

Demand Progress
Appropriations Requests, FY 2024
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| | |
|--|-----------|
| LEGISLATIVE BRANCH: REQUESTS THAT APPLY TO BOTH CHAMBERS OF CONGRESS | 4 |
| Create Capitol Police Stakeholders Committee | 5 |
| Study to Move United States Capitol Police Budget to Defense Appropriations | 7 |
| Capitol Police Public Records Request Regulations | 8 |
| Disclose U.S. Capitol Police Arrest Information As Data | 10 |
| Improving Access To U.S. Capitol Police Inspector General Reports | 12 |
| United States Capitol Police Safety Officers | 14 |
| Library Of Congress Virtual Public Forum Annual Meetings In Perpetuity | 15 |
| Publication Of Congressional Research Service Reports In HTML | 17 |
| Access To Historical Congressional Research Service Reports | 19 |
| Update on Congress.gov Update Study | 21 |
| Electronic Spreadsheet Of Appropriations Data | 23 |
| Study on New GAO Funding Model | 24 |
| Clarify GAO Audit Power Over The Intelligence Agencies | 26 |
| Create FOIA-like Process for Legislative Branch Agencies | 30 |
| GAO Publish Reports as Text Files | 31 |
| Create Legislative Branch Data Coordination Officers | 32 |
| Publication Of Legislative Branch Congressional Budget Justifications | 34 |
| Study To Professionalize Congressional Staff On A Pay Scale To Achieve Parity With Executive Branch Salaries | 35 |
| LEGISLATIVE BRANCH: REQUESTS THAT APPLY TO THE HOUSE ONLY | 37 |
| Historical Unique Identifiers for Statements of Individuals | 38 |
| Better Tracking of House of Representatives Security Clearances | 39 |
| Permit One TS/SCI Clearance Per House Personal Office To Support Oversight | 40 |
| “Dear Colleague” Letter Access | 42 |
| Legislative Resource Center Public Disclosure Forms | 43 |
| Standardize Access To Annual Reports From House Offices | 44 |
| Funding And Transparency Relating To The House Office Of General Counsel | 45 |
| Congressional Fellowship Program Database | 47 |
| House Inspector General Reports | 48 |
| LEGISLATIVE BRANCH: REQUESTS THAT APPLY TO THE SENATE ONLY | 50 |
| Senate Whistleblower Ombuds | 51 |

| | |
|--|-----------|
| Senate Office Of Diversity And Inclusion | 52 |
| Publish Senators’ Official Personnel And Official Expense Account Report As Data | 54 |
| FINANCIAL SERVICES AND GENERAL GOVERNMENT | 55 |
| Improve Congressional And Public Visibility Into Visitors To The White House | 56 |
| Virtual Visitor Logs | 58 |
| Listing Unpublished IG Reports On Oversight.gov | 59 |
| COMMERCE, JUSTICE, AND SCIENCE | 60 |
| Improve Executive Branch Accountability By Providing An Index Of Justice Department Office Of Legal Counsel Opinions Currently In Effect | 61 |
| Require Public Access To Information Pertaining To Government-Funded, Privately Operated Contract Prisons | 63 |
| FBI Hacking report | 65 |
| DEFENSE | 66 |
| Public Access To Department Of Defense Ethics Database | 67 |
| More Information About Security Clearances | 68 |
| GAO Study on Pre-publication by Federal Intelligence-Related Agencies | 69 |
| Ensuring timely AUMF reporting | 70 |
| Report on United States Person Impact of Activities Under Executive Order 12333 | 72 |
| ODNI reporting on treatment of USPs using VPNs | 73 |
| Reporting on Foreign Military Sales Below Congressional Notification Thresholds | 74 |
| Access to Quarterly Unclassified Reports on Military Exports | 76 |
| STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS | 78 |
| Support the Open Technology Fund’s Development of Cybersecurity Tools that Benefit Americans | 79 |
| Incorporate International Humanitarian Law and International Human Rights Violations into End Use Monitoring Requirements | 80 |

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**LEGISLATIVE BRANCH: REQUESTS THAT APPLY TO BOTH CHAMBERS OF
CONGRESS**

Create Capitol Police Stakeholders Committee

Appropriations Committee: Legislative Branch

Agency: Government Accountability Office

Account: Salaries and Expenses

Type of Request: Report Language

Background:

The U.S. Capitol Police are tasked with the critical mission of protecting the Congress — its Members, employees, visitors, and facilities — so Congress can fulfill its constitutional responsibilities in a safe, secure, and open environment. Recent congressional hearings, a 2017 Government Accountability Office Report, and a raft of Capitol Police Inspector General flash reports have identified numerous instances where the Capitol Police operations are insufficiently transparent and accountable to congressional overseers and other stakeholders. Furthermore, the Capitol Police Board is not subject to USCP IG oversight and the Board's structure prevents oversight hearings with all members of the Board present before the House Administration or Senate Rules committee.

Many large police departments nationwide have independent “civilian” oversight boards. The USCP should have a similar independent entity to narrow some loopholes in the existing accountability structure. An independent stakeholders committee should be established to create a unified oversight body that represents the interests of Members of Congress, congressional staff, Capitol Hill essential workers, support office and agency staff, journalists, lobbyists, the general public, and Capitol Hill neighbors. Membership should include representatives from those categories, and it should hold meetings where the public is invited to attend in addition to publishing public minutes summarizing meetings' content.

For the stakeholders committee to function as intended, it should be fully independent of the USCP and the Capitol Police Board. This would require Stakeholders Committee members to be compensated for their time, in addition to being provided appropriate staff to support their work. The Stakeholders Committee should be afforded the opportunity to testify before Congress, to meet regularly with Capitol Police leadership and the Capitol Police Board, to hold public meetings, to inquire into matters of interest to the Stakeholders Committee, and to obtain information from the Capitol Police.

The board should routinely make information publicly available, with exceptions as necessary.

Report Language:

Capitol Police Stakeholders Committee. The committee requests the Government Accountability Office to issue a public report to Congress within 90 days with its recommendations on how Congress may best establish a Capitol Police Stakeholders Committee. The purpose of the Committee is to provide for a unified, independent oversight entity that reflects the interests of Members of Congress, congressional staff, Capitol Hill essential workers, support office and agency staff, journalists, lobbyists, the general public, and Capitol Hill neighborhood residents.

Membership should include representatives from those categories, and the Committee should hold meetings where the public is invited to attend in addition to publishing public minutes summarizing meetings' content. The Committee should be fully independent of the USCP and the Capitol Police Board. Committee members should be compensated for their time, in addition to being provided appropriate staff to support their work. The Committee should be afforded the opportunity to testify before Congress, to meet regularly with Capitol Police Leadership, to hold public meetings, to inquire into matters of interest to the Committee, and to obtain information from the USCP. The GAO shall make recommendations on how best to effectuate the foregoing purposes, provide advice regarding the necessary funding to establish the Stakeholders Committee, identify the best practices to do so, and suggest how Committee members are chosen and make other recommendations as appropriate.

Study to Move United States Capitol Police Budget to Defense Appropriations

Appropriations Committee: Legislative Branch

Agency: Government Accountability Office

Account: Salaries and Expenses

Type of Request: Report Language

Background:

Over the last few decades, an increasing percentage of the work performed by the U.S. Capitol Police (USCP) relate to matters of national defense. They do not just police the Capitol grounds, but provide a line of defense for Members of Congress against foreign adversaries, hardening facilities and protecting soft targets.

In part because of their increased responsibilities, funding for the Capitol Police has grown at a tremendous rate, far exceeding the growth rate of the federal government and the Legislative Branch Appropriations bill. This also has outstripped the allocation provided to the Legislative branch, which almost entirely comes from 302(a) non-defense appropriated funds and has grown at half the rate of non-defense appropriations spending over the last few decades.

To avoid a shortfall to the Capitol Police or for Legislative branch functions, and to more equitably distribute costs inside the Legislative branch, Congress should explore whether it is appropriate to reorient funding for the U.S. Capitol Police from the defense discretionary budget, and if so, at what level. To this end, the Committee should request the Government Accountability Office to study the cost and feasibility of moving the USCP budget to the defense discretionary budget.

Report Language:

Study to Move United States Capitol Police Budget to Defense Appropriations. Within 120 days of the introduction of this act, the Government Accountability Office shall evaluate the extent to which the U.S. Capitol Police currently play a role in protecting the Congress against foreign adversaries and identify an appropriate funding level for that work. After consultations with relevant stakeholders, including the CBO, the GAO should recommend a level of funding appropriate for the U.S. Capitol Police concerning foreign threats that should be drawn from the 302(a) defense discretionary budget.

Capitol Police Public Records Request Regulations

Appropriations Committee: Legislative Branch

Agency: U. S. Capitol Police

Account: General Expenses

Type of Request: Bill Text

Background:

We commend the Appropriations Committee’s efforts to increase U.S. Capitol Police transparency in committee report language captioned “USCP Information Sharing” accompanying the enacted FY 2021 appropriations bill (H. Rept. 116-447, p. 23) and the House-passed FY 2022 appropriations bill (H. Rept. 117-80, p. 26). The FY 2022 language states:

“USCP Information Sharing: While the USCP is not subject to the Freedom of Information Act (FOIA) (5 USC 552), the Committee encourages the USCP to develop a policy and procedure for the sharing of information that follows the spirit of the Freedom of Information Act. This policy should be consistent with, and not interfere with, USCP’s primary function of protecting the Congress.”

The Capitol Police have not promulgated an information sharing policy pursuant to this direction nor, to our knowledge, consulted with the public or experts on FOIA on drafting such a policy. Demand Progress Education Fund conducted its own consultation with FOIA and congressional experts and released *Model Public Records Request Regulations for the U.S. Capitol Police* in December 2021, drawing heavily from comparable regulations issued by the Government Accountability Office and the Library of Congress.

The original congressional direction predates the events of January 6th, 2021 and was originally requested by Demand Progress because transparency and accountability are essential components of reform and a modernized security force, the absence of which — and the consequences thereof — has been the focus of many hearings over 2021-2.

We urge the committee to direct the Capitol Police to issue information sharing regulations by a date certain; to require them to consult with civil society, governmental FOIA experts, and peer congressional agencies; to review the Model Public Records Request Regulations issued by Demand Progress Education Fund; and to engage in a notice-and-comment rulemaking process.

Bill Text:

USCP Information Sharing. As part of the Legislative Branch Appropriations bill for FY 2022, the Committee encouraged the U.S Capitol Police “to develop a policy and procedure for the sharing of information that follows the spirit of the Freedom of Information Act. This policy should be consistent with, and not interfere with, USCP’s primary function of protecting the Congress.” This language was mirrored in the FY 2021 Legislative Branch Appropriations bill

and report. To this date, no such policy has been promulgated by the Capitol Police. Accordingly, we direct the following:

Within 15 days of enactment, the Capitol Police Board will establish a working group on USCP information sharing that has one representative from each of the following: the House Sergeant at Arms, the Senate Sergeant at Arms, the Architect of the Capitol, and includes as *ex officio* members one representative each from the Capitol Police Inspector General and the Capitol Police Chief. Further, the Board shall form an advisory group to consult with and advise the working group that invites as participants members of civil society, experts on the FOIA, representatives of the Federal FOIA Advisory Committee, representatives of the news media, and representatives from Legislative branch agencies that utilize a records request process. Meetings of the working group and the advisory group shall be held no less frequently than biweekly and shall be open to the public.

The working group shall use the Model Public Records Request Regulations developed by Demand Progress Education Fund as a base document from which to draft information sharing regulations. The working group, within 60 days of its establishment, shall cause to be published in the Congressional Record a draft of its information sharing regulations for comment by the public, with the public afforded 45 days thereafter to provide written comment to the working group as well as the opportunity to testify at an open hearing, as well as an additional open hearing with members of the advisory group. Thirty days after the end of the comment period, the working group shall review and adopt final regulations, after consultation with the advisory group, which shall be promulgated by the Capitol Police Board immediately thereafter.

No less than every four years thereafter, or more frequently as appropriate, the Capitol Police Board will review and update its records request regulations through a notice and comment process similar to that outlined above, including with a consultation and advisory board.

The public records request regulations are intended to facilitate and maximize the sharing of information held by the U.S. Capitol Police Board, the U.S. Capitol Police, and the U.S. Capitol Police Inspector General in a fashion that follows the spirit of the Freedom of Information Act. This policy should be consistent with, and not interfere with, USCP's primary function of protecting the Congress.

Disclose U.S. Capitol Police Arrest Information As Data

Appropriations Committee: Legislative Branch

Agency: U.S. Capitol Police

Account: Salaries

Type of Request: Bill Text

Background:

We appreciate and applaud the Appropriations Committee actions to address the arrest disclosure transparency issue to the U.S. Capitol Police as part of the FY 2021 Legislative Branch Appropriations bill. The committee report (H. Rept. 116-447, p. 22) contained the following language:

“The Committee is aware that the Capitol Police does publicly share its arrest data, however, it is not available in a user-friendly format that is searchable, sortable, and downloadable, and is made available on a cumulative basis. The Committee directs USCP report to the Committees as soon as practicable, but no later than 120 days after enactment of this Act on a timetable for deploying a system that can meet these requirements.”

Additionally, the FY 2023 Legislative Branch Appropriations bill committee report (H. Rept. 117-389, p. 23) contained the following language:

“The Committee commends the USCP for their progress toward compliance with a directive to post arrest summary information in a user-friendly format that is searchable, sortable, downloadable, and is available on a cumulative basis. The Committee reminds the Department of the importance of this directive and directs the Department to provide a briefing on their ongoing efforts to publish this information within 30 days of the official posting of this report. Furthermore, the Department is directed to submit a report of arrests made both on the Capitol complex and the surrounding Capitol Hill community on a quarterly basis to the Committee.

While it seems like the Capitol Police is complying with this directive, the website still does not enable the information to be properly analyzed as data. Incident reports do not include the demographic data of the individuals arrested, and occasionally omit critical information like the number of individuals arrested or sufficient location details. Moreover, it has come to our attention that the USCP may not be publishing all arrests made by the USCP, and that additional arrests may be made by partner agencies that arise from matters within USCP jurisdiction and not reported in the weekly summaries. This undermines the very purpose of publishing this information.

Accordingly, the USCP should facilitate the effective use of information for police accountability. Specifically, the USCP should continue to publish arrest summaries on at least a weekly basis, and the links to the summaries should be permanently available on the USCP arrest summary page. Furthermore, USCP should summarize all arrests made by the USCP, which occur in partnership with the USCP, or that relate to Capitol security, and should further track

and publicly report on whether the arrest resulted in prosecution and conviction, in addition to reporting the demographic data of individuals arrested. The USCP should also disclose the total number of weekly arrests and its guidance on which charges are included and excluded from the arrest summaries.

We encourage appropriators to insist on implementation of their directive and require by a date certain that the USCP post arrest summaries as a digital spreadsheet — in structured data format — that allows users to track arrest date and time, arrest location, charges issued, number of individuals arrested, case file number, etc.

Bill Text:

Arrest Summary Data. The U.S. Capitol Police shall publish arrest summary information for all arrests made by the USCP, arrests that occur in partnership with the USCP, or that relate to Capitol security, online in machine readable formats within 60 days of enactment of this legislation. That information, published in a digital spreadsheet, shall include arrest information starting from January 2021 and be updated on a weekly basis. Arrest incident information contained in those summaries shall include, but not not be limited to: case file number; incident location, date, and time; number of individuals arrested; summaries of demographic data of individuals arrested; and crime classification with any additional charges. USCP shall track and publicly report on whether each arrest resulted in prosecution and conviction, disclose the total number of monthly arrests, and share its guidance on which charges are included and excluded from the arrest summaries. This information shall be in a searchable, sortable, downloadable format, and be made available on a cumulative basis. The U.S. Capitol Police shall also publish written guidance clarifying which crime classifications and charges are included and excluded in the arrest summaries, as well as provide monthly updates on the total number of arrests. Arrest summaries published on the USCP website shall not be removed.

Improving Access To U.S. Capitol Police Inspector General Reports

Appropriations Committee: Legislative Branch

Agency: U.S. Capitol Police

Accounts: General Expenses

Type of Request: Bill Text

Background:

In the House report accompanying the FY 2021 Legislative Branch Appropriations bill (H. Rept. 116-447), lawmakers requested that the Capitol Police Inspector General publicly release IG reports if they do not compromise law enforcement activities, national security, or congressional security and processes without redaction. The committee requested the USCP IG review all issued reports from the previous three years to determine which could have been made public is commendable; the USCP IG review was due March 27, 2021.

In the House report accompanying the FY 2022 Legislative Branch Appropriations bill (H. Rept. 117-80, p. 26), the committee instructed “the Inspector General to institute a process to make reports publicly available whenever practicable and to begin publishing reports on its website.”

In addition, the House report accompanying the FY 2023 Legislative Branch Appropriations bill (H. Rept. 117-389, p. 25), contained the following language:

“USCP Office of the Inspector General Reports: The Committee is aware that the public does not have access to reports issued by the Capitol Police Office of Inspector General. While the Committee understands that these reports can be sensitive to law enforcement actions and Congressional security, the Committee is interested in what reports can be shared with the general public. The Committee believes that the Inspector General should try to make appropriate reports public if they do not compromise law enforcement activities, national security, or Congressional security and processes without redaction. The Committee instructs the Inspector General to institute procedures to make reports publicly available whenever practicable and to begin publishing reports on its website.”

The U.S. Capitol Police Office of the Inspector General provides independent, professional, nonpartisan oversight over the U.S. Capitol Police’s operations. The USCP IG does not make its reports available to the public pursuant to the direction of the Capitol Police Board, undermining public accountability and congressional oversight. By comparison, federal inspectors general routinely release their reports. The only exception to the USCP IG practice was the release of a handful of flash reports released by congressional committees regarding January 6th.

As of the date of submission of this request, the Capitol Police Inspector General has not acted. We urge the Committee to press the USCP IG on what regulations are prohibiting making these reports public despite congressional requests and require the USCP to take action to publish these IG reports.

Bill Text:

USCP Office of the Inspector General Report Disclosure. The Committee instructs the Inspector General to update the committee on why the the process to make reports publicly available has not been executed in a timely manner. The Committee requires the Inspector General to begin publishing new IG reports on its website within 60 days of enactment of this legislation. Furthermore, the Capitol Police Board is directed to authorize such publication and to rescind any directives to the contrary.

Specifically, the USCP IG is directed to immediately begin publishing all new final reports on its website and at Oversight.gov, on an ongoing basis, two weeks after the report is transmitted to the USCP or to a congressional office. The IG shall err on the side of disclosure, redacting the contents of reports only to the extent necessary to protect national security or personal privacy, but not to conceal evidence of waste, fraud, abuse, or malfeasance. Moreover, IG shall examine all reports from January 2010 forward and begin to publish them online, subject to the limitations described above, within 180 days, and shall complete publication of all eligible reports within 1 year.

In addition, the USCP IG is directed to publish on its its website and on Oversight.gov, within 90 days of enactment of this legislation, the following information concerning reports issued over the last 20 years: the subject (or a descriptive title), date of publication, and any findings, recommendations, conclusions, and actions taken that relate to the report. Further, the USCP IG is authorized to publish the entirety of any of its reports should it deem it appropriate to do so, subject to the above restrictions, and shall establish a process for the public to request online publication of historical reports.

United States Capitol Police Safety Officers

Appropriations Committee: Legislative Branch

Agency: U. S. Capitol Police

Account: Salaries and Expenses

Type of Request: Bill Text

Background:

The United States Capitol Police (USCP) is an agency with approximately 2,300 employees. The United States Capitol Police Board, which oversees the USCP, has only one dedicated employee to this task. Furthermore, up until the 118th Congress, the House Administration Committee did not have a single staffer able to focus all of their time on USCP oversight.

Given the size, scope, and complexity of the USCP, there is a great need for more oversight from the relevant committees of jurisdiction. Specifically, there should be one or more individuals who come from a law enforcement background charged with overseeing the operations and safety of the USCP, acting as an additional check on the department along with the committees of jurisdiction and the USCP IG.

To this end, the House Administration and Senate Rules Committees should each have a majority and minority staffer who has dedicated funding drawn from the Capitol Police budget who is hired and overseen by the relevant committee of jurisdiction and is an expert in law enforcement.

Bill Text:

United States Capitol Police Safety Officers. Furthermore, \$1,200,000 of the salaries shall be evenly divided among the four majority and minority offices in the Committee on House Administration and the Senate Committee on Rules to pay the salary and government contribution towards a staffer in each of the four offices who is hired, supervised, and capable of removal by those office, is an expert in law enforcement, and whose sole responsibility is oversight of congressional security with a focus on the United States Capitol Police and its Board.

Library Of Congress Virtual Public Forum Annual Meetings In Perpetuity

Appropriations Committee: *Legislative Branch*

Agency: *Library of Congress*

Account: *D/N/A*

Type of Request: Report Language

Background:

The Library of Congress hosted three virtual public forums on the Library's role in providing access to legislative information, on September 10, 2020 and on September 2, 2021, pursuant to the direction of language included in the committee report accompanying the FY 2020 Legislative Branch Appropriations bill (H. Rept. 116-64 p. 28). Additionally, the LOC held a third virtual public forum on September 21, 2022. The widely attended events were viewed as a success both by the participants and the Library of Congress. However, the Library stated that it will not commit to future events. In addition, the Library would not provide any information concerning its views on the recommendations made by members of the public and the feasibility or likelihood of their implementation.

Many Legislative and Executive branch agencies and entities regularly meet with civil society stakeholders to share information and provide a foundation for collaboration. The Library should continue to do so as well, and the committee should require the Library of Congress to host these meetings twice a year in perpetuity. In addition, the report language required the Library to report on the recommendations it received from the public. It has done so, although those reports are not publicly available. The Library should continue to report on the recommendations it receives, including making those recommendations available to the public so that the public might know the feasibility and likelihood of implementation.

Report Language:

Library of Congress Virtual Public Forum. The Committee is aware of the tremendous value the Library of Congress's virtual public forums are for Congress, stakeholders, and the public. The Committee directs the Library of Congress to hold these virtual public forums twice a year in perpetuity. The Library should continue to report on the recommendations it receives, including making those recommendations available to the public so that the public might know the feasibility and likelihood of implementation.

Public Access to Legislative Information. The Library of Congress has become one of the preeminent sources of public information about federal legislation and congressional processes, particularly through its role in hosting the "Congress.gov" website but also through other digital activities. The Committee commends the Library for its achievements in this area.

The Committee also understands that users of the Library's legislative information services have suggestions regarding ways in which those services could be improved or expanded, and the Committee would like to encourage the continuance of a more structured process for receiving

and considering such suggestions, such as the virtual public forums held in 2020, 2021, and 2022. Such a process should also recognize some of the limits on the Library's ability to implement improvements and expansions of these services, however. For example, much of the information presented on the Congress.gov website is not generated or controlled by the Library but rather comes from other sources — particularly various offices of the House of Representatives and the Senate and the Government Publishing Office — and expanding or changing the content of Congress.gov will often require those sources to do something new or different. Further, some improvements and expansions would require commitment of substantial time and resources by offices both within and outside the Library that already have a heavy IT workload.

To facilitate public input into the Library's legislative information services and how they could be improved, the Committee urges the Library to convene a public meeting at least twice a year on an ongoing basis to discuss these issues. The Library should invite a broad range of potentially interested parties to participate, such as journalists, academics, advocacy and public interest organizations, research institutions, libraries, and publishers of legislative information. The Library should also invite and encourage participation from representatives of Legislative Branch stakeholders such as the Clerk of the House, the Secretary of the Senate, and the Government Publishing Office.

Following each meeting, the Library should prepare a report, to be submitted to the House and Senate Appropriations Committees, to relevant authorizing committees and officers of the House and Senate, and to be made publicly available on the Library's website. The report should summarize the comments and suggestions made, indicate which could be implemented by the Library itself and which would require action by other entities, roughly estimate the cost and effort needed (where possible), and provide the Library's evaluation and recommendations for further action.

Publication Of Congressional Research Service Reports In HTML

Appropriations Committee: Legislative Branch

Agency: Congressional Research Service

Account: Salaries and Expenses

Type of Request: Report Language

Background:

In the FY 2018 Legislative Branch Appropriations Bill (H. Rept. 115-199, p. 21) Congress directed the Library of Congress to make all non-confidential public Congressional Research Service reports available online. In 2018, CRSReports.Congress.gov went live. We were pleased to see the publication of the reports; at the time, we cautioned that CRS's implementation plan would fail to meet public and congressional expectations, especially concerning how the reports were published, and our fears have been born out. CRS published the reports only in PDF format and not also in HTML format, even though they are published in both these formats on CRS's internal website. This decision undermines their full integration of the reports into the rest of the Congress.gov website, weakens the findability of the reports by search engines, impairs reuse by civil society, and prevents them from being readable on mobile devices where the screens are too small to display readable PDFs. This is an issue that has been the subject of multiple letters by civil society and was raised at the Library of Congress's virtual public forums in 2020, 2021, and 2022.

In the Legislative Branch Appropriations Committee Report for FY 2021 (H. Rept. 116-447, p. 36), the Committee requested the Library "provide to the Committee within 60 days of enactment of this Act a report describing the process, timeframe and costs of making available to the public all currently available non-confidential CRS Reports in HTML format rather than PDF, or a successor format when appropriate. The Committee understands that CRS already publishes reports on its internal website in HTML. Making this change in format for external audiences would facilitate the use and re-use of the information contained in the reports." It is our understanding the Library indicated this would cost \$60,000 to implement and six months to complete.

Based on our experiences publishing CRS reports at everycrsreport.com, we think this estimate grossly exceeds the time and costs involved. Nonetheless, it would significantly increase the usefulness of the reports to the public, congressional staff, academics, media, and others, and we encourage you to direct the Library of Congress to make the appropriate adjustment. Even in the absence of new funding, the Library should be informed of Congress's expectation that this will occur as they will not act without specific direction.

Report Language:

Congressional Research Service Reports in HTML. The Library of Congress is directed to make available to the public all non-confidential CRS Reports in HTML format, or a successor format when appropriate, to facilitate use and reuse of information contained in the reports. To the extent practical, such publication should be completed within one year of the enactment of this

legislation. It would satisfy these requirements to contemporaneously publish this information in bulk, such as through the Government Publishing Office's bulk data repository.

Access To Historical Congressional Research Service Reports

Appropriations Committee: Legislative Branch

Agency: Congressional Research Service

Account: Salaries and Expenses

Type of Request: Report Language

Background:

Pursuant to law, the Congressional Research Service is publishing current CRS reports and other non-confidential documents at [CRSReports.Congress.gov](https://crsreports.congress.gov). The Consolidated Appropriations Act, 2018 (P.L. 115-141) includes a provision allowing the Library of Congress to publish “non-current reports,” i.e., historical reports: the reports not on CRS’s internal website on the day the online publication law came into effect. The purpose was to encourage the eventual publication of those reports without mandating as part of the initial transformation. However, despite this authorization, the Library indicated at its September 2020 Virtual Public Forum and again in 2021, it will not make the reports publicly available absent congressional direction. The 2018 law provided that direction, but in light of the Library’s statement, Congress should clearly restate its direction that all non-confidential CRS reports be made publicly available.

In the committee report accompanying the FY 2021 Legislative Branch Appropriations Bill (H. Rept. 116-447, p. 36), CRS was requested to, within 60 days of enactment, “provide a report to the Committee evaluating the possibility of publication of CRS reports contained in its CRSX archive, specifically examining the feasibility, cost, and benefits of integrating all or a subset of the reports online. This analysis should include an assessment of the utility to the public and Congress of online access to the reports.” That request was subsequently modified in the Joint Explanatory Statement to require briefings to the committees.

It is our understanding that CRS has indicated there are 30,000 reports in the CRSX archive. Many of these non-public reports already are digitized, with accompanying metadata, and are maintained in a digitized repository known as CRSX. It is our further understanding that CRS has indicated conversion of the current CRSX archive over a one-year period would require about 40 FTE of contract support at an estimated cost of \$2,400,000, although many reports already are digitized with appropriate metadata and thus would be comparatively inexpensive to publish those reports. Further, while we believe the \$2.4 million figure is a significant overestimate of the costs required and the time required, the value to Congress and the public outweighs these costs. It is not necessary to publish all the reports all at once, and it would be reasonable to start with the low hanging fruit. Congress should resolve any doubt about its intent in 2018 and direct the Library to begin working to make these reports publicly available. To address concerns about practicality, the Congressional Research Service should be permitted to allocate resources and employee time over several years to the extent necessary.

Historical CRS reports often contain information that are relevant to ongoing public debates, provide important context on historical congressional decision-making, and can serve as a reference for CRS staff when they respond to questions or generate new or updated CRS

products. There are recent examples where members of Congress have cited historical reports obtained through third party sources. Congress, the public, the press, and academics should have full access to the non-confidential expertise that tax dollars have funded for more than a half-century.

Report Language:

Congressional Research Service Reports. The Library of Congress is directed to publish all non-confidential CRS reports online and the Congressional Research Service is directed to provide all support and information requested by the Library. With respect to the digitized reports contained in its CRSX archive, to the extent practicable the Library is directed to publish a significant tranche of those reports online within a year of enactment of this legislation, although we note it may take more than one year to publish the full archive. In doing so, the Library is authorized to release the reports in their current digital formats and with whatever metadata currently exists as a way to expedite public availability. With respect to the remaining non-digitized non-confidential CRS reports, the Library of Congress, in consultation with the Congressional Research Service, is directed to make those reports available online with all appropriate speed and to provide an annual public report on the pace of digitization and publication. In determining how to publish the non-digitized reports, the Library may explore the model recently used by the Law Library of Congress concerning its Legal Reports as well as other mechanisms to make them available online, at no cost, to the public.

Update on Congress.gov Update Study

Appropriations Committee: Legislative Branch

Agency: Library of Congress

Account: Salaries and Expenses

Type of Request: Report Language

Background:

In the Committee report accompanying the Legislative Branch Appropriations Bill for FY 2019 (H. Rept. 115-696, p. 16), the Committee requested the Library of Congress and Government Publishing Office “update the Congress.gov website to include a calendar for Senate and House of Representatives committee hearings and markups.” That continuously updated calendar — entitled “committee schedules” on the website — includes information about every hearing and markup taking place in both chambers. Its creation is a rousing success and we applaud the Committee for directing the Library and GPO to take this action.

We request the Committee further request the Library and GPO explore how to better integrate House and Senate floor calendars. Currently, the Congress.gov website provides outward links to that information, but does not otherwise integrate floor information into the website. See <https://www.congress.gov/calendars-and-schedules>. There would be great value in showing the more than 1 million monthly visitors to Congress.gov a daily schedule of the legislation and other measures that are up for consideration each day.

Additionally, the Joint Explanatory Statement accompanying the FY 2023 Legislative Branch Appropriations bill stated the following:

“Congress.gov Update Study.-The Committees recognize that Congress.gov is an important tool for members, staff, and the public to follow and understand the congressional process; however, the Committees believe that Congress.gov could provide a more complete picture of the full legislative process. Therefore, the Library, in collaboration with the Legislative Branch Data Interchange Working Group, is directed to conduct a study to determine what changes are necessary to allow Congress.gov to better track the legislative process. The study should identify technical and procedural changes required to track legislation that is introduced and later included in a separate measure, legislation introduced that is also filed as an amendment, and a better tracking of the congressional committee process, including the notation of recorded votes in committee. The Library is encouraged to consult with congressional and public stakeholders in the development of the study and to submit a report to the Committees within 180 days of enactment of this Act on the findings of the study.

We request the Committee publish the report to the public and update stakeholders on the Committee’s next steps regarding this matter.

Report Language:

Update on the Congress.gov Update Study. The Committee recognizes the great steps the Library of Congress has taken to update Congress.gov, including the previous directive from FY 2022 to provide a study to determine what changes are necessary to allow Congress.gov to better track the legislative process. The Committee requests the Library to publish this report to the public and update stakeholders on the Committee's next steps regarding this matter.

Electronic Spreadsheet Of Appropriations Data

Appropriations Committee: Legislative Branch

Agency: Library of Congress

Account: Congressional Research Service

Type of Request: Report Language

Background:

Appropriations legislation provides an invaluable window into federal agencies and offices' activities, priorities, and spending. While the legislation itself is straightforward to find through the Congressional Research Service's appropriations tables, the information contained within the legislation is published as prose and in a PDF format. PDF files cannot be analyzed by computers, so anyone who wishes to analyze the data or spending trends must retype it by hand into a digital spreadsheet.

Appropriators, authorizers, and the general public would benefit from the publication of spending information contained in appropriations bills as structured data, such as a CSV file. The Congressional Research Service, which tracks and publishes appropriations bills, should publish a spreadsheet to accompany each appropriations bill that contains the detailed spending information in an electronic, tabular format that allows for review of spending trends from FY 2000 forward.

Report Language:

Access to Appropriations Data. The Congressional Research Service is requested to improve congressional and public understanding of spending items contained in appropriations bills. Accordingly, it is requested to create a public-facing electronic spreadsheet for each of the 12 appropriations bills that shows spending information by each element from FY 2000 forward. To the extent possible, it should include spending for supplemental appropriations for each fiscal year. CRS is encouraged to work with the Appropriations Subcommittees to obtain this information and ensure that it is displayed accurately.

Study on New GAO Funding Model

Appropriations subcommittee: Legislative Branch

Agency: Government Accountability Office

Account: Salaries and Expenses

Type of Request: Report Language

Background:

The Government Accountability Office provides significant financial benefits to the federal government — returning more than \$100 in savings for every dollar invested. But GAO's funding is unduly constrained by the limited allocation made to the Legislative Branch Appropriations Subcommittee and competing demands inside the Legislative branch, notably security and infrastructure.

Funding for GAO should scale with the size of the federal government. GAO is currently funded at only 87% of its 1995 levels — down \$96 million in real dollars. This amount is 0.045% of federal discretionary spending. By comparison, in FY 1992 GAO received 0.082% of federal discretionary spending. If GAO were funded at 0.082% today, its funding would be \$1.1 billion — 1.7x its current level. By comparison, GAO requested an \$83 million increase in funding for FY 2022, to \$774 million. We recommend incrementally increasing GAO funding to a higher ratio.

One approach is proportionally sharing GAO's costs among the 12 appropriations subcommittees — plus \$50 million in administrative costs provided by the Legislative Branch Appropriations Subcommittee. Funds for GAO could be taken off the top prior to the subcommittee allocations or be set aside inside each subcommittee's allocation. The median subcommittee contribution would be \$31.5 million. The return on investment would be measured in the billions.

In addition to empowering GAO to meet its obligations, our proposed funding model would be a boon for democracy. Congress comparatively under-resources its staff. This has empowered the Executive branch and lobbyists by yielding them significant advantages in resources and personnel. This approach would restore resources to Congress and allow it to meet requests for hundreds of millions of dollars in new funding for security and infrastructure. In addition, it allows funding constraints to be eased inside Congress without requiring a politically difficult vote on resources.

Report Language:

Study on New GAO Funding Model. The Government Accountability Office plays a significant role in reducing government waste, fraud, and abuse. GAO's estimates have suggested a return on investment for taxpayers of more than 100-to-1. What additional services and ROI could GAO provide to the federal government were its funding increased by \$100 million annually, \$200 million annually, \$300 million annually, or more?

The GAO is directed to provide a report to this committee, and to make publicly available, a report examining the approach of proportionally sharing GAO's costs among the 12 appropriations subcommittees, plus administrative costs provided by the Legislative Branch Appropriations Subcommittee. The study should be published within 180 days of enactment of this act.

Clarify GAO Audit Power Over The Intelligence Agencies

Appropriations Committee: Legislative Branch

Agency: Government Accountability Office

Account: Administrative Provision

Type of Request: Bill Text

Background:

The GAO plays a critical role in congressional oversight of the Executive branch. That role may be stymied when it comes to the Intelligence Community (IC). While GAO already has statutory authority to conduct oversight of all federal agencies and has since 1982, the IC has insisted — from the outset — that it is not subject to such audits.

Comptroller Dodaro testified in 2019 that IC cooperation is forthcoming *only* when HPSCI or SSCI supports the request. When another committee of jurisdiction makes the request, the IC is unlikely to cooperate. He repeated that point in 2020, saying, with respect to working with the IC, “Is work there as smooth as it is in other parts of the federal government? No. It takes more time.... I could always use more support from the Congress in that area, but I don’t think we need statutory authority. We just need support from the committees and the Intelligence Committees. We have more difficulty if the requests come from non-Intelligence Committees.” He added that it would be helpful for Congress to make clear this is an authority GAO has. In 2021, Dodaro indicated that efforts to improve oversight of the IC continue and again, “one area where [GAO] can always use help is from the intel committees provid[ing] support and back[ing them] up.” And in 2022, Dodaro noted that GAO has “been getting additional requests from the Congress” related to the intelligence community.

For the full legislative history and an explanation of this issue, see testimony by Kel McClanahan, available on p. 560 of part 2 of the committee print *House Hearing, 116th Congress, Legislative Branch Appropriations for 2020* and his most recent testimony submitted to the House Legislative Branch Appropriations Committee for Legislative Branch Appropriations for 2022 on May 7, 2021.

We are concerned that Director Dodaro may not be able to publicly request statutory clarification because it would risk validating the IC’s position on its authority. CIA regulations for sharing information with the GAO states “Information that falls within the purview of the congressional intelligence oversight committees generally shall not be made available to GAO to support an audit or review” of CIA functions or funding. Furthermore, if GAO makes a request on behalf of or to obtain information for a tasking by an intelligence oversight committee, the CIA will not authorize release to GAO but will make the information “directly available to the requesting intelligence oversight committee.”

The House of Representatives passed language to address this issue in its Intel Authorization Act for FY 2010 (HR. 2701, Section 335). Virtually identical language was reintroduced in 2021 as

an amendment (amendment #23) to the Protecting Our Democracy Act, which received support from 90 percent of Democratic House members. We urge the committee to include this language as part of its appropriations bill because it would give teeth to GAO's ability to conduct audits inside agencies that have intelligence community functions.

Bill Text:

SEC. 335. Government Accountability Office audits and investigations.

Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 334 of this Act, is further amended by adding at the end the following new section:

“Government Accountability Office analyses, evaluations, and investigations

“Sec. 511. (a) In general.—Except as provided in subsection (b), the Director of National Intelligence shall ensure that personnel of the Government Accountability Office designated by the Comptroller General are provided with access to all information in the possession of an element of the intelligence community that the Comptroller General determines is necessary for such personnel to conduct an analysis, evaluation, or investigation of a program or activity of an element of the intelligence community that is requested by a committee of Congress with jurisdiction over such program or activity.

“(b) Exception.—(1)(A) Subject to subparagraph (B), the Director of National Intelligence may restrict access to information referred to in subsection (a) by personnel designated in such subsection if the Director determines that the restriction is necessary to protect vital national security interests of the United States.

“(B) The Director of National Intelligence may not restrict access under subparagraph (A) solely on the basis of the level of classification or compartmentation of information that the personnel designated in subsection (a) may seek access to while conducting an analysis, evaluation, or investigation.

“(2) If the Director exercises the authority under paragraph (1), the Director shall submit to each committee of Congress with jurisdiction over the program or activity that is the subject of the analysis, evaluation, or investigation for which the Director restricts access to information under such paragraph an appropriately classified statement of the reasons for the exercise of such authority within 7 days.

“(3) The Director shall notify the Comptroller General at the time a statement under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Comptroller General with a copy of such statement.

“(4) The Comptroller General shall submit to each committee of Congress to which the Director of National Intelligence submits a statement under paragraph (2) any comments on the statement that the Comptroller General considers appropriate.

“(c) Confidentiality.—(1) The Comptroller General shall maintain the same level of confidentiality for information made available for an analysis, evaluation, or investigation referred to in subsection (a) as is required of the head of the element of the intelligence community from which such information is obtained. Officers and employees of the Government Accountability Office are subject to the same statutory penalties for unauthorized disclosure or use of such information as officers or employees of the element of the intelligence community that provided the Comptroller General or officers and employees of the Government Accountability Office with access to such information.

“(2) The Comptroller General shall establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General or any representative of the Comptroller General for conducting an analysis, evaluation, or investigation referred to in subsection (a).

“(3) Before initiating an analysis, evaluation, or investigation referred to in subsection (a), the Comptroller General shall provide the Director of National Intelligence and the head of each relevant element of the intelligence community with the name of each officer and employee of the Government Accountability Office who has obtained appropriate security clearance and to whom, upon proper identification, records and information of the element of the intelligence community shall be made available in conducting such analysis, evaluation, or investigation.”.

SEC. 336. Certification of compliance with oversight requirements.

(a) In general.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 335 of this Act, is further amended by adding at the end the following new section:

“Certification of compliance with oversight requirements

“Sec. 512. The head of each element of the intelligence community shall semiannually submit to the congressional intelligence committees—

“(1) a certification that, to the best of the knowledge of the head of such element—

“(A) the head of such element of the intelligence community is in full compliance with the requirements of this title; and

“(B) any information required to be submitted by such head of such element under this Act before the date of the submission of such certification has been properly submitted; or

“(2) if such head of such element is unable to submit a certification under paragraph (1), a statement—

“(A) of the reasons such head of such element is not able to submit such a certification;

“(B) describing any information required to be submitted by such head of such element under this Act before the date of the submission of such statement that has not been properly submitted; and

“(C) that the head of such element will submit such information as soon as possible after the submission of such statement.”.

(b) Applicability date.—The first certification or statement required to be submitted by the head of each element of the intelligence community under section 512 of the National Security Act of 1947, as added by subsection (a) of this section, shall be submitted not later than 90 days after the date of the enactment of this Act.

Create FOIA-like Process for Legislative Branch Agencies

Appropriations Committee: Legislative Branch

Agency: Government Accountability Office

Account: Salaries and Expenses

Type of Request: Report Language

Background:

Access to public records is essential for a functioning press and democracy. Currently several legislative agencies, including GAO and Library of Congress, have FOIA-like public records request processes, but lack a meaningful appeal process whereby requesters may ask for review of agency public records decisions.

The importance of a meaningful and impartial appeal process was emphasized by the National Archives' FOIA Advisory Committee in its recent recommendation that "Congress should adopt rules or enact legislation to establish procedures for effecting public access to Legislative branch records in the possession of congressional support offices and agencies modeled after those procedures contained in the Freedom of Information Act. These should include requirements for proactive disclosure of certain information, procedures governing public requests for records, time limits for responding to requests, exemptions to be narrowly applied, and an appeal from any initial decision to deny access." A meaningful appeals process would include an opportunity for requesters to challenge agency decisions, make arguments regarding why documents should be disclosed, and obtain timely, impartial review by an independent office.

Accordingly, we recommend the GAO make recommendations regarding the implementation of a centralized appeals process for Legislative branch agencies that make records available to the public through a FOIA-like process.

Report Language:

Public Records Appeals Process for Legislative Agencies Based on FOIA Advisory Committee Recommendations. Within 180 days, the Government Accountability Office shall make recommendations to the House and Senate Legislative Branch Appropriations committees, the Committee on House Administration, the Senate Rules Committee, and publish on its website recommendations concerning a centralized appeals process for Legislative branch agencies that make records available to the public through a FOIA-like process. The GAO shall recommend statutory language and procedures to effectuate these changes and in doing so shall consult with members of the National Archives' FOIA Advisory Committee, experts on the FOIA, members of the public, and others it deems fit.

GAO Publish Reports as Text Files

Appropriations Committee: Legislative Branch

Agency: Government Accountability Office

Account: Salaries and Expenses

Type of Request: Report Language

Background:

The Government Accountability Office (GAO) provides invaluable reports and testimony that give Congress, federal agencies, and the public timely, fact-based, non-partisan information that improve government operations and save taxpayers billions of dollars. While the reporting and testimonials themselves are often straightforward, the documents are published as prose and in PDF format. PDF files cannot be analyzed by computers, so anyone who wishes to search across multiple documents or otherwise analyze the information it contains would have difficulty doing so.

Appropriators, authorizers, and the general public would benefit from the publication of information contained in GAO as text files, such as TXT or HTML. GAO should publish its reports as text files, ideally as structured data text files with metadata. As the corpus of GAO reports is quite extensive, GAO should start by publishing its reports for FY2024 both as PDFs and as text files and work in the ensuing months and years to expand the number of reports available from prior years as text files.

Report Language:

Government Accountability Office Reports as Text Files. The Government Accountability Office is requested to improve congressional and public access to the information contained in its reports and testimony by publishing that information both as PDF and in a text format, ideally a structured or semi-structured text format with appropriate metadata. In light of the large corpus of documents, GAO should start with the documents it publishes in FY2024 and work in the ensuing years to make more of the back-documents publicly available online in PDF and in structured data text format (such as TXT, HTML, XML) with accompanying metadata. In its annual Congressional Justification, GAO should report on the progress of these efforts until they are completed. GAO may collaborate with the Government Publishing Office to make the data files available on GPO's website, such as in its bulk data repository.

Create Legislative Branch Data Coordination Officers

Appropriations Committee: *Legislative Branch*

Agency: *Joint Items*

Account: *Legislative Branch Data Coordination Officers*

Type of Request: Bill Text and Report Language

Background:

The Legislative branch has made significant advances in releasing legislative information to the public as data. This has served Congress well, as it has facilitated Congress's access to its own data — both as raw structured data and as data refined by third parties. These data publication initiatives have included the online publishing of bills; committee schedules, documents, and videos; an online House phone directory; CRS reports; the bills and amendments scheduled for a floor vote in the House; the Statement of Disbursements; the new joint meetings calendar; as well as holding regular meetings of the Congressional Data Task Force and the annual Legislative Data and Transparency Conference. The vast majority of participating offices and agencies have gone out of their way to be helpful and collaborative, and the House Clerk's office has played a stand-out role in coordinating the Congressional Data Task Force.

It is time to provide additional support to Congress — to the Clerk, congressional stakeholders, and the public — in facilitating the use of congressional information. This data is important to congressional operations and public transparency, but it is not always clear what information exists, where it can be found, and what more can be done to improve its utility. In addition, there is no entity with the singular focus of facilitating these efforts who acts as a knowledge repository, a connector across silos, and support staff to stakeholders.

To this end, we believe Congress should create a Legislative Branch Data Coordination Officer position, co-directed by a House Data Coordination Officer and a Senate Data Coordination Officer, chosen respectively by the House Clerk and the Senate Sergeant at Arms. Each officer should have the responsibilities of supporting efforts to coordinate the Congressional Data Task Force; tracking datasets released by its chamber; providing advice, guidance, and encouragement to offices regarding the publication of legislative branch information as data; supporting the annual Legislative Data and Transparency Conference; and supporting and providing assistance to the public with finding and obtaining legislative data. The officers should create forums for convening relevant internal stakeholders to facilitate coordination of strategies, procurement, knowledge-sharing; consult with internal and external experts; and as a clearinghouse for appropriately routing technical inquiries, issues, and ideas.

Bill Text:

Legislative Branch Data Coordination Officers. For salaries and expenses of the House Data Coordination Officer, the Senate Data Coordination Officer, and subordinate staff as appropriate, \$30,000, to be disbursed in equal parts by the Secretary of the Senate and the Clerk of the House of Representatives. The House Data Coordination Officer shall be chosen and overseen by the

Clerk of the House and the Senate Data Coordination Officer shall be chosen and overseen by the Secretary of the Senate.

Report Language:

Legislative Branch Data Coordination Officers. The Clerk of the House of Representatives shall select the House Data Coordination Officer and the Secretary of the Senate shall select the Senate Data Coordination Officer, each compensated at an annual rate of pay which is equal to the annual rate of basic pay payable for positions at level II of the Executive Schedule under section 5313 of title 5. The House and Senate Data Coordination Officers may jointly hire subordinates who may be compensated at an annual rate of pay which is equal to the annual rate of basic pay payable for positions at level III of the Executive Schedule under section 5314 of title 5.

The Data Coordination Officers shall be responsible for supporting coordination of the Congressional Data Task Force; tracking datasets released by the legislative branch; providing advice, guidance, and encouragement to offices regarding the publication of legislative branch information as data; supporting the annual Legislative Data and Transparency Conference; providing assistance to the public with finding and obtaining legislative data; and other duties as the Data Coordination Officers deems appropriate that promotes public or congressional access to legislative information as data. Further, the officers shall create forums for convening relevant internal stakeholders to facilitate coordination of strategies, procurement, knowledge-sharing; consult with internal and external experts; and as a clearinghouse for appropriately routing technical inquiries, issues, and ideas.

Publication Of Legislative Branch Congressional Budget Justifications

Appropriations Committee: *Legislative Branch*

Agency: *Joint items*

Account: *N/A*

Type of Request: Report Language

Background:

Legislative support offices and agencies submit annual budget justifications to the House and Senate that summarize the work they have done in the course of the previous year and their request for funding for the upcoming year. While Executive branch agencies are required to publish their budget justifications online within two weeks of submission to Congress pursuant to OMB Circular A-11 section 22.6, there is no comparable requirement for the Legislative branch.

Public availability of Legislative branch budget justifications can be untimely and inconsistent, limiting access to both authorizing committees and the general public. For example, the House of Representatives routinely publish these justifications in a committee document that becomes publicly available the year after the budget requests are considered. Senate publication of a combined document is uncommon, with only three instances found on GPO's website. The practice of Legislative branch agencies and offices in publishing these reports on their individual websites is inconsistent.

Centralized, permanent online access will improve how House and Senate authorizers and appropriators, journalists, and the general public understand requests made by Legislative branch offices and agencies regarding their planned activities for the upcoming year. This will bring Legislative branch practices in line with the Executive branch.

Report Language:

Publication Of Legislative Branch Congressional Budget Justifications. Starting for FY 2024, two weeks after submission of a congressional budget justification to the House of Representatives, the U.S. Senate, or a committee thereof, Legislative branch support offices and agencies are requested to publish their congressional budget justifications on their website and to provide a copy to the Government Publishing Office. Furthermore, to the extent practicable, offices and agencies shall publish prior congressional justifications on their websites and provide the reports to GPO for at least the previous 10 fiscal years. House offices and agencies may also provide the reports for publication on docs.house.gov.

**Study To Professionalize Congressional Staff On A Pay Scale To Achieve Parity With
Executive Branch Salaries**

Appropriations Committee: Legislative Branch

Agency: Joint Items

Account: Chief Administrative Officer

Type of Request: Bill Text and Report Language

Background:

Congressional staff are widely and consistently undercompensated for their work, especially at entry-level positions. We acknowledge and appreciate the unprecedented efforts made by the Appropriations Committee to remediate these issues as part of the FY 2022 and FY 2023 appropriations bills. We urge you to build upon this good work and take the additional actions necessary to study the ways to professionalize staff pay to achieve parity with Executive branch employees.

An October 2021 Office of the House Inspector General report examining the number of employees in Member offices recommended the House to “establish and maintain pay parity with Executive branch salaries and make the necessary adjustments to the MRA to achieve parity.” To match the benchmarks identified in the 2019 House Compensation and Diversity Study Report, the IG report recommended the House to increase the Clerk hire portion of the MRA by an average \$42,036 per employee in each Member office, or about \$333 million in total, to match the Federal benchmark. The commensurate burden rate, per the IG report, would be \$320,000 per Member office, or \$141 million in total.

To this end, we urge you to ask the Chief Administrative Officer to study the effects of creating a pathway to achieve parity with the Federal employee benchmark.

Additionally, the IG Report recommends that an annual COLA adjustment component be automatically added to the Clerk-Hire calculation of the MRA. The report states “Using 2020 as an example, the Clerk-Hire component of the MRA would have been \$1,020,532 using the base increase of 2.60 percent or \$1,029,683 using the Washington DC – Baltimore locality increase of 3.52 percent.” Providing congressional staff with a COLA would help to achieve parity with their Executive branch counterparts as well.

Building capacity in Congress is a sound investment. Investing more resources into the congressional workforce, especially for those at the bottom of the pay scale, can reduce opportunities for regulatory capture by lobbyists, mitigate the risk of unintended negative policy outcomes through stronger staffing, and increase accountability of the federal government through expanded and knowledgeable oversight.

Report Language:

Study To Professionalize Congressional Staff On A Pay Scale To Achieve Parity With Executive Branch Salaries. The Committee has taken extraordinary action to address staff pay due to prior

pay freezes coupled with inflation. In accordance with the House Inspector General recommendation, the Committee asks the Chief Administrative Officer to provide a report within 120 days of introduction of this report on the cost and feasibility of providing a track to professionalize staff in line with Executive branch employees, including the inclusion of an annual COLA for full-time staff.

LEGISLATIVE BRANCH: REQUESTS THAT APPLY TO THE HOUSE ONLY

Historical Unique Identifiers for Statements of Individuals

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Salaries, Officers and Employees: Office of the Chief Administrative Officer

Type of Request: Report Language

Background:

The House of Representatives publishes the “Statement of Disbursements of the House” four times a year. The report, which contains all receipts and expenditures for U.S. House of Representatives Members, Committees, Leadership, Officers, and Offices, has been required by law to be published since 1964. The reports have been published online since July 1, 2009 and have been published in a spreadsheet format since January 1, 2016. See <https://www.house.gov/the-house-explained/open-government/statement-of-disbursements>.

The transition of publication from print to PDF to spreadsheet has been a welcome development. The spreadsheet (in CSV format) contains many transaction codes and significant amounts of data. Additionally, the creation of an entity/organization’s ID being published alongside its name in the searchable CSV format is a welcome addition. We commend the Committee and the Chief Administrative Officer (CAO) for taking on this initiative.

To help better understand and track the data, there is a need for the House to publish the individual/organization’s historical data. The CAO already has unique identifiers in its dataset behind the Statement of Disbursements. To this end, we believe the Committee should request the CAO to publish all prior House individuals/organizational IDs to the extent practicable. Publication of an individual/organization’s ID would not change the nature of the information that is available — names already are published — but it would make it easier to use the data.

Report Language:

Historical Unique Identifiers for Statements of Individuals/Organizations. To the extent feasible, the Office of the Chief Administrative Officer is requested to update and publish prior Statements of Disbursements published in a searchable CSV format with unique identifiers.

Better Tracking of House of Representatives Security Clearances

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Salaries, Offices and Employees: Office of the Sergeant at Arms

Type of Request: Report Language

Background:

In the Legislative Branch Appropriations Committee Report for FY 2020 (H. Rept. 116–64), the Appropriations committee requested the Sergeant at Arms report on how long it takes for a congressional staffer to receive a clearance. The final report, even though it was directed to not be classified, was declared by the Sergeant at Arms to be Controlled Unclassified Information (CUI) and was not released to the public. The Executive branch routinely releases information on how many individuals hold clearances, how long it takes to receive a clearance, and similar information, and the Sergeant at Arms should make comparable information available to Members of Congress and to the public. This will help inform a discussion on whether the needs of the House with respect to obtaining clearances for staff are adequately being met by the Executive branch.

Report Language:

House of Representatives Security Clearances Report. The Committee requests an unclassified report from the Sergeant at Arms on March 1 of each of the next two years that reports on the average and median length of time from open to close of all security clearance requests, to help determine whether Legislative branch security clearances are being finalized and adjudicated consistent with Executive branch timelines. This unclassified and non-CUI report should address the average and median length of time from open to close of all security clearance requests broken down by level of security clearances (confidential, secret, top secret, and TS/SCI) and cross-indexed against in the aggregate against committees, personal offices, leadership offices, and support offices, so as to better provide context of timelines to Members and cleared staff. The contents of the report should not be considered CUI and shall be made publicly available on the date of reporting.

Permit One TS/SCI Clearance Per House Personal Office To Support Oversight

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Salaries, Officers and Employees: Office of the Sergeant At Arms

Type of Request: Report Language

Background:

House Members need the support of a staffer who possesses sufficient security clearances to fully assist each Member in their duties, and who is fully and solely responsive to that Member. The Senate reportedly changed its practices to allow each senator to designate one personal office staffer as eligible to apply for a Top Secret/Sensitive Compartmented Information (TS/SCI) clearance. In the 117th Congress, Representative Jacobs introduced a bipartisan amendment to H.R. 5314, the Protecting Our Democracy Act, that would permit one TS/SCI clearance per personal office.

The FY 2020 Legislative Branch Appropriations bill requested a study and report on processing times for security clearances for House employees and whether such clearances are being finalized and adjudicated consistent with executive branch timelines. The FY 2021 Legislative Branch Appropriations bill asked for further clarification of this information, directing the Sergeant at Arms to include the number of clearances disaggregated by security level as well as clearances pending. (H. Rpt. 116-447 p. 10)

The House of Representatives should also empower every Member to designate one personal office staffer who shall be provided clearance at the TS-SCI level should that staffer pass the background check. Receiving a clearance does not put a staffer “in access” to information, since that requires an additional determination of need-to-know. However, it removes an important barrier so that staff can provide an appropriate level of responsive, unbiased, expert advice to their employing Member.

Report Language:

Security Clearances: The Committee directs the House Security Division (HSD) of the Sergeant at Arms to amend the House of Representatives Security Policy Manual to establish a procedure, within 30 days of enactment of this Act, through which every House Member may submit a maximum of one Top Secret-cleared employee per House personal office through HSD for adjudication of eligibility to access Sensitive Compartmented Information (SCI) by the Department of Defense Central Adjudication Facility. This shall not alter the established precedence of a “need-to-know” determination made by the entity in possession of the classified information or material sought.

The Committee also requests the HSD ensure any staffer who receives a TS/SCI clearance is provided adequate training as to the responsibilities of that clearance, including counterintelligence training, and a further report from HSD on what additional programming and

resources should be implemented and costs incurred to provide all congressional staff appropriate counterintelligence training.

“Dear Colleague” Letter Access

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Salaries and Expenses

Type of Request: Bill Text

Background:

“Dear Colleague” letters are official correspondence widely distributed to congressional offices. Members, committees, and officers of the House of Representatives often use “Dear Colleague” letters to encourage others to cosponsor, support, or oppose legislation. Additionally, senders use these letters to collect signatures, invite members to events, update congressional offices on administrative rules, and provide general information.

Over the last decade, “Dear Colleague” letters have mainly been circulated online using the e-“Dear Colleague” system. Under the system, members and staff are able to independently manage their subscription to various issue areas and receive e-Dear Colleagues according to individual interest. However, due to limitations of the system’s design, it is difficult for members to navigate the overwhelming amount of information.

These letters are frequently circulated within the House, but access to the e-“Dear Colleague” system is restricted to Congress. To foster innovative solutions to search and sort through Dear Colleague communications, to better integrate these communications so as to provide better context for why members support or oppose legislation, and to address unequal access to these communications, we recommend that letters be made publicly available unless the sender chooses to opt-out for a particular communication.

Bill Text:

Modernized Dear Colleague Communication System. The Committee recommends \$350,000 for the online publication of Dear Colleague letters, including appropriate metadata, except in circumstances where the sender chooses to opt-out from online publication of their letter.

Legislative Resource Center Public Disclosure Forms

Appropriations Committee: *Legislative Branch*

Agency: *House of Representatives*

Account: *Salaries, Officers and Employees: Office of the Clerk*

Type of Request: Report Language

Background:

The Legislative Resource Center (LRC), a division of the Office of the Clerk, supports House legislative functions and keeps the public informed about the House and its legislative activities. LRC ensures that House-related information is accessible to all. Among other things, it makes available to the public all public disclosure forms from all House Officers, Members, and staff.

The public disclosure documents that can only be accessed in person are digitized — visitors can use a computer to read and print them out. These documents should be made available online, which would improve public access both during the pandemic and after it becomes possible to visit the LRC in person. Accordingly, the LRC should review all their public disclosure documents for the 118th Congress going forward, create a catalog, and ensure they are all available online for public review.

Report Language:

Legislative Resource Center Public Records. The Office of the Clerk is requested to make available online all public disclosure forms from all House Officers, Members, and staff from the 118th Congress forward, and to identify other relevant documents that should also be available online.

Standardize Access To Annual Reports From House Offices

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: N/A

Type of Request: Report Language

Background:

Many legislative support offices generate recurring reports on their activities. However, there is no consistent practice with how these reports are preserved and how those reports are made publicly available.

The House of Representatives established the website docs.house.gov to act as a central online repository and archive for select House documents, and it has been maintained over multiple Congresses by nonpartisan staff. Docs.house.gov is an appropriate repository for important recurring support office reports, and publication of legislative support office documents there will ensure the availability of reports to congressional offices, congressional scholars, and the public.

Reports from the following offices should be published on docs.house.gov

- Chief Administrative Officer (semiannual, publicly available)
- Clerk of the House (annual, not publicly available)
- Inspector General (annual financial audits, publicly available)
- Office of Congressional Ethics (quarterly, publicly available)
- Office of Diversity and Inclusion (quarterly, publicly available)
- Office of the Whistleblower Ombuds (quarterly, publicly available)
- Sergeant at Arms (semiannually, publicly available)
- By request of the House, as appropriate (varies)

Report Language:

Standardized Access to Annual Reports from House Offices and Agencies. Within 180 days of enactment, the following offices are requested to publish on docs.house.gov their current annual, semiannual, or quarterly reports to the House of Representatives, except they may withhold confidential information as they deem appropriate pursuant to the direction of the Committee on House Administration: Chief Administrative Officer, Clerk of the House, Inspector General, Office of Congressional Ethics, Office of Diversity and Inclusion, Office of the Whistleblower Ombuds, Sergeant at Arms. To the extent practicable, offices and agencies shall publish prior recurring reports. Support office reports that are requested from time to time may be published there as requested by the House or its subcommittees.

Funding And Transparency Relating To The House Office Of General Counsel

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Salaries, Officers and Employees: Office of the General Counsel

Type of Request: Report Language

Background:

The Office of General Counsel (OGC) provides legal advice and assistance to Members, committees, officers and employees of the House, on a nonpartisan basis, on matters related to their official duties, and it represents the House itself in litigation, both as a party and an amicus curiae, in cases in which the House has an institutional interest. It operates pursuant to the guidance of the Bipartisan Legal Advisory Group (BLAG), which determines the institutional legal position of the House in all litigation matters.

While OGC has a website with limited information on areas of the law most relevant to its practice, this information is largely general in nature and does not appear to be frequently updated. This contrasts with the Justice Department's Office of Legal Counsel, which maintains a website on which its numerous legal opinions in support of executive power can easily be accessed. We are concerned that this imbalance of information undermines the House's institutional legal positions in court, particularly on oversight and other separation of powers issues where it frequently clashes with the executive.

In FY 2021, appropriators granted OGC's request for an increase in funds from \$1,751,000 to \$1,815,000 to address increased demands on its workload and potentially insufficient resources to meet the House's needs. In FY 2022, appropriators granted an increase in funds to \$1,912,000 and retained this number in FY 2023. We encourage you to continue to meet that office's funding request for FY 2024.

In addition, funding should be provided to enhance its capacity to improve its website and provide important legal information to the public. For an in-depth explanation, see the testimony of former House Senior Counsel Michael Stern submitted to this committee for FY 2022 (https://s3.amazonaws.com/demandprogress/testimony/Stern_Testimony_for_House_Legis_Appropriations_Subcommittee.pdf). Senate Legal Counsel has long been subject to a statutory mandate (2 U.S.C. 288g(b)) to make publicly available court papers and research memoranda relating to significant congressional legal issues and court proceedings. Similarly, OGC should be directed to expand its website to provide non-privileged information about its legal advice and representation, including court filings, legal opinions and select explanatory or historical documents that would shed light on its operations and the legal views of the House. It should also include basic information about the BLAG, such as a description of what the BLAG is, who serves on it, how it functions, and instances when the BLAG authorizes or directs OGC to take a legal position.

Report Language:

Office of General Counsel Transparency. The House Office of General Counsel is requested, within 90 days of enactment of this legislation and on an ongoing basis thereafter, to expand its website to provide non-privileged information about its legal advice and representation, including court filings, legal opinions and select explanatory or historical documents that would shed light on its operations and the legal views of the House. It should include basic information about the Bipartisan Legal Advisory Group (BLAG), such as a description of what the BLAG is, who serves on it, how it functions, and instances when the BLAG authorizes or directs OGC to take a legal position.

Congressional Fellowship Program Database

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Chief Administrative Officer of the House of Representatives

Type of Request: Report Language

Background:

Congressional fellows, when properly utilized, provide valuable insight and perspectives to congressional offices. Congressional offices routinely make use of fellows that are funded by outside entities. Some are funded by elements of the federal government and others are funded by the private and non-profit sector. While there is no comprehensive list of congressional fellowships, the Congressional Research Service has compiled a partial list as part of a Congressional Distribution Memorandum entitled “Congressional Fellowship Programs.”

A 2018 report by the Project on Government Oversight titled, “Congress (Still) Fails to Enforce Ethics Rules for Fellows,” found that conflicts of interest have arisen from these fellowships and that fellows may use their positions to influence policy and serve the interests of their industry. These conflicts of interest pose a risk to Congress and, if unaddressed, may further erode public faith in the integrity with which decisions are made within the Legislative branch.

Report Language:

Congressional Fellowship Database. The Committee recognizes the expertise fellows can provide to congressional offices in conducting investigations and developing legislation. However, the Committee also acknowledges the potential dangers that could arise to Congress should fellows be funded by outside parties to push particular policy perspectives while they serve in Congress or potentially thereafter. Therefore, the Committee requests that the Office of the Chief Administrative Officer of the House of Representatives establish a regularly-updated publicly-available database to identify all Congressional Fellows that are paid for by outside sources, whether by the government or the private sector. The database should include the original source of those funds and any pass-through entities, the funding amount, where the staffer is placed, whether the funder engages in federal advocacy or is part of a coalition or association that engages in advocacy, and any intermediary entities that assists with placing the staffer. As a condition of employment, former fellows should be prohibited from lobbying the office in which they served for one year after the end of the fellowship.

House Inspector General Reports

Appropriations Committee: Legislative Branch

Agency: House of Representatives Office of the Inspector General

Account: Salaries, Officers and Employees

Type of Request: Report Language

Background:

The House of Representatives Office of Inspector General (IG) provides independent, nonpartisan oversight over House operations. The majority of the office's IG reports are not publicly available online — the only documents available on the House IG's website are recent annual financial audits.

By contrast, the vast majority of the 74 Executive branch inspectors general publish reports online. Under the Inspector General Empowerment Act of 2016, covered IGs are required to publish online, within three days, reports that contain recommendations for corrective action. In circumstances where an IG report cannot be released (in whole or in part) — usually due to its classified nature — the best practice is the IG provides notification of the report online, a practice adhered to by many agencies, including the DOD Inspector General and the GAO.

Furthermore, the GAO-IG Act requires that recommendations made by inspectors general be included in the congressional budget justifications that contain an entity's request for funds from appropriators.

The House IG should follow best practices for federal IGs, including routine publication of its reports online. In addition, federal IGs, including four congressional IGs, publish their reports on the federal-wide website, Oversight.gov, managed by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), an independent entity composed of more than 70 inspectors general. The House IG should do the same.

Report Language:

House IG Report Transparency. The House of Representatives Office of Inspector General performs important oversight work. It is a best practice for federal inspectors general to publish their final reports online, a practice that the House IG previously followed and should reinstitute. Within 90 days of enactment of this legislation, the House IG shall make available on a public-facing website all of its existing reports in their entirety, except to the extent noted below, and publish new IG reports online within three days of completion. This can be satisfied by publishing the reports on the House IG's website and/or publishing them on Oversight.gov, the website maintained by the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

To the extent some or all information contained in a report must not be made publicly available because the information contained is classified or sensitive, the House IG may refrain from

publishing that information online. However, such a withholding must be limited to the maximum extent possible. In the unusual instance where a report is withheld in its entirety, the Committee expects publication on the IG's publicly accessible website the following information: report title, date of publication, the agency responsible for the report, the details of the congressional request, a description of the subject, and a general reason non-publication of the full report.

LEGISLATIVE BRANCH: REQUESTS THAT APPLY TO THE SENATE ONLY

Senate Whistleblower Ombuds

Appropriations Committee: Legislative Branch

Agency: United States Senate

Account: Sergeant at Arms

Type of Request: Report Language

Background:

People who contact the United States Senate to report waste, fraud, abuse, or malfeasance are critical to furthering the Senate's oversight responsibilities. But these whistleblowers often do not know how to approach Congress with their concerns and congressional offices often do not know how to properly protect those communications. The office or offices that a whistleblower contacts may trigger anti-retaliation protections that can vary based upon the individual's employer and the subject matter of their disclosure. Moreover, some congressional offices inadvertently mishandle whistleblowers' disclosures, thereby increasing the likelihood of retaliation or misdirected communications.

The Senate should establish a Senate Whistleblower Ombuds Office to support the needs of Senate staff in working with whistleblowers. The Ombuds is not intended as an office that would in any way address the substance of the issues raised by whistleblowers, but rather would provide resources to assist Senate staff in doing so. The House of Representatives established the Office of Whistleblower Ombuds in the 116th Congress, with many of the same responsibilities described above, and it has been deemed a success by Members of both parties.

In May 2019, GAO issued a report on best practices for Congress to consider when receiving and referring information (GAO-19-432). There are a number of recommendations that staff should adhere to, and it is important that they have an independent expert who can advise them on and assist them with implementing best practices.

Report Language:

Senate Whistleblower Ombuds. The Sergeant at Arms is encouraged to provide within 90 days of enactment of this legislation a report to the Appropriations Committee and the Senate Rules Committee, the latter of which is requested publish the report online no later than two weeks of its receipt, its recommendations on how to establish a Senate Whistleblower Ombuds Office. In doing so, it should consult with the House Office of the Whistleblower Ombuds and relevant Senate committees. The Ombuds would be an independent office of the United States Senate that provides advice, assistance, guidance, and training to congressional offices on how to engage with whistleblowers; guidance and assistance to whistleblowers on the full range of offices with jurisdiction to contact, and a secure mechanism to do so; and coordinates an annual unclassified publicly-available report on how the Senate has handled whistleblower communications. The report shall include an estimate of the costs to establish the office, to maintain the office, and the personnel requirements to do so.

Senate Office Of Diversity And Inclusion

Appropriations Committee: Legislative Branch

Agency: United States Senate

Account: Sergeant at Arms

Type of Request: Report Language

Background:

Members of Congress and their staff must be reflective of the diversity of our nation. Every individual in America should be represented in the values and attitudes of those who serve in the halls of Congress. However, the extent of any disparities among congressional staff based upon gender, race, or ethnicity, or how that might affect staff hiring and retention is unknown. We appreciate and note the intention of the Senate to establish a Senate Diversity and Inclusion Working Group to identify, develop, and recommend options for improving the recruitment and retention of a diverse workforce. We understand that its policy recommendations are intended to be compiled in a comprehensive report to the Appropriations and Rules committees.

We welcome this as a possible first step towards establishing a Senate Office of Diversity and Inclusion similar to that of the House of Representatives. The House Office of Diversity and Inclusion was established in the rules at the start of the 116th Congress as an independent office, reporting directly to the authorizing committee. We believe there is value in having the Senate counterpart serve as an independent office with visibility which would assist in its mission of supporting the hiring and retention of capable, expert, diverse staff. We urge the Senate to go build upon the Task Force and establish a Diversity Office.

Report Language:

Office of Diversity and Inclusion. The Office of Diversity and Inclusion of the Senate shall be established within 90 days of enactment of this legislation. The Majority Leader, in consultation with the Minority Leader, shall appoint a Director of the Office from recommendations provided by the chair of the Committee on Rules and Administration in consultation with the ranking minority member of such committee. Not later than 60 days after the appointment of the Director of the Office, the Office shall submit to the Committee on Rules and Administration an operational plan for the Office that shall include, consistent with applicable Senate rules, regulations, and law, a plan for appointing and establishing duties for staff of the Office which shall set forth a proposed maximum number of staff. Not later than 90 days after submitting the operational plan, the Office shall submit a diversity plan to the Committee on Rules and Administration for the committee's review and approval, and shall include in the plan the following: (A) Policies to direct and guide Senate employing offices to recruit, hire, train, develop, advance, promote, and retain a diverse workforce, consistent with applicable Senate rules, regulations, and law. (B) The development of a survey, in consultation with the Committee on Rules and Administration, to evaluate diversity in Senate employing offices. (C) A framework for the Senate diversity report. (D) A proposal for the composition of an Advisory Council that shall, as necessary, inform the work of the Office. (E) Any additional components as determined by the Committee on Rules and Administration. At the end of each session of

Congress, the Office shall submit a Senate diversity report to the Majority Leader, the Majority Leader and Minority Leader, the chair and ranking minority member of the Committee on Rules and Administration, and the chair and ranking minority member of the Subcommittee on the Legislative Branch of the Committee on Appropriations.

Publish Senators' Official Personnel And Official Expense Account Report As Data

Appropriations Committee: Legislative Branch

Agency: United States Senate

Account: Office of the Secretary

Type of Request: Report Language

Background:

The Legislative Branch Appropriations Act of 2010 (P.L. 111-68) required the Secretary of the Senate to publish the Senators' Official Personnel and Official Expense Account (SOPOEA) Report online starting with the first full semiannual period of the 112th Congress. This twice-annual report records all the expenses of the United States Senate, and has been published and made available to the public in its current incarnation since 1964. The Senate's move to online publication came after the House began publishing its Statement of Disbursements online in 2009, which was prompted in part by scandals in the United Kingdom parliament regarding the misuse of funds.

Publication of Senate spending data as a PDF has significant limitations, notably that it is not possible to easily access or analyze the information. For example, a Senate report covers October 1, 2019, to March 31, 2020, making it impossible to analyze numbers for a calendar year. By contrast, the House of Representatives began publishing its Statements of Disbursements as a spreadsheet file (a structured data format known as a CSV, for comma separated value) starting with the period of January 1-March 31, 2016. The Senate provided for the possibility of publication in additional formats in 2010 when it permitted the publication of the report "in other forms at the discretion of the Secretary of the Senate." The Senate should direct the publication of the SOPOEA Report as structured data to aid the Senate, its stakeholders, and the public with improving their understanding of the Senate.

Report Language:

Senators' Official Personnel and Official Expense Account Report. Within 360 days of enactment, the Senate Sergeant at Arms is requested to publish the forthcoming Senators' Official Personnel and Official Expense Account Report online in a structured data format, such as CSV, in addition to other formats it deems appropriate or are required by law.

FINANCIAL SERVICES AND GENERAL GOVERNMENT

Improve Congressional And Public Visibility Into Visitors To The White House

Appropriations Committee: Financial Services and General Government

Agency: Executive Office of the President

Account: Office of Administration: Salaries and Expenses

Type of Request: Bill Text

Background:

From September 15, 2009 to the end of the Obama administration, the White House disclosed lists of its visitors on a monthly basis, subject to narrow limitations and exceptions. Civil society has long sought disclosure of these records, created by the United States Secret Service in the performance of their protective duties but owned by the White House, because they could help the public understand who was influencing White House policy.

Under the Obama administration's White House Voluntary Disclosure Policy, nearly 6,000,000 records were released. These records opened a new window into the White House's functioning, and countless news reports relied upon information contained therein.

The Trump administration discontinued publication of the logs, closing a window into its operations and fueling multiple lawsuits. While the Biden administration has reinstated a White House visitors log disclosure policy, this list of visitors should continue to be publicly accessible without interruption regardless of who is in the White House and should be done as a matter of law.

To make sure that Congress, and the public, have access to these visitor log records, the House included language in the Protecting Our Democracy Act, Section 2203 of H.R. 5314 (117th Congress), which establishes "not later than 90 days after the date of enactment of this Act, the President shall establish and update, every 90 days thereafter, a publicly available database that contains covered records for the preceding 90-day period, on a publicly available website in an easily searchable and downloadable format." While the House was able to pass H.R. 5315 on December 9, 2021, it stalled in the Senate and has yet to be introduced in the 118th Congress.

Bill Text:

Improve Congressional and Public Visibility into Visitors to the White House. Not later than 30 days after the date of enactment of this Act and updated every 30 days thereafter, the White House Office of Administration shall report to the Congress, the Senate Homeland Security and Governmental Affairs Committee, and the House Committee on Oversight, and make contemporaneously available online a searchable, sortable, downloadable database of visitors to the White House and the Vice President's residence compiled in the White House Worker and Visitor Entry System that includes the name of each visitor, the name of the individual who requested clearance for each visitor, and the date and time of entry for each visitor.

Notwithstanding this requirement, the White House Office of Administration, after consultation with the United States Secret Service and the President or his designee, may exclude from the database any information that would 1) implicate personal privacy or law enforcement concerns

or threaten national security, or 2) relate to a purely personal guest. In addition, with respect to a particular sensitive meeting, the White House Office of Administration shall disclose each month the number of records withheld on this basis and post the applicable records no later than 360 days later.

Virtual Visitor Logs

Appropriations Committee: Financial Services and General Government

Agency: Executive Office of the President

Account: N/A

Type of Request: Bill Text

Background:

The Biden Administration reinstated the voluntary White House visitors log disclosure policy. However, many White House meetings are taking place virtually and are not covered under that policy. The Financial Services and General Government FY 2022 Appropriations Bill Report (H. Rept. 117-79, p. 37) requested “[t]he Executive Office of the President to explore the feasibility of disclosing “virtual” visitors to the Executive Office of the President in a manner that provides similar information as provided for other visitors and that is retroactive to January 20, 2021” and “directs EOP to provide a briefing on this topic no later than 120 days after enactment of this act.”

We applaud this action from the committee and believe access to “virtual” visitor disclosures should become a permanent practice. We encourage the committee to request EOP for a report on the cost and implementation of making “virtual” visitor log disclosures permanent.

Bill Text:

Permanent Access to White House Virtual Visitor Logs. The White House Executive Office of the President, within 60 days of enactment of this legislation, shall provide a report to Congress on how it recommends implementing a requirement to make contemporaneously available online on at least a biweekly basis a searchable, sortable, downloadable database of “virtual visitors” to the White House and the Vice President’s residence. A virtual visitor is a person who meets with Executive branch office staff whose normal place of work is at the White House or the Vice President’s residence. This list should include the name of each visitor, the name of each person they met with, and the date and time of each meeting.

As part of its report to Congress, the EOP may evaluate including a provision that would exclude from the biweekly public disclosure any information that would 1) implicate personal privacy or law enforcement concerns or threaten national security, or 2) relate to a purely personal guest. In those instances, the Executive Office of the President shall still disclose the total number of records on a biweekly basis, but withhold the applicable record for no more than 365 days.

The report shall also address the costs of implementing such a system.

Listing Unpublished IG Reports On Oversight.gov

Appropriations Subcommittee: Financial Services and General Government

Agency: Independent Agencies

Account: Council on the Inspectors General on Integrity and Efficiency (CIGIE)

Type of Request: Report Language

Background:

In 2017, the Council of the Inspectors General on Integrity and Efficiency (CIGIE) launched Oversight.gov, a central repository for reports from all 74 Inspectors General. The website, www.oversight.gov, represents a major step forward in improved accessibility and accountability for federal inspectors general work products. Congress and the public can now search across multiple Inspectors General for reports and recommendations in a much more efficient and expedited manner.

The Oversight.gov website is impressive, and it requires a steady funding stream to continue its operations, improve its functionality, and provide expanded services. In FY 2019, the Financial Services and General Government appropriations bill provided \$2,000,000 to the revolving fund of CIGIE and in FY 2020 the Financial Services and General Government Appropriations bill made \$1,000,000 available for expenses related to enhancements to Oversight.gov. In both FY 2022 and FY 2021, the Financial Services and General Government appropriations bills provided \$850,000 for enhancements to oversight.gov. Prior to the direct appropriation in fiscal year 2019, financial resources for CIGIE operations came through funds provided by its constituent Inspector General entities, which are held in a revolving fund stipulated through the Inspector General Act of 1978.

We applaud the funding of this important initiative and encourage Congress to continue its support of a robust Oversight.gov with increased functionality by providing “robust funding” to CIGIE. As some IG reports are not published on the website but congressional overseers and others should be aware of their existence, we recommend that IGs be encouraged to publish on Oversight.gov a list of their non-public reports.

Report Language:

Oversight.gov. The Committee recognizes that the Inspector General community has taken recent steps that allow for more efficient and effective access to its reports and recommendations by Congress and the public. The Committee expects CIGIE to maintain and improve their existing website and provide information about its contents. The Committee is concerned that there is not a public list on the website of non-public inspector general reports. Therefore, the Committee requests CIGIE to publish on their website a public-facing list broken out by each inspector general regarding any non-public reports.

COMMERCE, JUSTICE, AND SCIENCE

**Improve Executive Branch Accountability By Providing An Index Of Justice
Department Office Of Legal Counsel Opinions Currently In Effect**

Appropriations Committee: Commerce, Justice, Science

Agency: Department of Justice

Account: General Provisions

Type of Request: Report Language

Background:

Final legal opinions by the Justice Department’s Office of Legal Counsel are authoritative interpretations of law binding on the Executive branch. Secret law has no place in a democracy, but these binding legal opinions are regularly withheld from Congress and the public. No one in the public knows how many OLC opinions are even currently in effect. It is essential for the legal opinions to be publicly disclosed so that our system of checks and balances can operate effectively. At the bare minimum, OLC should publish an index of all opinions so the public may be aware of their existence.

Congress, including this Committee, has taken a number of encouraging steps to bring more transparency to OLC opinions. In FY 2020, the House CJS Report (H. Rept. 116-101) required the Justice Department to “submit a report to the Committee that lists each OLC opinion currently in effect” in certain circumstances (e.g., opinions designated as final or relied on). Similar language was included in FY 2021 and FY 2022. We thank the Committee and appreciate its efforts and hard work. That language would be a tremendous step forward. However, the Joint Explanatory Statement accompanying the enacted FY2020 Consolidated Appropriations Act (H. Comm. Pmt. 38-678), as well as the FY 2021 and FY 2022 reports, superseded the House report language, “strongly urged” the Attorney General to direct OLC to publish all legal opinions “that are appropriate for publication.” Unfortunately, this language effectively allows the Justice Department to evade the requirement.

In recent years, lawmakers have also introduced legislation to mandate transparency for OLC opinions, including the SUNLIGHT Act of 2022 (H.R. 7619; 117th Congress) and the DOJ OLC Transparency Act (S. 3858; 117th Congress). The House passed the Protect our Democracy Act, H.R. 5134 (117th Congress), which included language in section 524 requiring the disclosure of many OLC opinions. However, given the uncertainties and political dynamics of enacting standalone bills, appropriators should continue to exercise their unique authority over the appropriations process to address this issue. As such, we urge the resubmission of the strong language reported by the House in FY 2022 — and to the extent possible, seek statutory provisions as well as report language.

Report Language:

Office of Legal Counsel (OLC) Opinions. Not later than 90 days after enactment of this Act, the Department shall submit a report to the Committee that lists each OLC opinion currently in effect that has either been: designated by the Attorney General, Assistant Attorney General for OLC, or a Deputy Assistant General for OLC, or any designee as final; relied upon by government

officials or government contractors; relied upon to formulate legal guidance; or directly cited in another final Office of Legal Counsel opinion. For each such opinion, the Department shall include: (1) the signer of the opinion; (2) the recipient identified in the opinion; (3) the date of issuance; and (4) the title of the opinion, subject only to redactions provided for by law and where the government reasonably foresees that disclosure would actually cause harm to an interest protected by the relevant exemption invoked and such harm outweighs the public interest in access to the information.

**Require Public Access To Information Pertaining To Government-Funded, Privately
Operated Contract Prisons**

Appropriations Committee: Commerce, Justice, Science

Agency: U.S. Marshals Service, BOP, DHS

Account: N/A

Type of Request: Bill Text

Background:

Private prisons accounted for 18% of the federal prison population in 2020 and 79% of all ICE detainees as of September 2021. In 2021, American taxpayers paid \$8.5 million per day for immigrant detention beds, and the DHS “Budget in Brief” for FY 2022 indicates that \$4.9 million per day is used for this purpose. Despite the wholly governmental function they perform, the enormous cost to taxpayers, and questions surrounding the cost-efficiency and safety of their facilities, private prison contractors are not held to the same standards of transparency and accountability as operators of government-run facilities.

In 2007, the Government Accountability Office determined that it was infeasible to conduct a sound cost comparison between private prisons and government-run facilities due to a lack of comparable data. In a 2016 report on the adequacy of monitoring private prisons, DOJ’s Inspector General’s office also noted its inability to analyze and compare the overall costs of incarceration between government-run prisons and private prisons, further noting that the Bureau of Prisons does not receive a breakdown of costs under their fixed-price contracts. The report included cautionary language against drawing the conclusion that contract prisons are run at a lower cost than government-run prisons. DOJ’s IG also found that private prisons incurred more safety and security incidents per capita than government-run facilities.

President Biden signed Executive Order 14006, 86 FR 7483 (2021) that reinstated an Obama-era policy to phase out DOJ’s use of private prisons by declining to renew existing contracts. This policy was reinstated after it was reversed by the Trump administration, and there are existing DOJ contracts that will run the course of President Biden’s term and may be subject to renewal depending on the policies of the next administration. Furthermore, President Biden’s Executive Order does not apply to contracts for immigration detainees, which comprise the bulk of federal private prison contracts. Congress should close the private prison transparency gap by requiring all agencies that use federal funds to privatize the government function of federal detention to incorporate transparency and accountability measures into their contracts.

Bill Text:

Public Access to Information Pertaining to Government-Funded, Privately Operated Contract Prisons. No agency may expend funds to enter into a contract or agreement with a nongovernmental entity or state or local government entity for the purposes of incarcerating or detaining Federal prisoners or detainees in a non-Federal prison, jail, correctional or detention facility, unless a material term in any contract, agreement, or renewal of a contract or agreement with any nongovernmental or governmental entity regarding the incarceration or detention of

Federal prisoners or detainees in a non-Federal prison, jail, correctional, or detention facility directs – (1) that the Agency shall be deemed to have control over all information of the contractor entity related to: A) the incarceration, detention, treatment, or condition of federal prisoners or detainees, B) any costs or the expenditure of any funds related to the contract or agreement, and (C) any other information related to the performance of the contract or agreement; (2) that the information identified in paragraph (1) is subject to disclosure pursuant to 5 U.S.C. 552; and (3) that the contractor shall provide access to the information identified in paragraph (1) to any person upon request made pursuant to 5 U.S.C. 552(a)(3)(A).

FBI Hacking report

Appropriations Committee: Commerce, Justice, and Science

Agency: Federal Bureau of Investigation

Account: Salaries and Expenses

Type of Request: Bill Text

Background:

The Federal Bureau of Investigation (FBI) utilizes techniques that allow agents to remotely bypass a device's security measures. The FBI also sometimes cites an inability to access devices due to various security measures. Policymakers and the public are unable to fully understand these issues due to a lack of information about the overall frequency of such efforts, including how often these measures are pursued with court authorization. This basic transparency also bears on certain concerns regarding Americans' privacy. Congress should require the FBI to report limited overall information regarding its use of these techniques.

Bill Text:

- (1) Not later than 90 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary, the Congressional Intelligence Committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives, and make publicly available, a report that answers the following questions for each of the last three years:
 - (a) In how many operations has the FBI used Network Investigative Techniques?
 - (b) How many were court-authorized? How many were authorized by the Foreign Intelligence Surveillance Court?
 - (c) How many individuals, devices, and accounts were searched remotely by the FBI?

DEFENSE

Public Access To Department Of Defense Ethics Database

Appropriations Committee: Defense

Agency: Department of Defense

Account: Standards of Conduct Office

Type of Request: Report Language

Background:

A 2008 Government Accountability Office audit found that in 2006 there were 2,435 former senior DOD and acquisition officials employed by defense contractors (GAO-08-485). The same report estimated that “at least 422 former DOD officials could have worked on defense contracts related to their former agencies and that at least nine could have worked on the same contracts for which they had oversight responsibilities or decision-making authorities while at DOD.”

In response to concerns about the prevalence of senior Pentagon officials going on to work for defense contractors, the National Defense Authorization Act for Fiscal Year 2008 (P.L. 110-181) included a provision requiring senior defense officials seeking employment with defense contractors to seek and obtain a written ethics opinion regarding the applicability or inapplicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor. Those opinions are maintained in a central database.

We request the Appropriations Committee to direct the database to be made publicly available to improve congressional and public understanding concerning the revolving door, to understand whether the ethics opinions are of appropriate scope and character, and to evaluate whether former DOD officials are avoiding conflicts of interest and the appearance thereof.

Report Language:

Ethics Opinion Database: The Committee is concerned about reports of senior Department of Defense officials passing through a revolving door from government service to the industries they regulate and oversee. These types of professional moves raise questions about whether the decisions of those officials while in office may be influenced by their future career plans or past employers, or if they were truly in the public interest. The 2008 National Defense Authorization Act required generals, flag officers, senior civilians, and program officials to seek written legal opinions on their new jobs, and required that the Department keep all such opinions and reports accessible in a central database for at least five years. In order to increase transparency, enhance compliance with ethics laws, and protect the public interest, the Committee directs the Department to make the database available online within 120 days of enactment of this legislation and to continuously update the public-facing database as new ethics opinions are issued.

More Information About Security Clearances

Appropriations Committee: Defense

Agency: Intelligence Community Management Account

Account: N/A

Type of Request: Report Language

Background:

The Director of National Intelligence conducts an annual report on security clearance determinations, required by the Intelligence Authorization Act for Fiscal Year 2010. While the Obama Administration required the Director of National Intelligence to provide more comprehensive public data in 2015, the DNI has released less detail about clearances since 2016. The Intelligence Authorization Act for FY 2010 also required an annual report to Congress on the number of employees and contractors who hold security clearances, the levels at which they hold them, the breakdown by Executive branch agency, and an accounting for how long it took to obtain determinations on whether the clearances were granted or denied.

The Intelligence Authorization Act for FY 2020, enacted as part of the National Defense Authorization Act for FY 2020, undermined some public reporting under the FY 2010 law. While it did not strike language concerning government-wide reporting on the number of employees and contractors who hold security clearances and the levels at which they are held, it ended public reporting of the agency-by-agency breakdown of this information as well as information concerning processing times and the results of adjudications. The reports are now only available to select congressional committees in an unclassified form. We encourage the committee to return the Director of National Intelligence to Obama-era levels of transparency with regards to security clearances.

Report Language:

Security Clearance Reports: Within 120 days of enactment of this act, the Director of National Intelligence shall report to Congress and make publicly available all previous reports regarding the security clearances processed by each element of the intelligence community. The Committee also directs the Director of National Intelligence to publish all future reports online on an ongoing basis. Each report submitted shall separately identify security clearances processed for Federal employees and contractor employees sponsored by each such element as described in 50 U.S.C. § 3104.

GAO Study on Pre-publication by Federal Intelligence-Related Agencies

Appropriations Committee: Defense

Agency: Related Agencies

Account: National and Military Intelligence Programs

Type of Request: Report Language

Background:

Federal government employee contractors who signed a Non-Disclosure Agreement have a lifelong obligation to submit any publication they write that relates to military matters, national security issues, or subject of concern to the federal government for review prior to publication to ensure information damaging to national security is not inadvertently disclosed. This includes manuscripts, conference papers, articles, research papers, technical data, congressional hearing statements, and reports to Congress. Multiple components within the federal government may review these documents depending on who holds “equity” in the document.

At this time, there is no information on how many entities are involved in the pre-publication review process, the comparative burden across those entities in terms of the volume of documents they must review, and the length of time to complete that review. Invariably some entities will be more diligent about these tasks and others may lag behind. It is Congress’s and the public’s interest to expedite review as quickly as possible to limit the burden on an individual’s First Amendment rights while protecting important government information.

Report Language:

The Government Accountability Office shall undertake and make publicly available within one year a report that examines prepublication security and policy reviews. In doing so, the GAO should investigate how many entities hold equity in and conduct pre-publication security and policy reviews of documents prior to publication, the volume of those reviews by office (perhaps measured in the number of pages), the wait time associated with each office normalized on a per-page basis, and the outcomes of those reviews. The GAO should investigate other matters related to republication security and policy review as it deems appropriate, such as whether appropriate processes are in place to conduct these reviews and whether agencies are appropriately resourcing and prioritizing the work of these offices. The Director of National Intelligence and the Chairman of the Joint Chiefs of Staff are encouraged to support GAO in this review.

Ensuring timely AUMF reporting

Appropriations Committee: Defense

Agency: Department of Defense

Account: General Provisions

Type of Request: Bill Text

Background:

50 U.S. Code § 1550 (hereby Sec. 1550) requires the President to submit a report to congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives every 180 days on actions taken pursuant to the 2001 Authorization for Use of Military Force (AUMF) “against those countries or organizations described in such law, as well as any actions taken to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such forces are engaged in hostilities or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, during the preceding 180-day period.”

While this report is mandated to be submitted every 180 days, several administrations, including the Biden Administration, have failed to submit these reports in a timely manner. The last submission of these reports was Monday, February 28, 2022, which included a tranche of backlogged reports. It has been over a year since the last Sec. 1550 was submitted to Congress.

During the briefing “The 2001 AUMF and War Powers: The Path Forward” hosted by the House Foreign Affairs Committee on March 2, 2022, both Chairman Meeks and Ranking Member McCaul noted the inconsistency of Sec. 1550 reporting, and the difficulty posed by this noncompliance in Congressional oversight abilities as it pertains to 2001 AUMF and war powers in general.

As Congress and the public debate over the future of the United States’ expansive use of force across the globe through the 2001 AUMF, reports such as those mandated by Sec. 1550 are crucial for Congress to fulfill its constitutional prerogative of oversight and legislation over matters of war. As stated by then HFAC Chairman Meeks during the March 2nd hearing, “Congress cannot uphold its constitutional responsibilities without this critical information.”

Bill Text:

Of the amounts appropriated by this Act for fiscal year 2024 for operation and maintenance, Defense-wide, and available for the Office of the Secretary of Defense, not more than 25 percent may be obligated or expended until the date that is 15 days after the date on which the Secretary submits to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives:

- (1) All overdue reports mandated by 50 U.S. Code § 1550

Of the amounts appropriated by this Act for fiscal year 2024 for operation and maintenance, Defense-wide, and available for the Office of the Secretary of Defense, not more than 75 percent may be obligated or expended until the date that is 15 days after the date on which the Secretary submits to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives:

- (1) At least one of the two full reports mandated by 50 U.S. Code § 1550 for the year 2024

Report on United States Person Impact of Activities Under Executive Order 12333

Appropriations Committee: Defense

Agency: Office of the Director of National Intelligence

Account: Related Agencies

Type of Request: Bill Text

Background:

Intelligence surveillance has potentially profound impacts on United States persons and people within the United States, which is why Congress has carefully crafted surveillance statutes to provide privacy protections for Americans. However, the majority of foreign intelligence surveillance does not occur pursuant to statute, but under executive authority, namely under Executive Order 12333. This intelligence collection on has had an unknown but increasing impact on Americans' privacy. Congress should enact a basic transparency requirement to provide policymakers and the public with the minimum information necessary to make critical policy decisions regarding warrantless surveillance of Americans.

Bill Text:

- (1) Review and Report Required.--No later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the Committees on the Judiciary, the Congressional Intelligence Committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives, and make publicly available, a report containing the following information relating to activities of the intelligence community under Executive Order 12333 (50 U.S.C. 3001 note; relating to United States intelligence activities):
 - (a) The amount of United States person communications and information about United States persons collected pursuant to such activities in 2020, 2021, and 2022.
 - (b) An estimate of the number of United States persons and people in the United States whose information or communications were acquired in 2020, 2021, and 2022.
 - (b) The number of queries of information acquired pursuant to Executive Order 12333 using United States persons identifiers in 2020, 2021, and 2022.
 - (c) The frequency of dissemination of United States person information pursuant to such activities, including masking and unmasking, in 2020, 2021, and 2022.
 - (d) The use of United States person information collected pursuant to such activities in criminal proceedings generally, the legal guidance regarding when notice of such use must be provided to defendants, and the number of criminal cases that involved any information that would not have been acquired but-for activities conducted under Executive Order 12333 in 2020, 2021, and 2022.
 - (e) Quantitative data and qualitative descriptions of incidents in which the intelligence community violated Executive Order 12333 and associated guidelines and procedures in 2020, 2021, and 2022.

ODNI reporting on treatment of USPs using VPNs

Appropriations Committee: Defense

Agency: Office of the Director of National Intelligence

Account: Related Agencies

Type of Request: Bill Text

Background:

Intelligence surveillance has potentially profound impacts on United States persons and people within the United States, which is why Congress has carefully crafted surveillance statutes to provide privacy protections for Americans. Americans' use of Virtual Private Networks (VPNs), like the kind necessary to connect to internal Congressional networks, create unique and significant questions about how robust those privacy protections really are. For instance, the surveillance tools available to intelligence agencies are significantly different depending on whether the government believes the person is located outside the United States — but it is unclear how the geolocation of an Internet Protocol address or the belief that an actor is using a VPN affects intelligence agencies' conclusion that someone is or is not in the United States. Congress should require the government to provide transparency into these legal questions so that policymakers and the public can better understand how surveillance activities affect the privacy of Americans.

Bill Text:

- (1) Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the Committees on the Judiciary, the Congressional Intelligence Committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives, and make publicly available, a report containing the following information:
 - (a) How the Intelligence Community utilizes Internet Protocol addresses in determining foreignness, US Personhood, and presence in the United States.
 - (b) How the Intelligence Community determines foreignness, US Personhood, and presence in the United States when a US Person is using a commercial VPN that may obscure their country of origin.

Reporting on Foreign Military Sales Below Congressional Notification Thresholds

Appropriations Committee: Defense

Agency: Defense Security Cooperation Agency

Account: Foreign Military Sales Program

Type of Request: Report Language

Background:

Foreign Military Sales (FMS) have different congressional reporting requirements based on the type of contract, the recipient, and the dollar value of the sale. The smallest threshold is \$14 million, and the largest is \$300 million. Under the Arms Export Control Act (22 USC 2776), if the dollar value of a sale is lower than a reporting threshold, Congress does not have to be notified. The Defense Security Cooperation Agency (DSCA) issues public notifications of over-threshold FMS at <https://www.dsca.mil/press-media/major-arms-sales>.

There is an unknown number of FMS cases which have gone unreported. The total dollar value of these sales is unknown, but it is likely to be in the billions. The Department of State OIG identified over \$11 billion in under threshold FMS in 2019 alone (DOS ISP-I-20-19).

Furthermore, the Government Accountability Office has recommended that DOS publicly report defense export data in a consistent manner and make the data available through the Internet (GAO-10-952). However, DOS indicated it would not do so absent congressional direction.

In March 2008, DOD disclosed that it had “mistakenly transferred intercontinental ballistic missile parts to Taiwan through the FMS program” (GAO-09-454). According to its own officials, DOD only investigates the whereabouts of defense articles if a foreign customer notifies the Department of missing/incorrect orders, or in some cases, delivery of articles never ordered. This honor system recklessly places responsibility on end users to prevent diversion. Light arms are particularly susceptible to diversion as they are more mobile.

Failing to counter this growing problem will beget additional issues relating to financial inconsistency, negligent monitoring, lack of administrative transparency, and potential involvement of U.S. defense articles and services in human rights violations. Mandating reporting below the thresholds will help close a gap in Congressional and public knowledge.

Report Language:

Reporting on Foreign Military Sales Below Congressional Notification Thresholds. In the case of any letter of offer to sell any defense articles or services under 22 USC 2776 subsections (b)(1), (b)(5)(C), or (b)(6), before such letter of offer is issued, the President shall submit to the Speaker

of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through (iv) of subsection (a), or (in the case of a sale of design and construction services) the information specified in clauses (A) through (D) of paragraph (9) 1 of subsection (a). Further, public notifications shall be posted on the Federal Register and the public Web site of the Defense Security Cooperation Agency not later than 30 days following the receipt of such report by Congress.

Access to Quarterly Unclassified Reports on Military Exports

Appropriations Committee: Defense

Agency: Defense Security Cooperation Agency

Account: N/A

Type of Request: Report Language

Background:

Foreign Military Sales (FMS) have different congressional reporting requirements based on the type of contract, the recipient, and the dollar value of the sale. The smallest threshold is \$14 million, and the largest is \$300 million. Under the Arms Export Control Act (22 USC 2776), if the dollar value of a sale is lower than a reporting threshold, Congress does not have to be notified. The Defense Security Cooperation Agency (DSCA) issues public notifications of over-threshold FMS at <https://www.dsca.mil/press-media/major-arms-sales>.

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Failing to counter this growing problem will beget additional issues relating to financial inconsistency, negligent monitoring, lack of administrative transparency, and potential involvement of U.S. defense articles and services in human rights violations. Currently, only the Committee on Foreign Affairs of the House of Representatives, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate receive quarterly reports on all letters of offer for FMS cases above \$1 million. Releasing this information to all of Congress will help close a gap in congressional knowledge, and public reporting of these sales will ameliorate issues of transparency.

Report Language:

Public Access to Past Reports to Congress on Military Exports. Within 30 days of enactment of this legislation, the Defense Security Cooperation Agency shall publish on dsca.mil the full contents (except any material which was transmitted in classified form) of all past quarterly unclassified reports to the Committee on Foreign Affairs of the House of Representatives, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate pursuant to 22 USC 2776 subsection (a).

STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

Support the Open Technology Fund’s Development of Cybersecurity Tools that Benefit Americans

Appropriations Committee: State, Foreign Operations, and Related Programs

Agency: Open Technology Fund

Account: Related Agency (Independent Grantee Organization)

Type of Request: Report Language

Background:

The Open Technology Fund (OTF) is the world’s most successful cybersecurity entity, despite having a modest budget of about \$40,000,000. It is authorized by and operated in partnership with the US government. As last year’s Joint Explanatory Statement says, OTF “plays a leading role in ensuring open and safe access to uncensored information. The tools that OTF has supported since its inception have demonstrated that, even in the most restrictive information environments, journalists and citizens are able to communicate and access information.” At the beginning of 2023, OTF launched a new fund to support Free and Open Source Software, the development and maintenance of which is key to cybersecurity in particular and innumerable technologies that make the internet function more generally.

OTF, however, is unable to wield its federal funding to support work, like maintaining free and open-source software, for the benefit of people in the United States — because its appropriations mandate refers only to supporting the development of “technologies around the world.” Congress should permit OTF to support the development of technologies benefiting Americans and the further scaling up of that work with additional funding.

Report Language:

Amend existing language to read (new language underlined):

The Committee recommends \$80,000,000 for OTF to scale-up existing and new tools to counter censorship and surveillance technologies in the United States and around the world.

**Incorporate International Humanitarian Law and International Human Rights Violations
into End Use Monitoring Requirements**

Appropriations Committee: State, Foreign Operations, and Related Programs

Agency: Department of State and Related Agency: Department of State

Account: Office of Inspector General

Type of Request: Bill Text

Background:

Ensuring the protection and prioritization of basic human rights during the sale, transfer, training, advising, and support services related to lethal arms is not only a moral obligation, but a crucial responsibility for any nation seeking to provide such weapons or services to others. The United States has historically neglected this responsibility, resulting in harm to innocent individuals. It is imperative for the U.S. to assist its allies and partner nations in their lawful defense requirements, while avoiding the unintended consequences of putting innocent lives at risk. The appropriations language serves as a practical reform that prevents any U.S. President from rewarding human rights violators or war criminals with America's most dangerous weaponry.

This provision establishes specific measures to prevent the sale, export, or transfer of defense articles or defense services to foreign countries for use in violation of international humanitarian law or internationally recognized human rights. Specifically, it would incorporate International Humanitarian Law and International Human Rights Violations into End Use Monitoring Requirements, which would require the president to report to the Congress promptly upon the receipt of information that a serious violation of international humanitarian law or gross violation of internationally recognized human rights may have occurred. This would also incorporate violations of international humanitarian law or gross violations of internationally recognized human rights into end-use monitoring.

Report Language:

Amend 22 U.S. Code § 2753(a)(2) to read “the country or international organization shall have agreed not to use any defense article or related training or other defense service so furnished to it, or produced in a cooperative project in violation of international humanitarian law or gross violation of internationally recognized human rights, not to...”