

May 4, 2011

The Honorable Darrell Issa  
U.S. House of Representatives  
Oversight and Government Reform Committee  
2157 Rayburn House Office Building  
Washington, DC 20515

The Honorable Elijah Cummings  
U.S. House of Representatives  
Oversight and Government Reform Committee  
B350A Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Issa and Ranking Member Cummings,

As organizations dedicated to transparency and accountability in government, we are writing to request that the Oversight and Government Reform Committee request and accept referral on all legislative proposals intended to address agency concerns about protecting information after *Milner v. Department of Navy*.

We understand agencies are approaching various congressional committees with proposals to protect material previously treated as exempt under a “high 2” under the Freedom of Information Act. If allowed to continue in an ad hoc fashion, overlapping and overbroad exemptions of information from public disclosure might be written into law without advice from your Committee, and with little or no public notice.

We are aware of two such proposals submitted by the Department of Defense that would exempt from disclosure to the public overly broad and at best vaguely- defined categories of information. Both highlight the need for close scrutiny of every proposal by subject matter experts who understand nuances of the Freedom of Information Act. One proposal would exempt the disclosure of any information that *may* result in the “disruption, degradation, or destruction “of Department of Defense operations, property, or facilities. The second would exempt “information contained in any data file of the Military Flight Operations Quality Assurance system,” which includes “(B) any analysis or report generated by the MFOQA system or which is derived from MFOQA data.”

These are exactly the types of overbroad proposals to amend the Freedom of Information Act and limit public disclosure that are certain to be generated by other committees without the Oversight and Government Reform Committee’s involvement. We urge you to obtain referrals of all such proposals, and to oppose those that are, like these, overbroad. The clear commitment to open and accountable government espoused by this Committee demands no less than your close scrutiny of every proposal that would statutorily exempt information from public disclosure.

Please do not hesitate to call Patrice McDermott (202.332.6736) if you have any questions or would like to set up a meeting to discuss the concerns raised here.

Thank you.

Sincerely,

Patrice McDermott, Director  
OpenTheGovernment.org

Michael Page, Staff Attorney  
Public Citizen Litigation Group

Richard Karpel, Executive Director  
American Society of News Editors

Anne Weismann, Chief Counsel  
Citizens for Responsibility and Ethics in Washington

Angela Canterbury, Director of Public Policy  
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Lucy Dalglish, Executive Director  
Reporters Committee for Freedom of the Press