

**Response of Margaret B. Kwoka
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**To Chairman Charles Grassley
United States Senate Committee on the Judiciary**

**Regarding Questions for the Record
Hearing on “FOIA at Fifty: Has the Sunshine Law’s Promise Been Fulfilled?”**

Question 1: President Obama claims that his is the most transparent in history. Most recently, at the NATO Summit press conference on July 9, 2016, President Obama said, “We’re processing more Freedom of Information Act requests and doing so faster than ever before.” Yet, the Associated Press reported earlier this year that the Obama Administration set a new record in 2015 for failing to fulfill FOIA requests.

- a. Is the President’s claim of “processing more Freedom of Information Act requests and doing so faster than ever before” an accurate measure of government transparency? Why or why not?

Response: The quantity of requests processed and the speed with which they are processed are undoubtedly valid measures of success in government transparency. That FOIA is widely used attests to a population engaged in issues of government oversight, and the faster those requests are fulfilled, the more useful the information will likely be.

However, those two measures—volume and speed—are not the only measures we should consider. As many have noted, the rate of denials of information, use of exemptions, and inadequate searches must also be considered. Relevant to my testimony, however, we should also measure transparency in part by evaluating federal agencies’ efforts to publish information proactively without waiting for a request. In this way, some agencies may succeed in being more transparent by preempting the need for many FOIA requests, and the number of requests they process may accordingly decrease as they become more transparent.

Question 2: Is there anything you wish to add to, or correct for, the record? If so, please take this opportunity to provide any additional remarks or commentary.

Response: I have nothing to add or correct for the record. I thank Chairman Grassley, Ranking Member Leahy, and the members of the Committee once again for the opportunity to appear before you to testify about FOIA at its fiftieth anniversary.