

February 6, 2008

The Honorable Robert C. Byrd, Chairman
The Honorable Thad Cochran, Ranking Member
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chairman Byrd and Ranking Member Cochran:

We are writing to express our concern that the Bush Administration's proposed FY 2009 budget attempts to repeal a section of law and shift funding for a new Office of Government Information Services (OGIS) at the National Archives and Records Administration (NARA) to the Department of Justice (DOJ). President Bush signed the Openness Promotes Effectiveness in our National Government Act (OPEN Government Act), which creates OGIS at NARA, a mere five weeks ago. We urge you to ensure the President's budget reflects congressional intent and the explicit mandate of the statute as the budgetary process unfolds.

Currently, the president's budget proposes: "The Department of Justice shall carry out the responsibilities of the office established in 5 U.S.C. 552(h), from amounts made available in the Department of Justice appropriation for "General Administration Salaries and Expenses". In addition, subsection (h) of section 552 of title 5, United States Code, is hereby repealed, and subsections (i) through (l) are redesignated (h) through (k). (Commerce, Justice, and Related Agencies Appropriations Act, 2008.)" (Section 519 of Title V of the Department of Commerce; p. 239 of the Appendix)

The OPEN Government Act (P.L. 110-175) established OGIS specifically at NARA. It did so as a result of congressional findings that interests promoted by the Freedom of Information Act (FOIA), as well as American traditions and ideals regarding the value of an informed citizenry and the legitimacy of representative government, were being insufficiently served by the existing system of agency practices and implementation, in which DOJ has been the lead agency for 30 years. Additionally, since it is the responsibility of the Department to defend its government-agency clients in litigation brought by requestors, there is a built-in conflict of interest in vesting DOJ with responsibilities to resolve FOIA disputes informally and to hold agencies accountable for FOIA implementation. Congress specifically directed the creation of an ombudsman office apart from the Department of Justice for mediation of contested requests, thus reducing the amount, and concomitant costs, of litigation – burdens whose reduction would be beneficial to all. The new office, established with strong bipartisan support in both Houses of Congress, also has the critical mandate to evaluate agency implementation of FOIA with a disinterested eye.

We strongly oppose this effort to use the budget process to rewrite the law, undermining congressional intent and flouting a specific statutory mandate. We urge you to appropriate necessary funds to establish the Office of Government Information Services in the National Archives and Records Administration, as your legislation wisely requires, and, to reinforce the intent of the OPEN Government Act, reject Section 519 of the proposed budget.

Sincerely,

Access Reports, Inc.	Indiana Coalition for Open Government
American Association of Law Libraries	The James Madison Project
American Association of Publishers	Justice Through Music
American Civil Liberties Union	League of Women Voters of the U.S.
American Library Association	Liberty Coalition
American Booksellers Foundation for Free Expression	Maine Association of Broadcasters
Association of Research Libraries	Minnesota Coalition on Government Information
Bill of Rights Defense Committee	National Coalition Against Censorship
Californians Aware	National Freedom of Information Coalition
Citizens for Responsibility and Ethics in Washington	The National Security Archives
Citizens for Sunshine	9/11 Research Group
Coalition on Political Assassinations	OMB Watch
DownsizeDC.org, Inc.	Open Society Policy Center
Electronic Frontier Foundation	OpenTheGovernment.org
Essential Information	PEN American Center
Feminists for Free Expression	Project On Government Oversight
Government Accountability Project	Public Citizen

Readthebill.org Foundation

Sunlight Foundation

The Rutherford Institute

United States Bill of Rights Foundation

Society of Professional Journalists

Velvet Revolution

Society of Professional Journalists
Montana Professional Chapter

Washington Coalition for Open
Government

Special Libraries Association

Cc: Members of the Senate Appropriations Committee