

Grassley Statement on Government Transparency as Sunshine Week Comes to a Close

Written by Grassley Press
Tuesday, 20 March 2012 12:06

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Prepared Floor Statement Senator Chuck Grassley

Ranking Member, Senate Judiciary Committee

Sunshine Week

Delivered Thursday, March 15, 2012

Mr./Madam President,

This is Sunshine Week. Sunshine Week is observed annually to coincide with the birthday of James Madison, the Founding Father known for his emphasis on checks and balances in government.

Open government and transparency are essential to maintaining our democratic form of government.

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Although it's Sunshine Week, I'm sorry to report that contrary to President Obama's proclamations when he took office, after three years, the sun still isn't shining in Washington, DC.

There's a real disconnect between the President's words and the actions of his administration.

On his first full day in office, President Obama issued a memorandum on the Freedom of Information Act to the heads of the executive agencies. In it, he instructed the executive agencies to

"adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government."

We all know that actions speak louder than words. Unfortunately, based on his own administration's actions, it appears that the President's words about open government and transparency are words that can be ignored.

Given my experience in trying to pry information out of the Executive Branch and based on investigations I've conducted, and inquiries by the media, I'm disappointed to report that President Obama's statements about transparency are not being put into practice.

Federal agencies under the control of his political appointees have been more aggressive than ever in withholding information from the public and from Congress.

Throughout my career I've actively conducted oversight of the Executive Branch regardless of who controls the Congress or the White House. When the agencies I'm reviewing get defensive and refuse to respond to my requests, it makes me wonder what they're hiding.

Over the last year, many of my requests for information from various agencies have been turned down again and again because I'm the Ranking Member and not the Chairman of the

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Judiciary Committee. Agencies within the Executive Branch have repeatedly cited the Privacy Act as part of the rationale for their decision, even though the Privacy Act explicitly says it is not meant to limit the flow of information to Congress. This disregard by the Executive Branch for the clear language of the law is disheartening.

Since January 2011, Chairman Issa and I have been stonewalled by Attorney General Holder and the Justice Department regarding our investigation of Operation Fast and Furious. This deadly operation let thousands of weapons “walk” from the United States into Mexico. Despite the fact that the DOJ Inspector General possesses over 80,000 relevant documents, Congress has received only around 6,000 in response to a subpoena from the House Oversight Committee.

Even basic documents about the case have been withheld by the Justice Department, yet the Department insists it is cooperating.

The sun must shine on Fast and Furious so that the public can understand how such a dangerous operation took place—and what can be done to prevent it in the future.

I’ve also worked hard to bring transparency to the Department of Housing and Urban Development (HUD). This is an Executive Branch agency that desperately needs more sunshine. Over the past two years I’ve investigated rampant fraud, waste, and abuse at public housing authorities around the country. I’ve discovered exorbitant salaries paid to executive staff, conflicts of interest, poor living conditions and outright fraud, waste and abuse of taxpayers’ money.

Many of these abuses have been swept under the rug and HUD has been slow at correcting these problems. HUD cannot keep writing checks to these local housing authorities and blindly hope that the money gets to those Congress intended to help. I’ll continue to work to bring sunshine to HUD.

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In April of last year, I requested documents from the Federal Communications Commission (FCC) regarding a valuable regulatory waiver it granted to a company called LightSquared. LightSquared was attempting to build a satellite phone network in a band of spectrum adjacent to GPS. The problem is that LightSquared's network causes interference with critical GPS users such as the Department of Defense, the Federal Aviation Administration, and NASA.

The FCC responded to my document request by saying that they don't give documents to anyone but the two Chairs of committees with direct jurisdiction over the FCC. That means that if you're in that 99.6 percent of Congress that does not chair a committee with direct jurisdiction, you are out of luck.

In a letter to me, Chairman Genachowski did tell me that he would make his staff available to me for interviews. But when I took him up on his offer and asked to interview members of his staff, my request was refused. Once again, actions speak louder than words. This is stonewalling pure and simple.

It seems obvious that the FCC is embarrassed and afraid of what might come from uncovering the facts behind what the Washington Post called the LightSquared "debacle." If there's nothing to hide, then why all the stonewalling? The FCC seems determined to stonewall any attempts at transparency.

But it's not just the executive branch that needs more transparency. The judiciary should be transparent and accessible as well. That's why over a decade ago, I introduced the Sunshine in the Courtroom Act, a bipartisan bill which will allow judges at all federal court levels to open their courtrooms to television cameras and radio broadcasts. By letting the sun shine in on federal courtrooms, Americans will have an opportunity to better understand the judicial process.

The sunshine effort has no better friend than whistleblowers. Private citizens and government employees who come forward with allegations of wrongdoing and cover-ups risk their livelihoods to expose misconduct. The value of whistleblowers is the reason I continue to challenge the bureaucracy and Congress to support them.

For over two decades, I've learned from, appreciated and honored whistleblowers. Congress

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needs to make a special note of the role that whistleblowers play in helping us fulfill our Constitutional duty of conducting oversight of the Executive Branch.

The information provided by whistleblowers is vital to effective Congressional oversight. Documents alone are insufficient when it comes to understanding a dysfunctional bureaucracy. Only whistleblowers can explain why something is wrong and provide the best evidence to prove it. Moreover, only whistleblowers can help us truly understand problems with the culture at government agencies.

Whistleblowers have been instrumental in uncovering \$700 being spent on toilet seats at the Department of Defense. These American heroes were also critical in our learning about how the FDA missed the boat and approved Vioxx, how government contracts were inappropriately steered at the GSA, and how Enron was cooking the books and ripping off investors.

Like all whistleblowers, each whistleblower in these cases demonstrated tremendous courage. They stuck their necks out for the good of all of us. They spoke the truth. They didn't take the easy way out by going along to get along, or looking the other way, when they saw wrongdoing.

I've said it for many years without avail, but I'd like to see the President of the United States have a Rose Garden ceremony honoring whistleblowers. This would send a message from the very top of the bureaucracy about the importance and value of whistleblowers. We all ought to be grateful for what they do and appreciate the very difficult circumstances they often have to endure to do so, sacrificing their family's finances, their employability, and the attempts by powerful interests to smear their good names and intentions.

I've used my experience working with whistleblowers to promote legislation that protects them from retaliation. Legislation such as the Whistleblower Protection Act, the Sarbanes-Oxley Act, and the False Claims Act recognize the benefits of whistleblowers and offer protection to those seeking to uncover the truth. For example, whistleblowers have used the False Claims Act to help the federal government recover more than \$30 billion since Congress passed my qui tam amendments in 1986.

These laws are a good step, however, more can be done.

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For example, the Whistleblower Protection Enhancement Act, will provide much needed updates to Federal whistleblower protections. I'm proud to be an original cosponsor and believe the Senate should move this important legislation immediately. This bill includes updates to the Whistleblower Protection Act to address negative interpretations of the WPA from both the Merit Systems Protection Board and the Federal Circuit Court of Appeals.

I started out my remarks by quoting James Madison, the Founding Father who is one of the inspirations for Sunshine Week.

Madison understood the danger posed by the type of conduct we're seeing from President Obama's political appointees. He explained that --- "[a] popular government without popular information or the means of acquiring it, is but a prologue to a farce, or a tragedy, or perhaps both."

I'll continue doing what I can to hold this administration's feet to the fire.

I hope that my colleagues will help work with me so that we can move toward restoring real sunshine, -- in both words and actions --, in Washington DC.