

**Testimony of Daniel Schuman, Policy Director, Demand Progress, Before the
Senate Appropriations Subcommittee on the Legislative Branch, FY 2024,
Concerning Public Availability of CRS Reports**

Dear Chair Reed, Ranking Member Fischer, and members of the Senate Legislative Branch Appropriations Subcommittee:

Thank you for the opportunity to testify concerning the public availability of non-confidential Congressional Research Service reports. My name is Daniel Schuman and I am policy director at Demand Progress, a non-profit organization dedicated to strengthening our democracy, with a particular focus on modernizing Congress and improving government transparency and accountability.

“Everyone is entitled to his own opinion, but not his own facts.” That sentiment, popularized by former Sen. Daniel Patrick Moynihan, is at the heart of our political system. Congress informs itself of the facts through the work of its committees and through its legislative support entities, such as the Congressional Research Service, the Law Library of Congress, and the Government Accountability Office.

The founders believed “the advancement and diffusion of knowledge is the only true guardian of liberty,” as James Madison wrote, and from the very beginning they made sure information freely flowed across the country.¹ In our time, the federal government routinely publishes information online to inform lawmakers, journalists, academics, businesses, and the general public. For example, GPO recently announced the 9 billionth retrieval of Government Information from its online repositories.²

Online publication is the norm. Congress directed its legislative activities be published online in 1995, GAO published 57,500 reports on its website going back to 1950, the Law Library of Congress published 3,800 reports going back to 1943, and so on. By contrast, the Congressional Research Service of the Library of Congress resisted requests, starting in August 1997, to publish its non-partisan, non-confidential reports online, including requests from former CRS staff with a combined 500 years of

¹ See generally *History of the House of Representatives*, George Galloway (1976); *The Press, Politics, and Patronage*, Culver Smith (1977)

² Testimony of Hugh Halpern, Director, U.S. Government Publishing Office, before the House Legislative Branch Appropriations Subcommittee (Mar. 9, 2023).

experience;³ scores of non-profit organizations;⁴ twelve conservative, free market organizations;⁵ and countless others.

In 2018, Congress directed CRS to publish all non-confidential reports available on CRS's intranet on the internet when it enacted the *Equal Access to Congressional Research Service Reports Act* as part of the FY 2018 appropriations bill.⁶ This issue was a longstanding priority for the then-chairman of the Senate Appropriations Committee, and we are grateful to the Committee for addressing the matter and endorsing public access on a bipartisan basis.

Previously, CRS reports could be obtained through requests to individual members of Congress, at non-governmental websites that aggregated some reports, at some public libraries, and through private companies that charge for access. In the 1980s, some had also been available through a public-facing newsletter, and in the late 1990s there was a short lived CRS web tool. As CRS reports are used by everyone, from high school debate students to journalists to federal courts and policymakers, Congress reasoned that everyone should have no-cost access to research products from an agency costing taxpayers \$120 million per year. No longer should lobbyists, the wealthy, and the well-connected enjoy disproportionate access, which was the case in recent decades.

The Consolidated Appropriations Act went further than only requiring online publication of the reports available on CRS's intranet in 2018. The legislation also *allowed* the Library of Congress to publish "non-current reports: "reports not on CRS's internal website the day the online publication law came into effect. CRS disputes their authorization to publish non-current reports, however, and also denies the ability of either chamber to separately direct that non-current reports be made publicly available by CRS.

Pursuant to the law, the Library of Congress now has published nearly 11,000 CRS reports on Congress.gov. This is a welcome development, and the concerns CRS had raised for more than two decades concerning publishing non-confidential reports online

³ Letter from former CRS staff (Oct. 22, 2015), https://s3.amazonaws.com/demandprogress/letters/2015-10-20_Former_CRS_Employees_Call_for_Public_Access_to_CRS_Reports.pdf

⁴ Letter from Civil Society to Appropriators Urging Public Access to CRS Reports and Addressing Frequently Raised Concerns by CRS (Nov. 12, 2015) https://s3.amazonaws.com/demandprogress/letters/2015-08-24_Bipartisan_Coalition_Letter_Calling_for_Public_Access_to_CRS_Reports.pdf

⁵ Letter from 12 conservative, free-market organizations urging public access to CRS Reports (Feb. 29, 2016) <https://www.atr.org/sites/default/files/assets/CRS%20public%20access%20coalition%20letter.pdf>

⁶ P.L. 115-141, section 154 (Equal Access to Congressional Research Service Reports).

are moot. Unfortunately, however, the Library of Congress's implementation plan had significant flaws,⁷ raised at the time⁸ but were not addressed, such as the document format. In addition, the Library has declined to expand publication to historical CRS reports. We will briefly address those two issues.

First, the Library is publishing CRS reports online only in a PDF format and not in an HTML format. This is unfortunate. CRS already publishes the reports *on its intranet* in HTML. The absence of the reports *on the internet* in HTML undermines their full integration into the Congress.gov website, weakens the findability of the reports by search engines like Google, impairs reuse by civil society, and prevents the reports from being readable on mobile devices. The use of "responsive design," where the text of a document flows to be readable on any device, including mobile, is a standard practice, and publication of information as structured data has been included as a priority in the House standing orders for more than a decade.

Second, CRS is not publishing historical — "non-current" — reports. Not all non-confidential CRS reports are available on CRS's internal or external websites. For example, our website everycrsreport.com has more than 20,000 CRS reports, twice as many as available from CRS's official website. CRS's intranet does not contain all CRS reports, so staff who search CRS's intranet may be misled to conclude that CRS hasn't written a report on a topic when in fact CRS has done so. CRS has more than 30,000 reports available *to its own staff* in its CRSX archive, many of which are digitized and have accompanying metadata, but some are hidden from congressional and public view. There may be additional reports in paper format only.

Historical CRS reports are relevant today. Today's Congress still needs to understand what Congress considered when it debated the Congressional Budget and Impoundment Control Act of 1974, impeached President Nixon in 1973 and Clinton in 1998, established OIRA in 1980, and addressed violations of appropriations law during the Iran-Contra scandal in 1985. What's past is prologue. Information contained in CRS reports still is useful. It should not require an expensive subscription to a paid service for Members, staff, journalists, civil society, students, and the public to obtain access.

⁷ Letter from Librarian of Congress to Appropriations Committee Concerning Implementation Plan Concerning Public Access to CRS Reports (May 22, 2018), <https://s3.amazonaws.com/demandprogress/documents/2018-05-22-Library-Implementation-Plan-for-CRS-Reports.pdf>

⁸ Letter from Civil Society Organizations Concerning the Draft Library of Congress Memo on CRS Report Website (June 8, 2018), https://s3.amazonaws.com/demandprogress/documents/2018-06-08-Civil-Society-Memo_on_CRS_Reports-Website-Implementation.pdf

Recognizing these issues importance, Congress directed the Library in FY 2021 to inform appropriators concerning the costs of making archival reports available online and exploring publication in a format other than PDF.⁹ It is our understanding the Library indicated publishing CRS reports as HTML would cost \$60,000 to implement and six months to complete. Furthermore, it is our understanding that CRS indicated there are 30,000 reports in its CRSX archive. Many of these non-public reports already are digitized, with accompanying metadata. CRS 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 \$2.4 million, although many reports already are digitized with appropriate metadata and would be comparatively inexpensive to publish.

As an organization that publishes twice as many reports as officially available on CRS's website and that routinely works with organizations that digitize government documents, we believe these numbers to be significantly overstated. If CRS is firm on its estimates, perhaps it should collaborate with GPO, which has demonstrated both facility and thrift concerning the online publication of documents and data.

The online publication of all current and historical non-confidential CRS reports would be in keeping with the wishes of the founders, who sought to disseminate facts widely because knowledge is a guardian of liberty. It would also be in line with the actions of the Senate Appropriations Committee over the years, which directed public access to many CRS reports. There should be no barriers to access and use of the non-partisan, non-confidential analysis published by Congress's think tank.

Accordingly, we respectfully urge the committee to take the following actions:

- Direct the Library and CRS to publish the text of CRS reports online as HTML in addition to PDF format to the extent they already exist in that format.
- Authorize and direct the Library and CRS to create a plan for and to proceed with publication of CRS reports contained in its CRSX archive.
- Authorize and direct the Library and CRS to create a plan, timeline, and to proceed with publication of non-current CRS reports that are not already in digital form.

Thank you for the opportunity to submit this testimony.

⁹ FY 2021 Legislative Branch Appropriations Bill (H. Rept. 116-447, p. 36).