

March 16, 2016

President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Obama:

We, the undersigned organizations and individuals, write to express our deep concern regarding efforts by the Department of Justice to undermine legislation in the last Congress that would have strengthened the Freedom of Information Act (FOIA) and likely are continuing to undermine FOIA amendments proposed by this Congress.<sup>1</sup> We urge you to repudiate the positions taken by the Justice Department and instead publicly and unequivocally endorse the bipartisan FOIA Improvement Act, which was unanimously passed by the Senate on March 15, 2016.<sup>2</sup>

The Justice Department's six-page memorandum<sup>3</sup> on H.R. 1211 -- obtained in response to a FOIA lawsuit and recently made public -- stands in stark contrast with your Day One memo on FOIA, which boldly declared, "in the face of doubt, openness prevails."<sup>4</sup> The recently disclosed DOJ memo voices strong opposition to nearly every provision of the FOIA amendments and, notably, repudiates Attorney General Holder's guidance on implementing a presumption of openness by rejecting a verbatim codification of his language.<sup>5</sup> Without these legislative changes, implementation of the FOIA will remain a matter of policy,<sup>6</sup> not a statutory command, too often driven by partisan political concerns.

The Justice Department's positions are at variance with the underlying intent of the FOIA, good public policy, common sense, and the administration's oft-stated position on transparency. That it required a lawsuit by a reporter to uncover the DOJ memo and the secret lobbying by administration officials in opposition to the legislation speaks volumes.

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<sup>1</sup> See "It Took a FOIA Lawsuit to Uncover how the Obama Administration Killed FOIA Reform," by Jason Leopold, Vice News, available at <http://bit.ly/1TLiNgz>.

<sup>2</sup> See Senate passes FOIA reform bill, Mario Trujillo, The Hill, March 15, 2016, available at <http://bit.ly/22iqb7A>.

<sup>3</sup> See Freedom of the Press Foundation, records released by the Department of Justice in response to a FOIA request and lawsuit, available at <http://bit.ly/1RA29Ki>.

<sup>4</sup> Memorandum for the Heads of Executive Departments and Agencies, Freedom of Information Act, The White House, January 21, 2009, <http://1.usa.gov/1SoNNCx>.

<sup>5</sup> Memorandum for the Heads of Executive Departments and Agencies, Freedom of Information Act, The Attorney General, March 19, 2009, <http://1.usa.gov/226jHVZ>.

<sup>6</sup> See, e.g., the 2001 Ashcroft FOIA Memorandum, which established the "sound legal basis" standard governing the DOJ's decisions on whether to defend agency actions under FOIA when they are challenged in court; differing from the "foreseeable harm" standard that was employed under the predecessor memorandum, available at <http://1.usa.gov/1pmD2Vh>.

This year marks the 50th anniversary of the enactment of the Freedom of Information Act. We hope you will join us during Sunshine Week, created in celebration of public access to information, in declaring your support for the legislation.

For more information, contact Patrice McDermott, Executive Director of OpenTheGovernment.org, at [pmcdermott@openthegovernment.org](mailto:pmcdermott@openthegovernment.org), Anne Weismann, Executive Director of Campaign for Accountability, at [aweismann@campaignforaccountability.org](mailto:aweismann@campaignforaccountability.org), or Daniel Schuman, Policy Director at Demand Progress, at [daniel@demandprogress.org](mailto:daniel@demandprogress.org).

Sincerely,

Access Now  
American Association of Law Libraries  
American Civil Liberties Union  
American Library Association  
American Society of Journalists and Authors  
American Society of News Editors  
Association of Alternative Newsmedia  
Association of Research Libraries  
Bill of Rights Defense Committee  
Campaign for Accountability  
Center for Media and Democracy  
Center for Responsive Politics  
Citizens for Responsibility and Ethics in Washington (CREW)  
Constitutional Alliance  
Data Coalition  
Defending Dissent Foundation  
Demand Progress  
Essential Information  
Electronic Privacy Information Center  
Electronic Frontier Foundation  
Fight for the Future  
Freedom of the Press Foundation  
Government Accountability Project  
The James Madison Project

Liberty Coalition  
Muckrock  
National Center for Transgender Equality  
National Coalition Against Censorship  
National Security Archive  
National Security Counselors  
Niskanen Center  
No More Guantánamos  
OpenTheGovernment.org  
Open Society Policy Center  
People for the American Way  
Public Citizen  
Project On Government Oversight  
Reporters Committee for Freedom of the Press  
Restore The Fourth  
RootsAction.org  
Society of American Archivists  
Society of Professional Journalists  
Sunlight Foundation  
Transactional Records Access Clearinghouse  
Tully Center for Free Speech at Syracuse  
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#### INDIVIDUALS

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