

Statement of Joyce Barr

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**Before the
Senate Committee on the Judiciary**

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Chairman Grassley, Ranking Member Leahy, and Members of the Committee,
Good morning.

Thank you for the invitation to appear before you today. My name is Joyce Barr and I serve as the Assistant Secretary for Administration, as well as Chief FOIA Officer for the Department of State. I have been a member of the Foreign Service for over 35 years, serving in posts around the world, including an assignment as U.S. Ambassador to the Republic of Namibia. Thank you for your interest in and advocacy for improving transparency to the public. We share that goal at the Department and work every day to achieve it.

The Bureau of Administration provides a range of services to our embassies and facilities around the world, including property management, publishing and library services, contracting and procurement, travel and transportation.

Another part of our mission is to respond to requests under the Freedom of Information Act, as well as to manage and maintain official records at the Department of State. I appreciate the opportunity to provide an overview of the State Department's ongoing efforts to improve our FOIA processing and administration.

The State Department is committed to openness. We recognize that openness is critical to ensuring the public trust, as well as to promoting public participation in and collaboration with the U.S. Government. Therefore, we believe that transparency will make the Department stronger – it will strengthen our ability to achieve progress in U.S. foreign policy and national security, while promoting efficiency and effectiveness in the important work we do. This is why we continue to look for ways to improve our openness to the public, solicit greater feedback through public engagements on transparency issues, and encourage the public to participate in the business of U.S. foreign policy.

That said, meeting our commitment to openness is very challenging. As you may already know the State Department is currently facing a large backlog of over 18,000 FOIA requests. We recognize this backlog is unacceptable, and are working to reduce it. During the past year, we have achieved a nearly 17 percent

reduction in our backlog of initial requests, and a nearly 23 percent reduction in our appeals backlog, by finding ways to streamline our case processing. While we've made progress in reducing our backlog, we are seeking to make additional strides to reduce this further.

I should note there are several factors that contribute to this backlog. First, we are struggling to keep up with a large increase in FOIA requests. Since 2008, our caseload has increased over 300 percent. In Fiscal Year 2008, the State Department received fewer than 6,000 new FOIA requests. In Fiscal Year 2014, we received nearly 20,000. Since the beginning of this fiscal year in October, we have already received nearly 14,000 new requests.

Second, many of these cases are increasingly complex. The State Department is the public's first, and often the only, stop for information and documents relating to National Security issues. Other national security agencies are partially, if not completely, exempt from FOIA requests. As a result, requesters often come only to the Department to request information on any and all national security issues. These requests are often a mixture of complex subject matters regarding terrorism, wars, foreign government relations, security, diplomacy - and something we have seen more of recently - pending litigation against the U.S. Government.

These complex subject matters require multiple searches throughout many of our 275 Missions across the globe, often involving the review of classified or highly sensitive materials, as well as coordination with other federal agencies. In many of these cases, searches locate voluminous amounts of paper and electronic materials that must be reviewed by State and interagency subject matter experts at various agencies in the U.S. Government. Given that FOIA requests to the Department often relate to contemporary topics, our FOIA team must consult within State and with other interagency subject matter experts regarding sensitivities and whether the release of the information would harm U.S. national security, or potentially damage relations with a foreign country.

To assist in addressing both current FOIA requests and questions about older and pending requests, the State Department has a dedicated FOIA Public Liaison team working hard to answer questions and respond to queries about the status of specific requests. The most common complaint we receive from the public is related to delays in receiving timely responses. Not surprisingly, as the number of FOIA requests has increased, so has the number of public inquiries regarding the status of those requests, and we receive such inquiries on a daily basis. Our goal

is to do everything we can to complete each request as quickly as possible, with as much responsive information as possible.

You may already be aware that Secretary Kerry recently reinforced this point with his letter of March 25 to our Inspector General. In that letter, the Secretary explained that he recognizes the work that has already been done and that the Department is already acting on a number of challenges associated with meeting its preservation and transparency obligations. The Secretary asked for an outside look by the Inspector General to ensure we are doing everything we can to improve and to recommend concrete steps that we can take to do so.

I am here as the Department's senior FOIA official, to assure you that we are committed to continuing efforts to improve and work cooperatively with the Inspector General with his review and any recommendations that may follow. The Department's FOIA experts have already met with IG review team.

I would like to also take this opportunity to share with the Committee some of the unique State Department activities, in addition to FOIA, that inform the public about foreign policy, diplomatic relations, and State operations through the release of literally millions of pages of documents.

Website

We are very proud of our current website and urge everyone to visit FOIA.state.gov. Some of you and your staff may have already visited this website, but if you have not done so, I highly recommend taking a look. For the past few years, we have been posting completed FOIA productions on that site in situations where we have received more than one request for the same information. The site is searchable by key word, date, region, etc.

I'm told the State Department was the first U.S. Government agency to initiate a FOIA website nearly two decades ago. Since then, we have continuously striven to enhance our FOIA website, often working with constituency requester groups to design a site that provided what they needed and wanted. In fact, the National Security Archive has publicly noted that the State Department has one of the best FOIA websites of all federal agencies.¹ Today, we have an interactive site that provides a wealth of information to the public, including the ability to search and access thousands of previously released documents.

Opening the Historical Record of US Foreign Policy

¹ See <http://nsarchive.gwu.edu/NSAEBB/NSAEBB505/>

Decades before the Executive Order mandate, the Department established a program for the declassification review of its most sensitive permanent historical records, transferring them to the National Archives where they are available to the public. During the past five years alone, we have declassified nearly 26 million pages, bringing the long term total to literally hundreds of millions of pages of declassified foreign policy records available to the public at the National Archives. More than 95 percent of the entire collection was declassified for public access, with the remaining percentage representing mostly the equities of other agencies.

There are 2.3 million permanent historical records available online from State's corporate electronic archive, the oldest (dating back to 1973) and only enterprise-wide collection of substantive electronic records documenting a cabinet agency's mission and activities in the Federal government. Millions of cables, diplomatic notes, and other important foreign policy documentation are available online.

These actions are consistent with the Department's objective to make available to the American taxpayer, in keeping with FOIA principles, the maximum amount of documents related to our country's foreign policy activities.

Foreign Relations of the United States (FRUS)

The FRUS series is the official documentary historical story of major U.S. foreign policy events and significant diplomatic activities - and the decision making surrounding them. FRUS volumes contain documents compiled by the Office of the Historian not only from the State Department's archives, but from the Presidential Libraries, the Department of Defense, the National Security Council, the intelligence community, and USAID. The series also provides insightful documentary editing. Since the inception of the FRUS in 1861 under Secretary Seward, the State Department has been informing citizens about formerly classified operations and events in our foreign relations - and doing so proactively long before any other entity in the Federal government was releasing such information. Since its inception, the Department has published 501 volumes; with 42 volumes published in the past five years.

Presidential Libraries

There are 14 Presidential Libraries open to the public that not only provide unique insight into the personal lives of our presidents, but also serve as a collection of the records related to an administration. The public can request access to these records. The State Department is the largest single equity holder of records in the Presidential Library system. During the past five years we have processed over 3,600 requests from the Libraries, reviewing over 51,000 pages for release.

Special Access under Executive Order 13526 and Pre-Publication Review

Executive Order 13526 provides former presidential appointees access to records originated, reviewed, signed or received during their tenure in office. It also allows for them to designate research assistants for this purpose. Many of the Department's former principal officers, including former secretaries, request access to publish books covering their respective tenure in office, thus providing unique insights into events, decision making, people, and diplomacy. As a condition of this access, the State Department reviews manuscripts produced as the result of this access to ensure that there is no classified information in the published product.

In sum, the Department of State is committed to the public's access to information.

We are working every day to improve our efforts in this regard. Again, Mr.

Chairman, thank you for the opportunity to testify before you today. I would be pleased to address questions you or any other Member of the Committee may have on FOIA within the State Department.