

3 “(bb) the right of such person to
4 seek dispute resolution services from
5 the FOIA Public Liaison of the agen-
6 cy or the Office of Government Infor-
7 mation Services; and”; and

8 (ii) in subparagraph (B)(ii), by strik-
9 ing “the agency.” and inserting “the agen-
10 cy, and notify the requester of the right of
11 the requester to seek dispute resolution
12 services from the Office of Government In-
13 formation Services.”; and

14 (D) by adding at the end the following:

15 “(8) An agency

16 “(A) shall

17 “(i) withhold information under this sec-
18 tion only if

19 “(I) the agency reasonably foresees
20 that disclosure would harm an interest pro-
21 tected by an exemption described in sub-
22 section (b) or other provision of law; or

23 “(II) disclosure is prohibited by law;
24 and

1 “(ii)(I) consider whether partial disclosure
2 of information is possible whenever the agency
3 determines that a full disclosure of a requested
4 record is not possible; and

5 “(II) take reasonable steps necessary to
6 segregate and release nonexempt information;
7 and

8 “(B) may not

9 “(i) withhold information requested under
10 this section merely because the agency can dem-
11 onstrate, as a technical matter, that the records
12 fall within the scope of an exemption described
13 in subsection (b); or

14 “(ii) withhold information requested under
15 this section because the information may be em-
16 barrassing to the agency or because of specula-
17 tive or abstract concerns.”;

18 (2) in subsection (b)(5), by inserting “, if the
19 agency interest in protecting the records or informa-
20 tion outweighs the public interest in disclosure” be-
21 fore the semicolon;

22 (3) in subsection (e)

23 (A) in paragraph (1)

24 (i) in the matter preceding subpara-
25 graph (A), by inserting “and to the Direc-

1 tor of the Office of Government Informa-
2 tion Services” after “United States”;

3 (ii) in subparagraph (N), by striking
4 “and” at the end;

5 (iii) in subparagraph (O), by striking
6 the period at the end and inserting a semi-
7 colon; and

8 (iv) by adding at the end the fol-
9 lowing:

10 “(P) the number of times the agency denied a
11 request for records under subsection (c);

12 “(Q) the number of times the agency engaged
13 in dispute resolution with the assistance of the Of-
14 fice of Government Information Services or the
15 FOIA Public Liaison;

16 “(R) the number of records that were made
17 available for public inspection in an electronic for-
18 mat under subsection (a)(2); and

19 “(S) the number of times the agency assessed
20 a search or duplication fee under subsection
21 (a)(4)(A)(viii).”;

22 (B) by striking paragraph (3) and insert-
23 ing the following:

24 “(3) Each agency shall make each such report avail-
25 able for public inspection in an electronic format. In addi-

1 tion, each agency shall make the raw statistical data used
2 in each report available in a timely manner and for public
3 inspection in an electronic format, which shall be made
4 available

5 “(A) without charge, license, or registration re-
6 quirement;

7 “(B) in an aggregated, searchable format; and

8 “(C) in a format that may be downloaded in
9 bulk.”;

10 (C) in paragraph (4)

11 (i) by striking “Government Reform
12 and Oversight” and inserting “Oversight
13 and Government Reform”;

14 (ii) by inserting “Homeland Security
15 and” before “Governmental Affairs”; and

16 (iii) by striking “April” and inserting
17 “March”; and

18 (D) by striking paragraph (6) and insert-
19 ing the following:

20 “(6)(A) The Attorney General of the United States
21 shall submit to the Committee on Oversight and Govern-
22 ment Reform of the House of Representatives, the Com-
23 mittee on Judiciary of the Senate, and the President a
24 report on or before March 1 of each calendar year, which
25 shall include for the prior calendar year

1 “(i) a listing of the number of cases arising
2 under this section;

3 “(ii) a listing of

4 “(I) each subsection, and any exemption, if
5 applicable, involved in each case arising under
6 this section;

7 “(II) the disposition of each case arising
8 under this section; and

9 “(III) the cost, fees, and penalties assessed
10 under subparagraphs (E), (F), and (G) of sub-
11 section (a)(4); and

12 “(iii) a description of the efforts undertaken by
13 the Department of Justice to encourage agency com-
14 pliance with this section.

15 “(B) The Attorney General of the United States shall
16 make

17 “(i) each report submitted under subparagraph
18 (A) available for public inspection in an electronic
19 format; and

20 “(ii) the raw statistical data used in each report
21 submitted under subparagraph (A) available for pub-
22 lic inspection in an electronic format, which shall be
23 made available

24 “(I) without charge, license, or registration
25 requirement;

1 “(II) in an aggregated, searchable format;

2 and

3 “(III) in a format that may be downloaded
4 in bulk.”;

5 (4) in subsection (g), in the matter preceding
6 paragraph (1), by striking “publicly available upon
7 request” and inserting “available for public inspec-
8 tion in an electronic format”;

9 (5) in subsection (h)

10 (A) in paragraph (1), by adding at the end
11 the following: “The head of the Office shall be
12 the Director of the Office of Government Infor-
13 mation Services.”;

14 (B) in paragraph (2), by striking subpara-
15 graph (C) and inserting the following:

16 “(C) identify procedures and methods for im-
17 proving compliance under this section.”;

18 (C) in paragraph (3)

19 (i) by striking “The Office” and in-
20 sserting “(A) The Office”; and

21 (ii) by adding at the end the fol-
22 lowing:

23 “(B) Upon request of either party to the medi-
24 ation, or at the discretion of the Office of Govern-
25 ment Information Services, the Office may issue an

1 advisory opinion upon completion of the mediation
2 regarding its final resolution.

3 “(C) In this paragraph, the term ‘completion of
4 the mediation’ means completion of a mediation as
5 determined by the Office of Government Information
6 Services, regardless of how the mediation was con-
7 cluded or whether both parties cooperated in the me-
8 diation.”; and

9 (D) by adding at the end the following:

10 “(4)(A) Not less frequently than annually, the Direc-
11 tor of the Office of Government Information Services shall
12 submit to the Committee on Oversight and Government
13 Reform of the House of Representatives, the Committee
14 on the Judiciary of the Senate, and the President

15 “(i) a report on the findings of the information
16 reviewed and identified under paragraph (2);

17 “(ii) a summary of the activities of the Office
18 under paragraph (3), including any advisory opin-
19 ions issued; and

20 “(iii) legislative and regulatory recommenda-
21 tions, if any, to improve the administration of this
22 section.

23 “(B) The Director of the Office of Government Infor-
24 mation Services shall make each report submitted under

1 subparagraph (A) available for public inspection in an
2 electronic format.

3 “(C) The Director of the Office of Government Infor-
4 mation Services shall not be required to obtain the prior
5 approval, comment, or review of any officer or agency of
6 the United States, including the Department of Justice,
7 the Archivist of the United States, or the Office of Man-
8 agement and Budget before submitting to the Congress,
9 or any committee or subcommittee thereof, any reports,
10 recommendations, testimony, or comments, if such sub-
11 missions include a statement indicating that the views ex-
12 pressed therein are those of the Director and do not nec-
13 essarily represent the views of the Secretary or the Presi-
14 dent.

15 “(5) The Director of the Office of Government Infor-
16 mation Services may submit additional information to
17 Congress and the President as the Director determines to
18 be appropriate.

19 “(6) Not less frequently than annually, the Office of
20 Government Information services shall conduct a meeting
21 that is open to the public on the review and reports by
22 the Office and shall allow interested persons to appear and
23 present oral or written statements at the meeting.”; and

24 (6) by striking subsections (i), (j), and (k), and
25 inserting the following:

1 “(i) The Government Accountability Office shall
2 “(1) conduct audits of administrative agencies
3 on compliance with and implementation of the re-
4 quirements of this section and issue reports detailing
5 the results of such audits; and
6 “(2) catalog the number of exemptions de-
7 scribed in subsection (b)(3) and the use of such ex-
8 emptions by each agency.
9 “(j)(1) Each agency shall designate a Chief FOIA Of-
10 ficer who shall be a senior official of such agency (at the
11 Assistant Secretary or equivalent level).
12 “(2) The Chief FOIA Officer of each agency shall,
13 subject to the authority of the head of the agency
14 “(A) have agency-wide responsibility for effi-
15 cient and appropriate compliance with this section;
16 “(B) monitor implementation of this section
17 throughout the agency and keep the head of the
18 agency, the chief legal officer of the agency, and the
19 Attorney General appropriately informed of the
20 agency’s performance in implementing this section;
21 “(C) recommend to the head of the agency such
22 adjustments to agency practices, policies, personnel,
23 and funding as may be necessary to improve its im-
24 plementation of this section;

1 “(D) review and report to the Attorney General,
2 through the head of the agency, at such times and
3 in such formats as the Attorney General may direct,
4 on the agency’s performance in implementing this
5 section;

6 “(E) facilitate public understanding of the pur-
7 poses of the statutory exemptions of this section by
8 including concise descriptions of the exemptions in
9 both the agency’s handbook issued under subsection
10 (g), and the agency’s annual report on this section,
11 and by providing an overview, where appropriate, of
12 certain general categories of agency records to which
13 those exemptions apply;

14 “(F) offer training to agency staff regarding
15 their responsibilities under this section;

16 “(G) serve as the primary agency liaison with
17 the Office of Government Information Services and
18 the Office of Information Policy; and

19 “(H) designate 1 or more FOIA Public Liai-
20 sons.

21 “(3) The Chief FOIA Officer of each agency shall

22 “(A) review, not less frequently than annually,
23 all aspects of the administration of this section by
24 the agency to ensure compliance with the require-
25 ments of this section, including

- 1 “(i) agency regulations;
- 2 “(ii) disclosure of records required under
- 3 paragraphs (2), (8), and (9) of subsection (a);
- 4 “(iii) assessment of fees and determination
- 5 of eligibility for fee waivers;
- 6 “(iv) the timely processing of requests for
- 7 information under this section;
- 8 “(v) the use of exemptions under sub-
- 9 section (b); and
- 10 “(vi) dispute resolution services with the
- 11 assistance of the Office of Government Informa-
- 12 tion Services or the FOIA Public Liaison; and
- 13 “(B) make recommendations as necessary to
- 14 improve agency practices and compliance with this
- 15 section.
- 16 “(k)(1) There is established in the executive branch
- 17 the Chief FOIA Officers Council (referred to in this sub-
- 18 section as the ‘Council’).
- 19 “(2) The Council shall be comprised of the following
- 20 members:
- 21 “(A) The Deputy Director for Management of
- 22 the Office of Management and Budget.
- 23 “(B) The Director of the Office of Information
- 24 Policy at the Department of Justice.

1 “(C) The Director of the Office of Government
2 Information Services.

3 “(D) The Chief FOIA Officer of each agency.

4 “(E) Any other officer or employee of the
5 United States as designated by the Co-Chairs.

6 “(3) The Director of the Office of Information Policy
7 at the Department of Justice and the Director of the Of-
8 fice of Government Information Services shall be the Co-
9 Chairs of the Council.

10 “(4) The Administrator of General Services shall pro-
11 vide administrative and other support for the Council.

12 “(5)(A) The duties of the Council shall include the
13 following:

14 “(i) Develop recommendations for increasing
15 compliance and efficiency under this section.

16 “(ii) Disseminate information about agency ex-
17 periences, ideas, best practices, and innovative ap-
18 proaches related to this section.

19 “(iii) Identify, develop, and coordinate initia-
20 tives to increase transparency and compliance with
21 this section.

22 “(iv) Promote the development and use of com-
23 mon performance measures for agency compliance
24 with this section.

1 “(B) In performing the duties described in subpara-
2 graph (A), the Council shall consult on a regular basis
3 with members of the public who make requests under this
4 section.

5 “(6)(A) The Council shall meet regularly and such
6 meetings shall be open to the public unless the Council
7 determines to close the meeting for reasons of national
8 security or to discuss information exempt under subsection
9 (b).

10 “(B) Not less frequently than annually, the Council
11 shall hold a meeting that shall be open to the public and
12 permit interested persons to appear and present oral and
13 written statements to the Council.

14 “(C) Not later than 10 business days before a meet-
15 ing of the Council, notice of such meeting shall be pub-
16 lished in the Federal Register.

17 “(D) Except as provided in subsection (b), the
18 records, reports, transcripts, minutes, appendixes, working
19 papers, drafts, studies, agenda, or other documents that
20 were made available to or prepared for or by the Council
21 shall be made publicly available.

22 “(E) Detailed minutes of each meeting of the Council
23 shall be kept and shall contain a record of the persons
24 present, a complete and accurate description of matters
25 discussed and conclusions reached, and copies of all re-

1 ports received, issued, or approved by the Council. The
2 minutes shall be redacted as necessary and made publicly
3 available.”.

4 **SEC. 3. REVISION OF REGULATIONS.**

5 (a) IN GENERAL. Not later than 180 days after the
6 date of enactment of this Act, the head of each agency
7 (as defined in section 551 of title 5, United States Code)
8 shall review the regulations of such agency and shall issue
9 regulations on procedures for the disclosure of records
10 under section 552 of title 5, United States Code, in ac-
11 cordance with the amendments made by section 2.

12 (b) REQUIREMENTS. The regulations of each agency
13 shall include

14 (1) procedures for engaging in dispute resolu-
15 tion; and

16 (2) procedures for engaging with the Office of
17 Government Information Services.

18 **SEC. 4. PROACTIVE DISCLOSURE THROUGH RECORDS MAN-**
19 **AGEMENT.**

20 Section 3102 of title 44, United States Code, is
21 amended

22 (1) by redesignating paragraphs (2) and (3) as
23 paragraphs (3) and (4); and

24 (2) by inserting after paragraph (1) the fol-
25 lowing:

1 “(2) procedures for identifying records of gen-
2 eral interest or use to the public that are appro-
3 priate for public disclosure, and for posting such
4 records in a publicly accessible electronic format;”.

From: Williams, Elliot (OLA)
Sent: Thursday, September 11, 2014 12:30 PM
To: Betourney, Chanda (Judiciary-Dem)
Subject: RE: Checking in re: FOIA legislation

Thanks. That makes sense for now. I'll give a call if I have any questions.

-----Original Message-----

From: Betourney, Chanda (Judiciary-Dem) [mailto:(b) (6)]
Sent: Thursday, September 11, 2014 12:27 PM
To: Williams, Elliot (OLA)
Subject: RE: Checking in re: FOIA legislation

Hi Elliot,

Sorry for the delay in my response. It has been a fairly hectic week. I think there is a good chance we list it on the agenda next week, but we would expect it to be held over and that consideration would begin, at the earliest, during the lame duck. I am happy to discuss live if you like.

Chanda

-----Original Message-----

From: Williams, Elliot (OLA) [mailto:Elliot.Williams@usdoj.gov]
Sent: Monday, September 08, 2014 6:50 PM
To: Betourney, Chanda (Judiciary-Dem)
Subject: Checking in re: FOIA legislation

Chanda - hope you're well. Just checking in again. Let me know when you have a moment what's the latest on the bill (whether you have new language yet, or possible plans for markup this work period, or whatever). Thanks much.

-----Original Message-----

From: Williams, Elliot (OLA) [ellwilliams@jmd.usdoj.gov]
Received: Tuesday, 19 Aug 2014, 4:59PM
To: Betourney, Chanda (Judiciary-Dem) (b) (6)
Subject: RE: Chat Wednesday?

4 works. Can we call you?

-----Original Message-----

From: Betourney, Chanda (Judiciary-Dem) [mailto:(b) (6)]
Sent: Tuesday, August 19, 2014 2:14 PM
To: Williams, Elliot (OLA)
Subject: Re: Chat Wednesday?

Yes - let's talk on Wednesday. Would late afternoon work? 3:30 or 4 pm?

----- Original Message -----

From: Williams, Elliot (OLA) [mailto:Elliot.Williams@usdoj.gov]

Sent: Monday, August 18, 2014 09:45 PM
To: Betourney, Chanda (Judiciary-Dem)
Subject: Chat Wednesday?

Chanda - we never confirmed for Wednesday. Can we speak then? Even if there aren't a ton of updates, we should still speak then; our having another conversation is very important to a number of people around DOJ. Let me know what your schedule is, and we can get something on the calendar. Many thanks!

Sent from my iPad

From: Seidel, Rebecca (Commerce) (b) (6) >
Sent: Thursday, September 11, 2014 4:53 PM
To: Wilson, Karen L (OLA)
Subject: FW: Don't let this reform die

Fyi. May need to watch for hotlines.

From: Danielle Brian, Project On Government Oversight [<mailto:danielle@pogo.org>]
Sent: Thursday, September 11, 2014 3:10 PM
To: Seidel, Rebecca (Commerce)
Subject: Don't let this reform die

Dear Rebecca,

Unless the Senate acts soon, a critical bipartisan bill that would help make federal agencies more open and accountable will die at the end of the year. We urgently need you to write your senator and tell them you support reforms to the Freedom of Information Act, known as FOIA.

[Tell Your Senator You Support Strengthening Government Accountability and Openness](#)

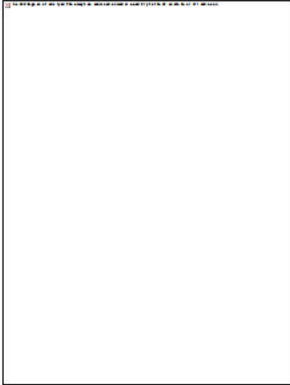
The FOIA Improvement Act, introduced by Senators Patrick Leahy (D Vermont) and John Cornyn (R Texas), addresses many problems journalists, public interest advocates, researchers, historians and every day citizens face when using FOIA to access information on how government works or doesn't. The bill would also make the process of requesting public documents more efficient, thus saving money for taxpayers.

We need you to tell your senator to support this legislation. Our government is spending too much time obstructing FOIA. This bill would rein in abuses that allow federal agencies to claim questionable exemptions to the law.

[Click Here to Tell Your Senator to Support the Bipartisan FOIA Improvement Act](#)

Thank you for your support,





Danielle Brian
Executive Director



We rely on people like you to spread the word about our work. [Tell a friend about POGO!](#)

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From: Haren, Eric (Judiciary-Dem) (b) (6) >
Sent: Tuesday, October 28, 2014 9:27 AM
To: Williams, Elliot (OLA)
Cc: O'Brien, Alicia C (OLA)
Subject: Re: FOIA reports

Thanks Elliot. FY11 (and 10, as you said) are still down for me.

From: Williams, Elliot (OLA) [mailto:Elliot.Williams@usdoj.gov]
Sent: Tuesday, October 28, 2014 09:04 AM
To: Haren, Eric (Judiciary Dem)
Cc: O'Brien, Alicia C (OLA) <Alicia.C.O'Brien@usdoj.gov>
Subject: RE: FOIA reports

The only one that's down is the report for '10; we will work on getting that fixed. Otherwise, the ones going back to '06 should work for you (I just checked). In past years, they haven't always been consistent in preparing the reports, so we'll see if we can dig up anything before '06.

From: Haren, Eric (Judiciary Dem) [mailto:[<\(b\) \(6\)>](mailto:(b) (6))]
Sent: Monday, October 27, 2014 3:50 PM
To: Williams, Elliot (OLA)
Subject: FOIA reports

Hi Elliot

I'm hoping you can help me with an issue related to the FOIA bill.

On this website (<http://www.justice.gov/oip/reports-1>), the older reports under "OIP Summaries of Agency Annual FOIA Reports" are no longer available on the DOJ website. The links for the reports pre-FY11 are broken.

I'm looking for these summaries going back to FY06, and perhaps earlier, so I can track the exemptions used over time.

Can you connect me with someone in OIP, or someone else, who can help me get these reports?

Thanks much,

Eric

From: Williams, Elliot (OLA)
Sent: Sunday, November 09, 2014 2:38 PM
To: Haren, Eric (Judiciary-Dem)
Subject: RE: FOIA

Not blowing you off. Even now, we're still sorting out how we're proceeding on this. Let's talk tomorrow.

From: Haren, Eric (Judiciary Dem) [[mailto: \[REDACTED\]](#)]
Sent: Tuesday, November 04, 2014 5:58 PM
To: Williams, Elliot (OLA)
Subject: FOIA

Hi Elliot

Can we discuss the FOIA bill tomorrow? I'd like to get a sense of where DOJ is at the moment, and to ask about some pretty particularized issues about how the current DOJ 2009 policy interacts with some of the exemptions that are part of Exemption 7.

Thanks,

Eric

From: Carson, April (Judiciary-Dem) (b) (6) >
Sent: Tuesday, November 18, 2014 11:25 AM
To: Williams, Elliot (OLA)
Subject: RE: Checking in
Attachments: ALB14705.pdf

Attached

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Monday, November 17, 2014 4:29 PM
To: Carson, April (Judiciary Dem)
Subject: Checking in

Do you all have draft language yet? Just checking in. Thanks much.

Elliot

*Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice*

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 2d Sess.

S. 2520

To improve the Freedom of Information Act.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. LEAHY (for himself and Mr. CORNYN)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “FOIA Improvement
5 Act of 2014”.

6 **SEC. 2. AMENDMENTS TO FOIA.**

7 Section 552 of title 5, United States Code, is amend-
8 ed—

9 (1) in subsection (a)—

10 (A) in paragraph (2)—

11 (i) in the matter preceding subpara-
12 graph (A), by striking “for public inspec-

1 tion and copying” and inserting “for public
2 inspection in an electronic format”;

3 (ii) by striking subparagraph (D) and
4 inserting the following:

5 “(D) copies of all records, regardless of form or
6 format—

7 “(i) that have been released to any person
8 under paragraph (3); and

9 “(ii)(I) that because of the nature of their
10 subject matter, the agency determines have be-
11 come or are likely to become the subject of sub-
12 sequent requests for substantially the same
13 records; or

14 “(II) that have been requested not less
15 than 3 times; and”;

16 (iii) in the undesignated matter fol-
17 lowing subparagraph (E), by striking
18 “public inspection and copying current”
19 and inserting “public inspection in an elec-
20 tronic format current”;

21 (B) in paragraph (4)(A), by striking clause
22 (viii) and inserting the following:

23 “(viii)(I) Except as provided in subclause (II),
24 an agency shall not assess any search fees (or in the
25 case of a requester described under clause (ii)(II) of

1 this subparagraph, duplication fees) under this sub-
2 paragraph if the agency has failed to comply with
3 any time limit under paragraph (6).

4 “(II)(aa) If an agency has determined that un-
5 usual circumstances apply (as the term is defined in
6 paragraph (6)(B)) and the agency provided a timely
7 written notice to the requester in accordance with
8 paragraph (6)(B), a failure described in subclause
9 (I) is excused for an additional 10 days. If the agen-
10 cy fails to comply with the extended time limit, the
11 agency may not assess any search fees (or in the
12 case of a requester described under clause (ii)(II) of
13 this subparagraph, duplication fees).

14 “(bb) If an agency has determined that unusual
15 circumstances apply and more than 50,000 pages
16 are necessary to respond to the request, an agency
17 may charge search fees (or in the case of a requester
18 described under clause (ii)(II) of this subparagraph,
19 duplication fees) if the agency has provided a timely
20 written notice to the requester in accordance with
21 paragraph (6)(B) and the agency has discussed with
22 the requester via written mail, electronic mail, or
23 telephone (or made not less than 3 good-faith at-
24 tempts to do so) how the requester could effectively

1 limit the scope of the request in accordance with
2 paragraph (6)(B)(ii).

3 “(cc) If a court has determined that exceptional
4 circumstances exist (as that term is defined in para-
5 graph (6)(C)), a failure described in subclause (I)
6 shall be excused for the length of time provided by
7 the court order.”;

8 (C) in paragraph (6)—

9 (i) in subparagraph (A)(i), by striking
10 “making such request” and all that follows
11 through “determination; and” and insert-
12 ing the following: “making such request
13 of—”

14 “(I) such determination and the rea-
15 sons therefor;

16 “(II) the right of such person to seek
17 assistance from the FOIA Public Liaison
18 of the agency; and

19 “(III) in the case of an adverse deter-
20 mination—

21 “(aa) the right of such person to
22 appeal to the head of the agency,
23 within a period determined by the
24 head of the agency that is not less

1 than 90 days after the date of such
2 adverse determination; and

3 “(bb) the right of such person to
4 seek dispute resolution services from
5 the FOIA Public Liaison of the agen-
6 cy or the Office of Government Infor-
7 mation Services; and”;

8 (ii) in subparagraph (B)(ii), by strik-
9 ing “the agency.” and inserting “the agen-
10 cy, and notify the requester of the right of
11 the requester to seek dispute resolution
12 services from the Office of Government In-
13 formation Services.”; and

14 (D) by adding at the end the following:

15 “(8)(A) An agency—

16 “(i) shall—

17 “(I) withhold information under this sec-
18 tion only if—

19 “(aa) the agency reasonably foresees
20 that disclosure would harm an interest pro-
21 tected by an exemption described in sub-
22 section (b) or other provision of law; or

23 “(bb) disclosure is prohibited by law;
24 and

1 “(II)(aa) consider whether partial disclo-
2 sure of information is possible whenever the
3 agency determines that a full disclosure of a re-
4 quested record is not possible; and

5 “(bb) take reasonable steps necessary to
6 segregate and release nonexempt information;
7 and

8 “(ii) may not—

9 “(I) withhold information requested under
10 this section merely because the agency can dem-
11 onstrate, as a technical matter, that the records
12 fall within the scope of an exemption described
13 in subsection (b); or

14 “(II) withhold information requested under
15 this section merely because disclosure of the in-
16 formation may be embarrassing to the agency
17 or because of speculative or abstract concerns.

18 “(B) Nothing in this paragraph requires disclosure
19 of information that is otherwise prohibited from disclosure
20 by law, or otherwise exempted from disclosure under sub-
21 section (b)(3).”;

22 (2) in subsection (b), by amending paragraph
23 (5) to read as follows:

24 “(5) inter-agency or intra-agency memoran-
25 dums or letters that would not be available by law

1 to a party other than an agency in litigation with
2 the agency, if the requested record or information
3 was created less than 25 years before the date on
4 which the request was made;”;

5 (3) in subsection (e)

6 (A) in paragraph (1)—

7 (i) in the matter preceding subpara-
8 graph (A), by inserting “and to the Direc-
9 tor of the Office of Government Informa-
10 tion Services” after “United States”;

11 (ii) in subparagraph (N), by striking
12 “and” at the end;

13 (iii) in subparagraph (O), by striking
14 the period at the end and inserting a semi-
15 colon; and

16 (iv) by adding at the end the fol-
17 lowing:

18 “(P) the number of times the agency denied a
19 request for records under subsection (c); and

20 “(Q) the number of records that were made
21 available for public inspection in an electronic for-
22 mat under subsection (a)(2).”;

23 (B) by striking paragraph (3) and insert-
24 ing the following:

1 “(3) Each agency shall make each such report avail-
2 able for public inspection in an electronic format. In addi-
3 tion, each agency shall make the raw statistical data used
4 in each report available in a timely manner for public in-
5 spection in an electronic format, which shall be made
6 available—

7 “(A) without charge, license, or registration re-
8 quirement;

9 “(B) in an aggregated, searchable format; and

10 “(C) in a format that may be downloaded in
11 bulk.”;

12 (C) in paragraph (4)—

13 (i) by striking “Government Reform
14 and Oversight” and inserting “Oversight
15 and Government Reform”;

16 (ii) by inserting “Homeland Security
17 and” before “Governmental Affairs”; and

18 (iii) by striking “April” and inserting
19 “March”; and

20 (D) by striking paragraph (6) and insert-
21 ing the following:

22 “(6)(A) The Attorney General of the United States
23 shall submit to the Committee on Oversight and Govern-
24 ment Reform of the House of Representatives, the Com-
25 mittee on Judiciary of the Senate, and the President a

1 report on or before March 1 of each calendar year, which
2 shall include for the prior calendar year—

3 “(i) a listing of the number of cases arising
4 under this section;

5 “(ii) a listing of—

6 “(I) each subsection, and any exemption, if
7 applicable, involved in each case arising under
8 this section;

9 “(II) the disposition of each case arising
10 under this section; and

11 “(III) the cost, fees, and penalties assessed
12 under subparagraphs (E), (F), and (G) of sub-
13 section (a)(4); and

14 “(iii) a description of the efforts undertaken by
15 the Department of Justice to encourage agency com-
16 pliance with this section.

17 “(B) The Attorney General of the United States shall
18 make—

19 “(i) each report submitted under subparagraph
20 (A) available for public inspection in an electronic
21 format; and

22 “(ii) the raw statistical data used in each report
23 submitted under subparagraph (A) available for pub-
24 lic inspection in an electronic format, which shall be
25 made available—

1 “(I) without charge, license, or registration
2 requirement;

3 “(II) in an aggregated, searchable format;
4 and

5 “(III) in a format that may be downloaded
6 in bulk.”;

7 (4) in subsection (g), in the matter preceding
8 paragraph (1), by striking “publicly available upon
9 request” and inserting “available for public inspec-
10 tion in an electronic format”;

11 (5) in subsection (h)—

12 (A) in paragraph (1), by adding at the end
13 the following: “The head of the Office shall be
14 the Director of the Office of Government Infor-
15 mation Services.”;

16 (B) in paragraph (2), by striking subpara-
17 graph (C) and inserting the following:

18 “(C) identify procedures and methods for im-
19 proving compliance under this section.”;

20 (C) by striking paragraph (3) and insert-
21 ing the following:

22 “(3) The Office of Government Information Services
23 shall offer mediation services to resolve disputes between
24 persons making requests under this section and adminis-
25 trative agencies as a non-exclusive alternative to litigation

1 and may issue advisory opinions at the discretion of the
2 Office or upon request of any party to a dispute.”; and

3 (D) by adding at the end the following:

4 “(4)(A) Not less frequently than annually, the Direc-
5 tor of the Office of Government Information Services shall
6 submit to the Committee on Oversight and Government
7 Reform of the House of Representatives, the Committee
8 on the Judiciary of the Senate, and the President—

9 “(i) a report on the findings of the information
10 reviewed and identified under paragraph (2);

11 “(ii) a summary of the activities of the Office
12 of Government Information Services under para-
13 graph (3), including—

14 “(I) any advisory opinions issued; and

15 “(II) the number of times each agency en-
16 gaged in dispute resolution with the assistance
17 of the Office of Government Information Serv-
18 ices or the FOIA Public Liaison; and

19 “(iii) legislative and regulatory recommenda-
20 tions, if any, to improve the administration of this
21 section.

22 “(B) The Director of the Office of Government Infor-
23 mation Services shall make each report submitted under
24 subparagraph (A) available for public inspection in an
25 electronic format.

1 “(C) The Director of the Office of Government Infor-
2 mation Services shall not be required to obtain the prior
3 approval, comment, or review of any officer or agency of
4 the United States, including the Department of Justice,
5 the Archivist of the United States, or the Office of Man-
6 agement and Budget before submitting to Congress, or
7 any committee or subcommittee thereof, any reports, rec-
8 ommendations, testimony, or comments, if such submis-
9 sions include a statement indicating that the views ex-
10 pressed therein are those of the Director and do not nec-
11 essarily represent the views of the President.

12 “(5) The Director of the Office of Government Infor-
13 mation Services may directly submit additional informa-
14 tion to Congress and the President as the Director deter-
15 mines to be appropriate.

16 “(6) Not less frequently than annually, the Office of
17 Government Information Services shall conduct a meeting
18 that is open to the public on the review and reports by
19 the Office and shall allow interested persons to appear and
20 present oral or written statements at the meeting.”;

21 (6) by striking subsections (i), (j), and (k), and
22 inserting the following:

23 “(i) The Government Accountability Office shall—

24 “(1) not later than 1 year after the date of en-
25 actment of the FOIA Improvement Act of 2014 and

1 every 2 years thereafter, conduct audits of 3 or more
2 administrative agencies on compliance with and im-
3 plementation of the requirements of this section and
4 issue reports detailing the results of such audits;

5 “(2) not later than 1 year after the date of en-
6 actment of the FOIA Improvement Act of 2014 and
7 every 2 years thereafter, issue a report cataloging
8 the number of exemptions described in paragraphs
9 (3) and (5) of subsection (b) and the use of such ex-
10 emptions by each agency;

11 “(3) not later than 1 year after the date of en-
12 actment of the FOIA Improvement Act of 2014,
13 conduct a study on the methods Federal agencies
14 use to reduce the backlog of requests under this sec-
15 tion and issue a report on the effectiveness of those
16 methods; and

17 “(4) submit copies of all reports and audits de-
18 scribed in this subsection to the Committee on Over-
19 sight and Government Reform of the House of Rep-
20 resentatives and the Committee on the Judiciary of
21 the Senate.

22 “(j)(1) Each agency shall designate a Chief FOIA Of-
23 ficer who shall be a senior official of such agency (at the
24 Assistant Secretary or equivalent level).

1 “(2) The Chief FOIA Officer of each agency shall,
2 subject to the authority of the head of the agency—

3 “(A) have agency-wide responsibility for effi-
4 cient and appropriate compliance with this section;

5 “(B) monitor implementation of this section
6 throughout the agency and keep the head of the
7 agency, the chief legal officer of the agency, and the
8 Attorney General appropriately informed of the
9 agency’s performance in implementing this section;

10 “(C) recommend to the head of the agency such
11 adjustments to agency practices, policies, personnel,
12 and funding as may be necessary to improve its im-
13 plementation of this section;

14 “(D) review and report to the Attorney General,
15 through the head of the agency, at such times and
16 in such formats as the Attorney General may direct,
17 on the agency’s performance in implementing this
18 section;

19 “(E) facilitate public understanding of the pur-
20 poses of the statutory exemptions of this section by
21 including concise descriptions of the exemptions in
22 both the agency’s handbook issued under subsection
23 (g), and the agency’s annual report on this section,
24 and by providing an overview, where appropriate, of

1 certain general categories of agency records to which
2 those exemptions apply;

3 “(F) offer training to agency staff regarding
4 their responsibilities under this section;

5 “(G) serve as the primary agency liaison with
6 the Office of Government Information Services and
7 the Office of Information Policy; and

8 “(H) designate 1 or more FOIA Public Liai-
9 sons.

10 “(3) The Chief FOIA Officer of each agency shall re-
11 view, not less frequently than annually, all aspects of the
12 administration of this section by the agency to ensure
13 compliance with the requirements of this section, includ-
14 ing—

15 “(A) agency regulations;

16 “(B) disclosure of records required under para-
17 graphs (2) and (8) of subsection (a);

18 “(C) assessment of fees and determination of
19 eligibility for fee waivers;

20 “(D) the timely processing of requests for infor-
21 mation under this section;

22 “(E) the use of exemptions under subsection
23 (b); and

1 “(F) dispute resolution services with the assist-
2 ance of the Office of Government Information Serv-
3 ices or the FOIA Public Liaison.

4 “(k)(1) There is established in the executive branch
5 the Chief FOIA Officers Council (referred to in this sub-
6 section as the ‘Council’).

7 “(2) The Council shall be comprised of the following
8 members:

9 “(A) The Deputy Director for Management of
10 the Office of Management and Budget.

11 “(B) The Director of the Office of Information
12 Policy at the Department of Justice.

13 “(C) The Director of the Office of Government
14 Information Services.

15 “(D) The Chief FOIA Officer of each agency.

16 “(E) Any other officer or employee of the
17 United States as designated by the Co-Chairs.

18 “(3) The Director of the Office of Information Policy
19 at the Department of Justice and the Director of the Of-
20 fice of Government Information Services shall be the Co-
21 Chairs of the Council.

22 “(4) The Administrator of General Services shall pro-
23 vide administrative and other support for the Council.

24 “(5)(A) The duties of the Council shall include the
25 following:

1 “(i) Develop recommendations for increasing
2 compliance and efficiency under this section.

3 “(ii) Disseminate information about agency ex-
4 periences, ideas, best practices, and innovative ap-
5 proaches related to this section.

6 “(iii) Identify, develop, and coordinate initia-
7 tives to increase transparency and compliance with
8 this section.

9 “(iv) Promote the development and use of com-
10 mon performance measures for agency compliance
11 with this section.

12 “(B) In performing the duties described in subpara-
13 graph (A), the Council shall consult on a regular basis
14 with members of the public who make requests under this
15 section.

16 “(6)(A) The Council shall meet regularly and such
17 meetings shall be open to the public unless the Council
18 determines to close the meeting for reasons of national
19 security or to discuss information exempt under subsection
20 (b).

21 “(B) Not less frequently than annually, the Council
22 shall hold a meeting that shall be open to the public and
23 permit interested persons to appear and present oral and
24 written statements to the Council.

1 “(C) Not later than 10 business days before a meet-
2 ing of the Council, notice of such meeting shall be pub-
3 lished in the Federal Register.

4 “(D) Except as provided in subsection (b), the
5 records, reports, transcripts, minutes, appendices, working
6 papers, drafts, studies, agenda, or other documents that
7 were made available to or prepared for or by the Council
8 shall be made publicly available.

9 “(E) Detailed minutes of each meeting of the Council
10 shall be kept and shall contain a record of the persons
11 present, a complete and accurate description of matters
12 discussed and conclusions reached, and copies of all re-
13 ports received, issued, or approved by the Council. The
14 minutes shall be redacted as necessary and made publicly
15 available.”; and

16 (7) by adding at the end the following:

17 “(m)(1) The Director of the Office of Management
18 and Budget, in consultation with the Attorney General,
19 shall ensure the operation of a consolidated online request
20 portal that allows a member of the public to submit a re-
21 quest for records under subsection (a) to any agency from
22 a single website. The portal may include any additional
23 tools the Director of the Office of Management and Budg-
24 et finds will improve the implementation of this section.

1 “(2) This subsection shall not be construed to alter
2 the power of any other agency to create or maintain an
3 independent online portal for the submission of a request
4 for records under this section. The Director of the Office
5 of Management and Budget shall establish standards for
6 interoperability between the portal required under para-
7 graph (1) and other request processing software used by
8 agencies subject to this section.”.

9 **SEC. 3. REVIEW AND ISSUANCE OF REGULATIONS.**

10 (a) IN GENERAL.—Not later than 180 days after the
11 date of enactment of this Act, the head of each agency
12 (as defined in section 551 of title 5, United States Code)
13 shall review the regulations of such agency and shall issue
14 regulations on procedures for the disclosure of records
15 under section 552 of title 5, United States Code, in ac-
16 cordance with the amendments made by section 2.

17 (b) REQUIREMENTS.—The regulations of each agency
18 shall include procedures for engaging in dispute resolution
19 through the FOIA Public Liaison and the Office of Gov-
20 ernment Information Services.

21 **SEC. 4. PROACTIVE DISCLOSURE THROUGH RECORDS MAN-**
22 **AGEMENT.**

23 Section 3102 of title 44, United States Code, is
24 amended—

1 (1) by redesignating paragraphs (2) and (3) as
2 paragraphs (3) and (4); and

3 (2) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) procedures for identifying records of gen-
6 eral interest or use to the public that are appro-
7 priate for public disclosure, and for posting such
8 records in a publicly accessible electronic format;”.

9 **SEC. 5. NO ADDITIONAL FUNDS AUTHORIZED.**

10 No additional funds are authorized to carry out the
11 requirements of this Act or the amendments made by this
12 Act. The requirements of this Act and the amendments
13 made by this Act shall be carried out using amounts other-
14 wise authorized or appropriated.

From: Williams, Elliot (OLA)
Sent: Wednesday, November 19, 2014 9:35 AM
To: (b) (6) b6: Craig Kalcut email address
Subject: Are you still in your role as chief over there? (Senate)

If so, can we have a quick conversation this morning about the FOIA legislation?

*Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice*

From: Williams, Elliot (OLA) <Elliot.Williams@usdoj.gov>
Sent: Wednesday, November 19, 2014 9:39 AM
To: Dunham, Kirstin (Judiciary-Dem) (b) (6)
Subject: Quick call today?

Kirstin we haven't met yet; I'm a former judiciary counsel to Sen. Schumer, and now am DAAG over in legislative affairs at DOJ (I've known Caroline for a long time, but for obvious reasons am not starting with her today). Can we have a quick conversation this morning about the FOIA legislation that's on tomorrow's markup? Let me know if there's a number at which I can call you. Many thanks.

*Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice*

From: Williams, Elliot (OLA)
Sent: Wednesday, November 19, 2014 9:55 AM
To: Bachner, Dan (Judiciary-Dem); Schroeder, Ted (Judiciary-Dem); Crawford, Andrew (Coons)
Subject: RE: Call this morning re: FOIA

Yessir. I'll call then. Thanks.

From: Bachner, Dan (Judiciary Dem) [mailto:(b) (6)]
Sent: Wednesday, November 19, 2014 9:49 AM
To: Schroeder, Ted (Judiciary Dem); Crawford, Andrew (Coons); Williams, Elliot (OLA)
Subject: RE: Call this morning re: FOIA

Hi Elliot I'm free at noon if that works for you (b) (6)

Dan

From: Schroeder, Ted (Judiciary Dem)
Sent: Wednesday, November 19, 2014 9:48 AM
To: Bachner, Dan (Judiciary Dem); Crawford, Andrew (Coons); Williams, Elliot (OLA)
Subject: Re: Call this morning re: FOIA

With Elliot, this time.

From: <Schroeder>, Ted Schroeder (b) (6) >
Date: Wednesday, November 19, 2014 at 9:37 AM
To: Dan Bachner (b) (6) >, Andrew Crawford (b) (6) >
Subject: FW: Call this morning re: FOIA

Elliot, copying my colleagues who are tracking this bill.

From: <Williams>, "Elliot (OLA)" <Elliot.Williams@usdoj.gov>
Date: Wednesday, November 19, 2014 at 9:36 AM
To: Ted Schroeder (b) (6) >
Subject: Call this morning re: FOIA

Ted can we have a conversation this morning about the FOIA legislation that's on the markup for tomorrow?

Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice

From: Williams, Elliot (OLA)
Sent: Wednesday, November 19, 2014 11:20 AM
To: Simon, Sam (Blumenthal)
Cc: Gionfriddo, Ross (Blumenthal)
Subject: RE: Conversation re: FOIA?

Yep

From: Simon, Sam (Blumenthal) [[\[mailto: \(b\) \(6\)](mailto:)]
Sent: Wednesday, November 19, 2014 11:19 AM
To: Williams, Elliot (OLA)
Cc: Gionfriddo, Ross (Blumenthal)
Subject: RE: Conversation re: FOIA?

Want to give me a call now. (b)(6)

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Wednesday, November 19, 2014 11:19 AM
To: Simon, Sam (Blumenthal)
Cc: Gionfriddo, Ross (Blumenthal)
Subject: RE: Conversation re: FOIA?

Now until noon
12:15 1
1:30-3
After 4

Let me know what works. Thanks a lot.

From: Simon, Sam (Blumenthal) [[\[mailto: \(b\) \(6\)](mailto:)]
Sent: Wednesday, November 19, 2014 11:15 AM
To: Williams, Elliot (OLA)
Cc: Gionfriddo, Ross (Blumenthal)
Subject: RE: Conversation re: FOIA?

I would love to talk. And just in case the day gets away from me, I'm looping in a colleague.

When are you free?

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Wednesday, November 19, 2014 10:31 AM
To: Simon, Sam (Judiciary-Dem)
Subject: Conversation re: FOIA?

Sam hope all is well. Do you have a few minutes this morning to discuss the FOIA bill that's scheduled for tomorrow's markup?

Elliot Williams

*Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice*

From: Williams, Elliot (OLA)
Sent: Thursday, December 04, 2014 4:43 PM
To: Novey, Larry (HSGAC)
Subject: RE: Article on FOIA bill

Thanks.

From: Novey, Larry (HSGAC) [mailto:[\(b\) \(6\)](#)]
Sent: Thursday, December 04, 2014 4:40 PM
To: Williams, Elliot (OLA)
Subject: RE: Article on FOIA bill

FYI Senator Coburn's hold was "informational" and has been lifted.

From: Williams, Elliot (OLA) [mailto:Elliot.Williams@usdoj.gov]
Sent: Thursday, December 04, 2014 3:58 PM
To: Novey, Larry (HSGAC)
Subject: Article on FOIA bill

<http://freebeacon.com/issues/foia-reform-bill-could-pass-senate-this-week/>

*Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice*

From: Seidel, Rebecca (Commerce) (b) (6) >
Sent: Thursday, December 04, 2014 1:00 PM
To: Williams, Elliot (OLA)
Subject: RE: Quick question

Not sure why she thought they would hold? Ellen Doneski probably likes the bill.

-----Original Message-----

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Thursday, December 04, 2014 12:54 PM
To: Seidel, Rebecca (Commerce)
Subject: FW: Quick question

FYI

-----Original Message-----

From: Bumpus, Jeanne [JBumpus@ftc.gov]
Received: Thursday, 04 Dec 2014, 12:53PM
To: Williams, Elliot (OLA) [ellwilliams@jmd.usdoj.gov]
Subject: RE: Quick question

Hi Elliot,

Yes, I connected with Christian Fjeld and John Williams. I sent them parts of the comments we provided OMB in response to the LRM request last week.

Jeanne

-----Original Message-----

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Thursday, December 04, 2014 12:43 PM
To: Bumpus, Jeanne
Subject: Quick question

Did you ever connect with Commerce about the FOIA bill? If so, who?

From: Williams, Elliot (OLA)
Sent: Thursday, December 04, 2014 12:55 PM
To: (b) (6) Williams, Elliot (OLA) b6: Rebecca Seidel email address
Subject: RE: Quick question (Senate)

Ah. Rockefeller folks.

-----Original Message-----

From: Williams, Elliot (OLA) [ellwilliams@jmd.usdoj.gov]
Received: Thursday, 04 Dec 2014, 12:54PM
To: (b) (6)] b6: Rebecca Seidel email address
Subject: FW: Quick question (Senate)

FYI

-----Original Message-----

From: Bumpus, Jeanne [JBumpus@ftc.gov]
Received: Thursday, 04 Dec 2014, 12:53PM
To: Williams, Elliot (OLA) [ellwilliams@jmd.usdoj.gov]
Subject: RE: Quick question

Hi Elliot,

Yes, I connected with Christian Fjeld and John Williams. I sent them parts of the comments we provided OMB in response to the LRM request last week.

Jeanne

Original Message
From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Thursday, December 04, 2014 12:43 PM
To: Bumpus, Jeanne
Subject: Quick question

Did you ever connect with Commerce about the FOIA bill? If so, who?

From: Williams, John (Commerce) (b) (6) >
Sent: Friday, December 05, 2014 6:37 PM
To: Williams, Elliot (OLA)
Subject: Fw: ROCKEFELLER STATEMENT ON FOIA IMPROVEMENT ACT

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Rockefeller, Press (Rockefeller) <Press@rockefeller.senate.gov>
Sent: Friday, December 5, 2014 6:27 PM
Subject: ROCKEFELLER STATEMENT ON FOIA IMPROVEMENT ACT

JAY ROCKEFELLER
UNITED STATES SENATOR FOR WEST VIRGINIA



N E W S R E L E A S E

FOR IMMEDIATE RELEASE Contact: Jenny Rosenberg
December 5, 2014 202-224-6101
<http://rockefeller.senate.gov>

   You Tube

ROCKEFELLER STATEMENT ON FOIA IMPROVEMENT ACT

WASHINGTON, D.C. – Senator Jay Rockefeller today issued the following statement regarding the hold he placed on S. 2520, the FOIA Improvement Act.

“I have a long record of support for open government and the FOIA process. I am concerned that provisions in this bill will have the unintended consequence of harming our ability to enforce the many important federal laws that protect American consumers from financial fraud and other abuses. According to experts across the federal government, these provisions would make it harder for federal agency attorneys to prepare their cases, and they would potentially give defendants new ways to obstruct and delay investigations into their conduct. I hope there is a way to address these concerns and pass the bill.”

###

From: Burton, Faith (OLA) <Faith.Burton@usdoj.gov>
Sent: Monday, December 08, 2014 6:29 PM
To: Stephenson, Mark; (b) (6); Boyd, Krista; Rapallo, Dave
Cc: Williams, Elliot (OLA)
Subject: RE: Senate passed FOIA bill - wanted to touch base w/ you

Thanks; I should have known. FB

From: Stephenson, Mark [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Monday, December 08, 2014 6:23 PM
To: Burton, Faith (OLA); (b) (6); Boyd, Krista; Rapallo, Dave
Cc: Williams, Elliot (OLA)
Subject: Re: Senate passed FOIA bill wanted to touch base w/ you

And Dave at his right email address.

From: Stephenson, Mark
Sent: Monday, December 08, 2014 06:13 PM
To: 'Faith.Burton@usdoj.gov' <Faith.Burton@usdoj.gov> (b) (6); (b) (6); Boyd, Krista
Cc: 'Elliot.Williams@usdoj.gov' <Elliot.Williams@usdoj.gov>
Subject: Re: Senate passed FOIA bill wanted to touch base w/ you

b6: David Rapallo email address (House)

Looping in Krista on this.

From: Burton, Faith (OLA) [<mailto:Faith.Burton@usdoj.gov>]
Sent: Monday, December 08, 2014 06:11 PM
To: (b) (6); Stephenson, Mark b6: David Rapallo email address (House)
Cc: Williams, Elliot (OLA) <Elliot.Williams@usdoj.gov>
Subject: Senate passed FOIA bill wanted to touch base w/ you

Dave and Mark, not sure about plans in the House for this bill, but would appreciate any information you can provide to us. Please let us know if you have time to talk on the phone. Thanks much. Faith

From: Parmiter, Robert (b) (6) >
Sent: Wednesday, December 10, 2014 9:53 AM
To: Burton, Faith (OLA)
Subject: RE: Just left you a vm -

Hey Faith! I checked, and I believe this bill is the Senate companion to an Issa bill that already passed the House earlier this year. My understanding is that we played no role in that, and that the bill was exclusively the work of OGR.

ROBERT B. PARMITER ▪ COUNSEL
SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY, AND INVESTIGATIONS
COMMITTEE ON THE JUDICIARY ▪ U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. (b) (6)

From: Burton, Faith (OLA) [<mailto:Faith.Burton@usdoj.gov>]
Sent: Tuesday, December 09, 2014 6:30 PM
To: Parmiter, Robert
Subject: Just left you a vm

Wanted to touch base about a FOIA bill, S. 2520, that passed the Senate yesterday. Will you be around in the am? Thanks. Faith

Not Responsive

Not Responsive

From: Boyd, Krist (b) (6)
Sent: Tuesday, March 10, 2015 1:34 PM
To: O'Brien, Alicia C (OLA)
Subject: Re: FOIA

What about next Thursday or Friday? Or I could do this Thursday morning.

From: O'Brien, Alicia C (OLA) [mailto:Alicia.C.O'Brien@usdoj.gov]
Sent: Tuesday, March 10, 2015 01:00 PM
To: Boyd, Krista

Subject: FW: FOIA

Hi Krista,

Just checking in again on this one. Thanks much- Alicia

Alicia C. O'Brien
Office of Legislative Affairs
(202) 305-8035
Alicia.C.O'Brien@usdoj.gov

From: O'Brien, Alicia C (OLA)
Sent: Wednesday, February 25, 2015 10:28 AM
To: (b) (6)
Subject: FOIA

b6: Krista Boyd email address
(House)

Hey Krista-

How are you? Hope all is well. I have some folks here who would like to come in to discuss the FOIA bill if you have time for a quick meeting in the next couple of weeks? Happy to bring them up at a time that's convenient for you.

Thanks in advance- Alicia

Alicia C. O'Brien
Office of Legislative Affairs
(202) 305-8035
Alicia.C.O'Brien@usdoj.gov

Not Responsive

2

From: Dodin, Reema (Durbin) [mailto:Reema_Dodin@durbin.senate.gov]
Sent: Monday, February 09, 2015 2:15 PM
To: Dodin, Reema (Durbin)
Subject: Week 6: Adventures TBD

Hello and welcome to week 6!

Not Responsive

The Tuesday/Wednesday Schedule – the Republicans are still chatting about what these two days may look like, focusing on what may be possible with time agreement. Some of the commonly mentioned candidates are below:

Not Responsive

- Consider legislation such as:

Not Responsive

- The FOIA Improvement Act (information attached courtesy of Team Leahy)

Not Responsive

rd

(b)(6)

Not Responsive

Not Responsive

Not Responsive

From: "Tucker, Rachael (Judiciary-Rep)" (b) (6)
Date: March 18, 2015 at 12:27:02 PM EDT
To: "Elliot.Williams@usdoj.gov" <Elliot.Williams@usdoj.gov>
Subject: FW: FOIA

Hey Elliot-- I need to move on this quickly. Can you give me a call as soon as you can? Thanks,

Rachael

(b)(6)

-----Original Message-----

From: Tucker, Rachael (Judiciary-Rep)
Sent: Wednesday, March 18, 2015 10:57 AM
To: 'O'Brien, Alicia C (OLA)'
Subject: RE: FOIA

Hey Alicia-

As you probably know, Cornyn hotlined s.337 last week. My boss has a hold on it. I'm trying to go to Cornyn's staff with suggestions (even though I've been told our concern about the 25-year sunset is non-negotiable). I'm wondering if extending the sunset would be something DOJ could support. Maybe making it 40 years or something? Do you have any suggestions or thoughts? If you have some time to get back with me today I'd really appreciate it. Thanks,

Rachael

(b)(6)

Rachael Tucker
Deputy Chief Counsel
Senator Jeff Sessions
Senate Judiciary Committee

(b)(6)

From: Williams, Elliot (OLA)
Sent: Friday, March 20, 2015 2:31 PM
To: Tucker, Rachael (Judiciary-Rep)
Cc: O'Brien, Alicia C (OLA)
Subject: RE: Another call?

Today's not great Melanie is traveling. When's good on Monday?

From: Tucker, Rachael (Judiciary Rep) [[mailto:\(b\) \(6\)](#)]
Sent: Friday, March 20, 2015 2:30 PM
To: Williams, Elliot (OLA)
Cc: O'Brien, Alicia C (OLA)
Subject: RE: Another call?

Hey sure thing. You can call today if you want. Monday works, too.

From: Williams, Elliot (OLA) [<mailto:Elliot.Williams@usdoj.gov>]
Sent: Friday, March 20, 2015 2:11 PM
To: Tucker, Rachael (Judiciary Rep)
Cc: O'Brien, Alicia C (OLA)
Subject: Another call?

Rachel hope all is well. Do you have a few minutes for another call on the FOIA bill on Monday? We just want to touch base as to where things stand.

*Elliot Williams
Deputy Assistant Attorney General for Legislative Affairs
U.S. Department of Justice*

From: Park, James (b) (6) >
Sent: Tuesday, March 31, 2015 4:24 PM
To: Gaston, Molly (OLA)
Subject: FOIA legislation

Hi Molly.

Does DOJ have a view on this FOIA reform legislation?

<http://www.gpo.gov/fdsys/pkg/BILLS-114hr653ih/pdf/BILLS-114hr653ih.pdf>

<http://thehill.com/policy/technology/237259-regulators-fret-over-foia-reform-bill>

Thanks.

James

James J. Park
Chief Counsel, Democratic Staff
Antitrust and Subcommittee on the Constitution and Civil Justice
Committee on the Judiciary
U.S. House of Representatives

(b) (6)

(b)(6) (direct)

(202) 225-6906 (general)

Subject: FOIA legislation (James Park; Melanie Pustay; Alicia O'Brien)
Location: (b) (6)
Start: Thu 4/2/2015 5:00 PM
End: Thu 4/2/2015 5:30 PM
Recurrence: (none)
Meeting Status: Accepted
Organizer: O'Brien, Alicia C (OLA)
Required Attendees: Park, James; Pustay, Melanie A (OIP)

Call-in #
Pass code

(b) (6)

From: Wilson, Karen L (OLA)
Sent: Tuesday, April 28, 2015 4:38 PM
To: Boyd, Krista (b) (6)
Subject: HR 653

Krista, do you have, or can you point me in the right direction to get a copy of the FOIA bill, as reported? I have, thus far, only seen the introduced version. Also, do you know what the timing is on moving the bill to the floor and whether it will go by suspension or through Rules? Thanks for whatever info you can provide.

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Wilson, Karen L (OLA)
Sent: Friday, May 01, 2015 12:06 PM
To: Boyd, Krista (b) (6)
Subject: Reported bill

Could you send me a copy of the FOIA bill, as reported? Thanks

Karen L Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353