

Statement for the Record
The U.S. Senate Committee on the Judiciary
Hearing On: “The Freedom of Information Act: Perspectives from Public Requesters”

April 8, 2025

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Chairman Grassley, Ranking Member Durbin and members of the Committee, thank you for the opportunity to submit testimony regarding the Freedom of Information Act (FOIA) and the critical role it plays in ensuring transparency and government accountability.

My organization, Citizens for Responsibility and Ethics in Washington (CREW), uses the Freedom of Information Act to request and receive government records that can shed light on how federal agencies and individuals working for and with the government make key decisions and approach issues relevant to government accountability. By investigating and releasing these records publicly, CREW seeks to foster better transparency and offer the American public key facts and answers to pressing questions. In cases where the government fails to respond or provide documents in response to FOIA requests, CREW often files lawsuits to obtain records that should have been lawfully released by the government.

Despite claims by members of the Trump administration that it is “the most transparent administration in history,”¹ in reality this administration has taken actions which have profoundly hindered transparency under FOIA—the federal government’s key transparency law.² In particular, the Trump administration has engaged in mass firings, including of FOIA officials and offices across the government, which have had the effect of obstructing the public’s right to request and receive information through the FOIA process.³

Federal government transparency is not, and should not be, a partisan issue. FOIA was passed with broad bipartisan support⁴ in 1966 and signed into law by President Lyndon B. Johnson.⁵ Since then, both Republican and Democratic presidents have signed legislation refining and modernizing the act so as to allow for greater transparency, including by reducing fees associated with records requests and instituting time limits to ensure that agencies are responsive to the information needs of the individual citizens, the news media and public interest organizations such as CREW.⁶ Furthermore, members of both political

¹ Tiffany Hsu, *The White House Frames the Past by Erasing Parts of It*, The New York Times, (Apr. 5, 2025), <https://www.nytimes.com/2025/04/05/technology/trump-history-websites.html>.

² Miles Klee, Health Secretary RFK Jr. Promised Radical Transparency, Now He’s Closing FOIA Offices, Rolling Stone, (Apr. 1, 2025), <https://tinyurl.com/3bhf5pb5>.

³ *Id.*

⁴ *To suspend the rules and pass S. 1160, a bill for clarifying and protecting the right of the public to information*, (June 20, 1966), <https://tinyurl.com/3bjkedhp>.

⁵ 5 U.S.C. § 552, <https://tinyurl.com/bp78xxuw>.

⁶ OPEN Government Act of 2007, Pub. L. 110-175, 121 Stat. 2524, <https://tinyurl.com/3hf7tyx4>.

parties have demanded that agencies retain records as required by FOIA arguing that this information is necessary for effective congressional oversight.⁷

CREW has consistently used FOIA across presidential administrations of both parties, filing FOIA requests to investigate secret DOJ legal opinions,⁸ potential wasteful spending by government officials,⁹ the deletion of records¹⁰ and undue corporate influence.¹¹

While the Trump administration claims to support “maximum transparency,”¹² when it comes to providing the American public with lawful access to government records, their actions have not matched this professed commitment. In February 2025, CREW sued the U.S. Department of Government Efficiency (DOGE), for documents it had requested under FOIA, asserting that the American people have a right to transparency with regard to the records of DOGE, which wields substantial independent power across the federal government.¹³ In response to this lawsuit, the Trump administration argued that DOGE is “not subject to FOIA” and that the public has no right to request access to its documents. But a federal judge disagreed, concluding that DOGE is “likely covered by FOIA” and that DOGE must process CREW’s FOIA requests on an expedited basis because “the public would be irreparably harmed by an indefinite delay in unearthing the records CREW seeks.”¹⁴ Last week, CREW filed a lawsuit against the U.S. Centers for Disease Control and Prevention (CDC), to block the CDC’s unlawful decision to close its FOIA office and place all FOIA staff on administrative leave.¹⁵ As CREW’s complaint alleges—and has been reported publicly by others—anyone sending an inquiry to the FOIA request email address at the CDC is turned

⁷ See e.g. *Senator Johnson Demands HHS, FDA, CDC Preserve All Records Related to COVID-19 Vaccines* (Nov. 20, 2024), <https://www.ronjohnson.senate.gov/2024/11/sen-johnson-demands-hhs-fda-cdc-preserve-all-records-relating-to-covid-19-vaccines>; *Whitehouse Demands EPA Fully Comply With Document Preservation Laws* (Feb. 13, 2025), <https://www.epw.senate.gov/public/index.cfm/2025/2/whitehouse-demands-epa-fully-comply-with-document-preservation-laws>.

⁸ CREW urges transparency for OLC opinions, Citizens for Responsibility and Ethics in Washington, (Oct. 20, 2022), <https://tinyurl.com/23dwybyc>.

⁹ CREW requests Interior records on Zinke Trump Hotel lunch, Citizens for Responsibility and Ethics in Washington, (Sept. 25, 2017), <https://tinyurl.com/37zn65xf>.

¹⁰ CREW submits FOIA request to U.S. Customs and Border Protection regarding use of Wickr, Citizens for Responsibility and Ethics in Washington, (Sept. 28, 2021), <https://tinyurl.com/y9wnxvt2>.

¹¹ CREW calls on Congress to investigate short sellers influencing government to maximize profits, Citizens for Responsibility and Ethics in Washington, (Mar. 18, 2025), <https://tinyurl.com/5a4mnxxk>.

¹² Brent D. Griffiths, *Elon Musk said DOGE would provide 'maximum transparency.' It may be years before its records are public.*, Business Insider, <https://tinyurl.com/4kxx23r6>.

¹³ CREW sues US DOGE Service to compel transparency, Citizens for Responsibility and Ethics in Washington, (Feb. 20, 2025), <https://tinyurl.com/2jyhm7mf>; see also Chris Clow, *CFPB COO shares details in court of DOGE cuts to bureau*, HousingWire (Mar. 11, 2025), <https://www.housingwire.com/articles/cfpb-coo-gives-details-of-doges-scaling-back-agency-in-court/>; Emma Kate Fittes and Maya Riser-Kositsky, *Sizing Up DOGE's Education Contract Cuts: What's Been Targeted*, EdWeek Market Brief (Mar. 12, 2025), <https://marketbrief.edweek.org/regulation-policy/an-in-depth-look-at-doge-cuts-to-federal-education-contracts/2025/03>; Lindsay Whitehurst and Michael Kunkelman, *Judge Rules DOGE's USAID dismantling likely violates the Constitution* (Mar. 18, 2025), <https://apnews.com/article/usaaid-federal-judge-trump-administration-bdc919a5d98eda5ab72a32fdfe2f147d>.

¹⁴ Citizens for Responsibility and Ethics in Washington v. U.S. DOGE Service, 1:25-cv-00511, (D.D.C.), <https://tinyurl.com/bdf83tvm>.

¹⁵ Citizens for Responsibility and Ethics in Washington v. CDC; 1:25-cv-01020 (D.D.C.), <chrome-extension://efaidnbmnnnnibpcapcgglefindmkaj/https://www.citizensforethics.org/wp-content/uploads/2025/04/gov.uscourts.dcd.279213.10.pdf>.

away by an auto reply message saying that “...the FOIA office has been placed on admin leave and is unable to respond to any emails,” indicating that the agency has no plan to comply with its legal obligations due to circumstances that the administration has deliberately created and imposed upon itself.¹⁶ But as a federal court recently explained in response to similar FOIA staffing cuts at USAID, an agency cannot “avoid its obligations under FOIA—including the obligation to process a request in an efficient and prompt manner—by simply implementing a reduction-in-force that ‘either [] terminate[s] or place[s] on administrative leave’” its FOIA staff.¹⁷

Under current law, agencies are required to make an initial determination with regard to a FOIA request in 20 business days or less—a timeline that agencies struggled to meet long before DOGE’s efforts to cut the federal workforce because FOIA offices were already understaffed.¹⁸ Recently, as part of President Trump’s and DOGE’s across the board efforts to cut government staffing and spending, a majority of the staff on the FOIA public records teams at Department of Health and Human Services agencies, such as the CDC, the Food and Drug Administration and the National Institutes of Health, were fired or placed on administrative leave.¹⁹ These agencies have control over billions of dollars of contracts,²⁰ scientific decision-making and the approval of life-saving drugs and medical treatments.²¹ FOIA requests directed to these agencies allow the public access to important public health information and are an invaluable tool for ensuring accountability and guarding against waste, fraud and abuse.²²

In addition to the closing of FOIA offices or firing of FOIA staff at the health agencies mentioned above, the Trump administration has fired other senior executive branch staff responsible for FOIA. At the Department of Justice, the head of the office that administers FOIA requests was fired,²³ as was the staff handling FOIA requests at the Office of Personnel Management.²⁴ The firing of these nonpartisan, career officials may leave some agencies across the government with few staffers, if any, to handle public records requests. At this

¹⁶ Miles Klee, *Health Secretary RFK Jr. Promised Radical Transparency, Now He’s Closing FOIA Offices*, Rolling Stone, (Apr. 1, 2025), <https://tinyurl.com/3bhf5pb5>.

¹⁷ *Ctr. to Advance Sec. in Am. v. USAID*, No. 24-cv-03505-RDM, 2025 WL 763735, at *2 (D.D.C. Mar. 11, 2025) <https://www.casemine.com/judgement/us/67d25fa93db7ac2e2c1d5a83>.

¹⁸ 5 U.S.C. § 552(a)(6)(A)(i)(I), (III)(aa); Benjamin M. Barczewski, Congressional Research Service, *The Freedom of Information Act (FOIA): A Legal Overview*, (June 27, 2024), <https://www.congress.gov/crs-product/R46238>; Sydney Lupkin, *After promising transparency, RFK guts public records teams at HHS*, WAMU 88.5, Apr. 3, 2025), <https://tinyurl.com/5n8vx6t3>.

¹⁹ Sydney Lupkin, *After promising transparency, RFK guts public records teams at HHS*, WAMU 88.5, (Apr. 3, 2025), <https://tinyurl.com/5n8vx6t3>.

²⁰ Centers for Disease Control and Prevention, CDC Contract Funding Information, (accessed Apr. 7, 2027), <https://www.cdc.gov/contracts/funding/index.html>; Trump administration orders NIH to eliminate \$2.6 billion in federal contracts, STAT (Apr. 3, 2025), <https://www.statnews.com/2025/04/03/nih-35-percent-cut-contracts-trump-administration/>.

²¹ *HHS Agencies & Offices*, U.S. Department of Health and Human Services, <https://tinyurl.com/2wnmcfeh>

²² Kevin Griffis, *Decimation of HHS comms, FOIA offices will leave Americans in the dark about urgent health matters*, STAT, (Apr. 2, 2025), <https://www.statnews.com/2025/04/02/hhs-cuts-cdc-communications-foia-offices-gutted/>.

²³ Andrew Goudsward, Sarah N. Lynch and Brad Heath, *Trump Justice Department fires more career officials*, Reuters, (Mar. 10, 2025), <https://www.reuters.com/world/us/trump-justice-dept-fires-head-pardon-office-2025-03-07/>.

²⁴ Allie Maloney and Hans Kristensen, *How Government Cuts Could Impact Your Right to Information*, Federation of American Scientists, (Mar. 10, 2025), <https://fas.org/publication/foia-opm-doge/>.

time it is unclear if other FOIA offices at different agencies are also being targeted. It has been reported that several inquiries sent by journalists to FOIA intake email addresses at other agencies did not receive any immediate reply.²⁵ Therefore, it is unknown how many FOIA offices may be similarly hampered as a result of DOGE's activities across the government. Ultimately, it appears as though an essential mechanism in the law that is used to ensure that the federal government is spending taxpayer resources effectively and efficiently and making decisions in the best interests of all Americans, may be effectively incapacitated without any regard for the administration's legal obligations and Congress's longstanding interest in and support of FOIA.²⁶

To comply with federal law, executive branch agencies must ensure that all FOIA offices are fully staffed and responsive to document requests. This is not simply an issue that impacts CREW. FOIA requests are filed by businesses and news organizations, as well as individual Americans who have an interest in understanding how the government makes decisions that impact them.²⁷ In fact, President Trump himself used the FOIA process when, as a private citizen, he filed at least two requests—one with the National Archives and another with the Internal Revenue Service.²⁸ In FY 2024, FOIA requests hit an all-time high, with 1.5 million requests received across the federal government, including numerous requests made by the Heritage Foundation which alone submitted an estimated 50,000 FOIA requests over the last two and a half years.²⁹ Given this record amount of public interest, the executive branch must commit to following the law and ensuring that the public gets access to the documents and information that FOIA guarantees. At the same time, Congress has a responsibility to ensure that FOIA offices are appropriated the funds they need to function, and that civil servants serving in FOIA offices have adequate protections, empowering them to provide their critical service to the American people. We hope that Congress can reassert its longstanding bipartisan commitment to FOIA and government transparency and work together to not only improve the law, but ensure that government FOIA offices are fully staffed and permitted to carry out their legal obligations without political interference.

²⁵ Miles Klee, *Health Secretary RFK Jr. Promised Radical Transparency, Now He's Closing FOIA Offices*, Rolling Stone, (Apr. 1, 2025), <https://tinyurl.com/3bhf5pb5>.

²⁶ Sean Michael Newhouse, *Democratic oversight leader warns against staff cuts to agency FOIA offices*, Government Executive, (Mar. 20, 2025), <https://tinyurl.com/2kpi77a5>.

²⁷ Maha Quadri, *What is a FOIA Request?*, Campaign Legal Center, (Mar. 14, 2025), <https://tinyurl.com/3fv4uzde>

²⁸ Jason Leopold, *Trump Filed a FOIA Request. We FOIAed his FOIA*, Bloomberg (Apr. 4, 2025), <https://www.bloomberg.com/news/newsletters/2025-04-04/trump-filed-foia-request-to-national-archives-about-classified-docs>.

²⁹ *FOIA Requests, Processing Hit Records; Standards Proposed for Information Specialist Positions*, FEDweek, (Mar. 19, 2025), <https://tinyurl.com/5y4uu9r8>; Sharon Lerner and Andy Kroll, *Heritage Foundation Staffers Flood Agencies With Thousands Of Information Requests*, ProPublica (Oct. 1, 2024), <https://www.propublica.org/article/have-government-employees-mentioned-climate-change-voting-or-gender-identity-the-heritage-foundation-wants-to-know>.