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House of Representatives

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Opening Statement

Rep. Elijah E. Cummings, Ranking Member

Hearing on "The Freedom of Information Act: Crowd-Sourcing Government Oversight"

March 17, 2011

This is Sunshine Week, our nation's observance of the importance of open and transparent government. This week also marks the 260th anniversary of James Madison's birth. He was a champion of the public's right to know and a strong defender of open government. In 1822, James Madison said this:

"A popular government without popular information or the means of acquiring it, is but a prologue to a farce, or a tragedy, or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own governors, must arm themselves with the power knowledge gives."

So it is fitting today that our Committee is holding a hearing on one of the pillars of open government – the Freedom of Information Act – which helps ensure that the public has the information and knowledge that Madison described so powerfully.

President Obama, beginning on his first day in office, has reinvigorated the Executive Branch's commitment to open government and reversed many of the troubling policies of his predecessor. Highlighting FOIA as "the most prominent expression of a profound national commitment to ensuring an open Government," the President said this:

"The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails."

Based on this instruction, Attorney General Holder rescinded Attorney General Ashcroft's 2001 policy memorandum on FOIA that allowed agencies to err on the side of secrecy rather than disclosure for eight long years.

The Obama Administration's new commitment to transparency and open government has resulted in significant improvements in FOIA implementation:

- FOIA backlogs have been reduced significantly in back to back years under this Administration;

- agencies such as the Departments of Agriculture and Defense have decreased incoming requests by proactively disclosing more information online; and
- the Department of Justice recently unveiled FOIA.gov, a comprehensive public resource for government-wide FOIA information and data.

Still, there is always room for improvement. A recent report from the National Security Archive found that the Obama Administration “has clearly stated a new policy direction for open government but has not conquered the challenge of communicating and enforcing that message throughout the Executive Branch.”

In my opinion, the best way to make government more effective is to make it more accountable to the public. For this reason, I am pleased to announce that I have introduced legislation this morning to strengthen the nation’s core open government laws, and every Democratic Member of our Committee is an original co-sponsor. This legislation—the “Transparency and Openness in Government Act”—is a package of five bills that overwhelmingly passed the House last Congress with broad, bipartisan support, including your own, Mr. Chairman. This legislation will:

- make federal commissions more transparent and accountable;
- increase public access to presidential records;
- require greater disclosure of donations to presidential libraries;
- ensure that government email records are preserved; and
- clarify the authority of the Government Accountability Office to access agency records.

Mr. Chairman, I know you believe that transparency should not be a partisan issue, so I hope you will join as a co-sponsor too. As the Chairman of this Committee, as Chairman of the House Transparency Caucus, and as a supporter of identical language last Congress, I know you share our goals. Given the widespread, bipartisan support for these provisions, I hope you will call up this legislation immediately, and then work with Speaker Boehner to move it to the House floor as swiftly as possible.