

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

May 8, 2017

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
4340 Thomas P. O'Neill, Jr. Federal Office Building
Washington, D.C. 20515

Dear Ranking Member Waters:

I was surprised to read your comments in the press recently concerning the protection of Congressional records from unilateral release by the Executive Branch.¹ Though you and your staff were made fully aware of the Committee's position that it should be consulted prior to the release of its records by the Executive Branch, you waited over a month to express your disagreement with this position – and then only in response to inquiries by the press. Despite having ample time, you did not share these concerns with me on what has historically been a bipartisan issue.

Your statement to the press is contrary to the position repeatedly taken by House Democratic Leadership for over three decades. In 1980, in litigation over Congressional records, Speaker Tip O'Neill took the exact same position as the Committee has in its letters.² More recently, Minority Leader Nancy Pelosi and Minority Whip Steny Hoyer joined a bi-partisan amicus brief that supports the Committee's position and advocated maintaining the confidentiality of the records of a commission created by a Democrat-controlled Congress.³

The Committee's actions were taken pursuant to the express advice of the House Office of General Counsel so as to protect the prerogatives of the entire House, including those of the Minority party. Moreover, as you well know, the ability to review records prior to disclosure protects not only the interests of Congress, but the interests of third parties including whistleblowers. Were our positions reversed I would support you in advancing this important matter of institutional prerogative.

¹ Kevin Freking, *GOP chairman warns agencies about requests for records*, Associated Press, May 6, 2017, <https://www.apnews.com/4e149a07359f46bf9921ad0cf3b64794>.

² Brief Amicus Curiae of the Clerk of the U.S. House of Representatives, *Holy Spirit Assoc. for the Unification of World Christianity*, Nos. 79-2143 & 79-2202 (D.C. Cir. May 15, 1980).

³ Brief Amicus Curiae of the Bipartisan Legal Advisory Group of the U.S. House of Representatives, *Cause of Action v. Nat'l Archives and Records Admin.*, No. 13-5127 (D.C. Cir. Nov. 25, 2013).

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But let me be clear: I take transparency very seriously, and the letters that were sent to executive agencies do not mean that the Committee will advocate for the withholding of all records. We will, as we always do, evaluate each situation on a case-by-case basis with an eye toward disclosure to the maximum extent feasible. All the Committee has done by issuing these letters is protect its legal rights. And that course of action – until your statement – had a longstanding history of bipartisan support.

Sincerely,



JEB HENSARLING
Chairman