

Sunshine in Government Initiative

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February 4, 2008

Senator Robert Byrd, Chairman
Senate Appropriations Committee
S-131 Capitol Building
Washington, DC 20510
Sent via fax (202) 224-2100

Senator Thad Cochran, Ranking Member
Senate Appropriations Committee
113 Dirksen Building
Washington, DC 20510
Sent via fax: (202) 224-9450

Dear Chairman Byrd and Ranking Member Cochran,

We are writing to express our strong opposition to the administration's proposal in the fiscal year 2009 budget to eliminate the newly created independent Freedom of Information Act (FOIA) ombudsman at the National Archives and Records Administration (NARA).

The Sunshine in Government Initiative is a coalition of ten media organizations including **American Society of Newspaper Editors, Associated Press, Association of Alternative Newsweeklies, Coalition of Journalists for Open Government, National Association of Broadcasters, National Newspaper Association, Newspaper Association of America, Radio-Television News Directors Association, Reporters Committee for Freedom of the Press, and Society of Professional Journalists.**

The language inserted in the President's budget seeks to reverse legislation signed into law barely a month ago. Included in page 239 of the appendix to the President's proposed budget for FY2009 is a paragraph that eliminates the Office of Government Information Services (OGIS) within NARA and instructs the Justice Department to carry out its functions.

In the OPEN Government Act of 2007 (Public Law 110-175), which President Bush signed into law on December 31, 2007, Congress established an independent ombudsman within the federal government. Section 10 of the Act, which the President now proposes repealing, created a potentially valuable and effective tool to help the public reduce long delays and avoid costly litigation by mediating disputes that can arise when the public seeks documents held by government. Envisioning a mediator between the Justice Department's lawyers (representing federal agencies) and public requesters, Congress recognized this entity needs independence from the Justice Department:

- (1) There is established the Office of Government Information Services within the National Archives and Records Administration.
- (2) The Office of Government Information Services shall –
 - (A) review policies and procedures of administrative agencies under this section;
 - (B) review compliance with this section by administrative agencies; and
 - (C) recommend policy changes to Congress and the President to improve the administration of this section.

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Coalition of Journalists for Open Government · National Association of Broadcasters ·
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(3) The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.

Asking the Justice Department to perform the responsibilities creates an inherent conflict of interest. We encourage the Congress to fully fund OGIS within the National Archives. This reflects the plain language of the statute and intent of Congress in passing the OPEN Government Act. The money should follow the law.

Sincerely,

A handwritten signature in black ink that reads "Rick Blum". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Rick Blum, Coordinator
The Sunshine in Government Initiative

cc: Senate Majority Leader Harry Reid
Senate Minority Leader Mitch McConnell
Chairman Patrick Leahy
Senator Arlen Specter
Senator John Cornyn