

April 29, 2013

Melanie Pustay
Director, Office of Information Policy, Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, D.C. 20530

Dear Ms. Pustay,

We strongly support and appreciate your efforts to make data about the FOIA more widely available by releasing it in an open, machine-readable format. As we know from experience with the release of data through FOIA.gov and other government efforts to make data more accessible, opening up the data often helps bring data quality issues to the forefront so they can be addressed and remedied.

In that light, we are writing to call your attention to errors in the data released as part of the 2012 Freedom of Information Act (FOIA) Litigation and Compliance Report. We hope that you will work with us to make sure the errors in the recently-released data are addressed and that accurate data is released in the future.

As you know, Congress, executive branch personnel and the public depend on the Department of Justice's (DOJ) data and analysis to understand how the FOIA system is functioning, and to spot areas that may be of concern. Errors in the FOIA litigation data released by your office have raised concerns about the validity of the DOJ analysis, and make it impossible for others to reliably use the data for research purposes.

The type of errors that have been identified thus far¹, are particularly troubling. Attorneys who participated in several of the FOIA suits represented in the Report have identified several instances where the data misrepresents whether the settlement included attorney's fees and costs. This metric is particularly important because it allows DOJ and the public to monitor the number of cases where the agency's position lacked merit, and litigation should not have been necessary.

We applaud your efforts over the last few years to put in place systems that have made FOIA.gov's data more reliable, and hope you will address the litigation data in a similar fashion.

Thank you in advance for your attention to this issue. To discuss our request in greater detail, please contact Patrice McDermott, Executive Director of OpenTheGovernment.org, at 202-332-6736 or pmcdermott@openthegovernment.org.

Sincerely,

¹ <http://foiaproject.org/2013/04/23/did-the-doj-accurately-report-on-your-foia-lawsuit/>

Patrice McDermott
Executive Director, OpenTheGovernment.org

David Sobel
Senior Counsel, Electronic Frontier Foundation

Anne Weismann
Chief Counsel, Citizens for Responsibility and ethics in Washington – CREW

cc: Chairman Darrell Issa, House Oversight and Government Reform Committee
Ranking Member Elijah Cummings, House Oversight and Government Reform Committee
Chairman Patrick Leahy, Senate Judiciary Committee
Senator John Cornyn, Senate Judiciary Committee