



COMMITTEE ON HOMELAND SECURITY

FOR IMMEDIATE RELEASE

Hearing Statement of Oversight, Management, and Accountability Subcommittee Chairwoman Xochitl Torres Small (D-NM)

The Public's Right to Know: FOIA at the Department of Homeland Security

October 17, 2019

The Subcommittee is meeting today to examine the manner in which the Freedom of Information Act, known as FOIA, is being implemented at the Department of Homeland Security. FOIA, which was enacted more than 50 years ago, represents a critical aspect of democracy: that any citizen — regardless of age, race, color, or creed — can request and receive government records for any reason. This commitment to transparency and openness gets to the core of our American ideals. An informed electorate is essential to a healthy, functioning democracy. An effective FOIA process is particularly important at the Department of Homeland Security, which receives nearly half of all requests for information across the entire federal government.

Some of the numbers at DHS are astounding. Nearly 400,000 FOIA requests were received in Fiscal Year 2018, a threefold increase since 2010. 35 million pages of information were released to the public last year — nearly 60,000 pages per full-time FOIA employee. This is an extremely demanding job that deserves to be recognized. That said, we know that there are more efficiencies to be gained in the FOIA process, and we want to work with Department leadership to find those efficiencies in an effort to better serve the American public. Nearly 90 percent of all FOIA requests at DHS come from individuals or their attorneys who are seeking access to information contained in their immigration files. These “first-person” requests are diverting attention away from more complex records requests, including requests for contracts, communications, and other documents related to the development of certain departmental policies. U.S. Citizenship and Immigration Services (USCIS) continues to process about half of all FOIA requests the Department receives — and about a quarter of the governmentwide total.

Ms. Meckley, I look forward to hearing about the new digital processing system your agency recently stood up. I understand this new system, called FIRST, has shown promise in reducing processing times and cutting into USCIS's FOIA backlog. I applaud these efforts and would like to learn more about what is being done to make similar improvements across the DHS enterprise. It's concerning to me though that DHS components use different FOIA processing systems — systems that don't always talk to each other. I'm also concerned that the three DHS components that field the most FOIA requests — Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), and USCIS — aren't always working together in the most efficient and effective manner. Despite a 2014 GAO recommendation that USCIS and ICE establish a service-level agreement to eliminate duplication, no such agreement exists today. Duplication and other inefficiencies in the FOIA process, unfortunately, have real-world consequences. Attorneys must request continuances in their clients' immigration court proceedings while they wait for basic records to be produced. This contributes to the extensive backlog we've seen in recent years at the Department of Justice.

In other cases, the public remains in the dark about how taxpayer money is being spent or how DHS policies are being crafted. In my district, for example, the City of Sunland Park is awaiting a response to a FOIA request submitted to FEMA in order to revise flood zone mapping that is negatively affecting many residents. Slow processing times and extensive backlogs not only strain government resources but also cloud public understanding of pressing items of interest. The FOIA Office at DHS Headquarters has an important role to play in brokering agreements between component FOIA offices and driving institutional change through departmentwide guidance and instruction. Dr. Holzer, I hope to hear from you this afternoon on what more could be done to improve coordination and cohesion throughout the Department from a FOIA standpoint. I believe I speak for all Members of this Subcommittee when I say that we stand willing to assist in making DHS a more open, transparent, and responsive federal agency.

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