



November 19, 2014

The Honorable Patrick Leahy
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Bldg.
Washington, DC 20510

The Honorable Charles Grassley
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Bldg.
Washington, DC 20510

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Re: ACLU Supports FOIA Improvement Act of 2014

Dear Chairman Leahy and Ranking Member Grassley:

We write in support of the FOIA Improvement Act of 2014, a bipartisan measure that would significantly promote public access to government information through the Freedom of Information Act (“FOIA”).¹ We urge the committee to approve the measure in tomorrow’s executive session.

Although we have criticized the Obama administration’s record on transparency with respect to, among other things, the suspicionless surveillance programs revealed by Edward Snowden, we strongly applauded the president’s memorandum, issued on his first day in office, imposing a presumption of openness in response to FOIA requests. This measure would enshrine that presumption in law.²

The FOIA Improvement Act would also require agencies to consider whether partial disclosure of otherwise exempt material is feasible and to take reasonable steps to release non-exempt information. It would further bar agencies from withholding information if it is merely covered as a technical matter by an exemption, meaning that information that does not present the kind of harm covered by the exemptions must still be released. And, it would bar an agency from withholding material solely because it is “embarrassing to the agency or because of speculative concerns.”³

Additionally, the bill would limit withholding under exemption five of FOIA⁴ to documents younger than 25 years,⁵ which would represent a

¹ S. 2520, 113th Cong. (2014).

² S. 2520 § (2)(1).

³ *Id.*

⁴ 5 U.S.C. § 552(b)(5) (2012).

⁵ S. 2520 § (2)(2).

significant step forward in addressing past misuse of the exemption. Finally, we support the assorted provisions in the bill to improve, among other things, electronic access to government records (including documents that have been previously released and repeatedly requested), and reporting by agencies on request statistics.

Accordingly, we urge the members of the Committee to approve the bill in upcoming Committee deliberations. Please do not hesitate to contact Legislative Counsel/Policy Advisor Gabe Rottman at 202-675-2325 or grottman@aclu.org if you have any questions or comments.

Sincerely,



Laura W. Murphy
Director, Washington Legislative Office



Gabriel Rottman
Legislative Counsel/Policy Advisor

cc: Members of the Senate Committee on the Judiciary