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USA Today

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*Affiliations appear only
for purposes of identification.*

March 1, 2013

Sen. Patrick J. Leahy
Chairman
United States Senate
Committee on the Judiciary
437 Russell Senate Building
United States Senate
Washington, DC 20510

Sen. Charles Grassley
Ranking Member
United States Senate
Committee on the Judiciary
135 Hart Senate Office Building
Washington, D.C. 20510

Re: Oversight of disclosure of federal booking photographs

Dear Chairman Leahy and Ranking Member Grassley:

The Reporters Committee for Freedom of the Press writes to ask the United States Senate Committee on the Judiciary to provide oversight of the U.S. Department of Justice's current policy on disclosure of federal booking photographs under the Freedom of Information Act, 5 U.S.C. § 552, in light of the efforts of the U.S. Marshals Service to restrict access to such records.

On Jan. 30, the Reporters Committee and 37 media organizations wrote to the Honorable Eric H. Holder, Jr., Attorney General, expressing our concerns about the Marshals Service's decision to no longer comply with its public disclosure obligations under FOIA regarding federal booking photographs. A copy of the letter is attached. The Department of Justice's Criminal Division responded on February 7, stating that our concerns were forwarded to the Public Affairs Division because they fell under that division's jurisdiction. A copy of the response is attached.

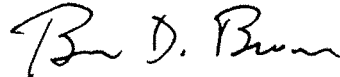
As discussed in more detail in our Jan. 30 letter, the Reporters Committee and the media organizations asked the Department of Justice to reverse the Marshals Service's decision to deny all access to federal booking photographs under FOIA, a policy that directly conflicts with binding precedent from the U.S. Court of Appeals for the Sixth Circuit that mandates access to such records. The Reporters Committee believes that the Marshals Service's unilateral decision to deny access to Sixth Circuit residents who request such records under FOIA violates the established legal rights of those requesters and also runs counter to FOIA disclosure policies enacted by

Attorney General Holder to increase government transparency.

Because the concerns raised in the letter implicate the Department of Justice's broader policy of disclosing criminal booking photographs in response to FOIA requests, assignment of our complaint to the Public Affairs Division was improper. The Reporters Committee believes that our concerns can be best addressed by Attorney General Holder, as he directs the Department's FOIA policies and authored the 2009 Department of Justice FOIA Guidelines for all federal agencies.

The Reporters Committee understands that Attorney General Holder is scheduled to testify on Wednesday, March 6 during the Committee's "Oversight of the U.S. Department of Justice" hearing. Our organization believes that the hearing would provide an excellent opportunity to elevate our concerns to Attorney General Holder and we would appreciate your bringing them to his attention. We thank you for your consideration of our concerns and we look forward to Attorney General Holder's appearance at the hearing.

Very truly yours,



Bruce D. Brown

Enclosures

cc: Honorable Eric H. Holder, Jr., Attorney General
James Cole, Deputy Attorney General of the United States
Tony West, Acting Associate Attorney General of the United States
Stuart F. Delery, Principal Deputy Assistant Attorney General,
Civil Division
Lanny A. Breuer, Assistant Attorney General, Criminal Division
Melanie Ann Pustay, Director, Office of Information Policy
Miriam M. Nisbet, Director, Office of Government Information Services,
National Archives and Records Administration