

Dear Colleague:

I intend to offer an amendment to H.R. 2017, the DHS appropriations bill, to prohibit political meddling in the Department's compliance with the Freedom of Information Act (FOIA). My amendment is based on stories and litigation pursued by the *Associated Press*, and investigations over the last two years by the Committee on Oversight and Government Reform.

FOIA gives citizens the right to know what their government is doing. As President Obama stated shortly after taking office, "In our democracy, the Freedom of Information Act, which encourages accountability through transparency, is the most prominent expression of a profound national commitment to ensuring an open Government." Countless instances of waste, fraud, and abuse have been exposed by using FOIA.

In September 2009, **political** appointees in DHS implemented an **unprecedented** policy to review FOIA requests and documents proposed to be released. According to an *Associated Press* article that itself resulted from FOIA litigation with DHS,

For at least a year, the Homeland Security Department detoured requests for federal records to senior political advisers for highly unusual scrutiny, probing for information about the requesters and delaying disclosures deemed too politically sensitive

Career employees were ordered to provide Secretary Janet Napolitano's political staff with information about the people who asked for records – such as where they lived, whether they were private citizens or reporters – and about the organizations where they worked. . . .

If a member of Congress sought such documents, employees were told to specify Democrat or Republican. . . .

The foot-dragging reached a point that officials worried the department would get sued, one e-mail shows. . . .

Anything requested by lawmakers, journalists, activist groups or watchdog organizations had to go to the political appointees. This included all of AP's information requests, even a routine one for records that had already been sought by other news organizations.

The Justice Department office that oversees FOIA across the federal government is unaware of any other agencies with similar mandatory review policies, spokeswoman Gina Talamona said.

Testimony from civil service employees within DHS' FOIA office showed that political appointees' approval was required before FOIA documents could be released to the public. This additional process repeatedly caused FOIA documents to be released after the 20-day statutory

deadline for responses, and numerous documents were improperly redacted, apparently for political reasons.

While the *Associated Press* investigated its story and was forced to sue DHS, the Department implemented a new political appointee review process for FOIA requests and documents proposed to be released. Civil service FOIA staff were required to post proposed releases to a DHS document management system shared with political appointees. The political staff then had three days to veto the civil service's releases. Testimony before the Committee on Oversight and Government Reform in March suggests that that political review period has been reduced to one day but still remains in place today.

The current DHS political review process of FOIA is extraordinary. Chairman Issa and Senator Grassley wrote to 29 Offices of Inspectors General to request that they determine whether and to what extent political appointees have a role in responding to FOIA requests. According to the IGs surveyed, the level of involvement of DHS's political staff in the FOIA response process is uniquely high. While it is the case that political staff at a very small number of agencies have prior notice of newsworthy releases, at no other agency do front office staff have the opportunity to withhold or otherwise delay such releases to avoid embarrassment or for other political reasons.

FOIA is vital to our democracy. It is the most powerful single tool citizens and the press have to discover what our government is doing. And the law has a long track record of exposing corruption and inefficiency to improve government for all Americans.

My amendment protects FOIA from politicization at DHS. It prohibits DHS political appointees from improperly blocking the release of FOIA documents. My amendment allows DHS political appointees to continue to be aware of FOIA requests and documents proposed to be released, but it prevents the political appointees from interfering with the public's legal right to know.

Feel free to contact Matt Weibel or Will Adams in my office at 5-3831.

Please join me in supporting this amendment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Justin Adams". The signature is fluid and cursive, with the first name "Justin" written in a larger, more prominent script than the last name "Adams".