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HUFF
POST POLITICS

Obama's Broken Promise: Federal Agencies Not More Transparent Under Obama Administration



[SHARON THEIMER](#) 03/17/10 12:54 AM ET Associated Press **AP**

WASHINGTON — One year into its promise of greater government transparency, the Obama administration is more often citing exceptions to the nation's open records law to withhold federal records even as the number of requests for information declines, according to a review by The Associated Press of agency audits about the Freedom of Information Act.

Among the most frequently cited reasons for keeping records secret: one that Obama specifically told agencies to stop using so frequently. The Freedom of Information Act exception, known as the "deliberative process" exemption, lets the government withhold records that describe its decision-making behind the scenes.

Obama's directive, memorialized in written instructions from the Justice Department, appears to have been widely ignored.

Major agencies cited the exemption at least 70,779 times during the 2009 budget year, up from 47,395 times during President George W. Bush's final full budget year, according to annual reports filed by federal agencies. Obama was president for nine months in the 2009 period.

The government's track record under the Freedom of Information Act is widely considered a principal measurement of how transparently it makes decisions. When Obama promised last year to be more open he said doing so "encourages accountability through transparency," and said: "My administration is committed to creating an unprecedented level of openness in government."

In a statement Tuesday during Sunshine Week, when news organizations promote open government and freedom of information, Obama noted the release of White House visitor logs and federal data online in recent months said his administration was recommitted "to be the most open and transparent ever."

"We are proud of these accomplishments, but our work is not done," Obama said. "We will continue to work toward an unmatched level of transparency, participation and accountability across the entire administration."

Also Tuesday, White House Chief of Staff Rahm Emanuel and White House Counsel Bob Bauer urged agencies to improve their handling of information requests and assess whether they are devoting the resources needed to respond to requests promptly and cooperatively.

The AP's review of annual Freedom of Information Act reports filed by 17 major agencies found that the administration's use of nearly every one of the law's nine exemptions to withhold information from the public increased during fiscal year 2009, which ended last October.

The agencies cited exemptions at least 466,872 times in budget year 2009, compared with 312,683 times the previous year, the review found. Over the same period, the number of information requests declined by about 11 percent, from 493,610 requests in fiscal 2008 to 444,924 in 2009. Agencies often cite more than one exemption when withholding part or all of the material sought in an open-records request.

The administration has stalled even over records about its own efforts to be more transparent. The AP is still waiting – after nearly three months – for records it requested about the White House's "Open Government Directive," rules it issued in December directing every agency to take immediate, specific steps to open their operations up to the public.

The White House on Tuesday described the directive as "historic," but the Office of Management and Budget still has not responded to AP's request under the Freedom of Information Act to review internal e-mails and other documents related to that effort.

The Federal Aviation Administration cited the deliberative process exemption in refusing AP's request for internal memos on its decisions about data showing collisions between airplanes and birds. The FAA initially tried to withhold the bird-strike database from the public, but later released it under pressure.

The FAA claimed the same exemption to withhold nearly all records about its approval for Air Force One to fly over New York City for publicity shots – a flight that prompted fears in the city of a Sept. 11-style attack. It also withheld internal communications during the aftermath of the public relations gaffe.

Other exemptions cover information on national defense and foreign relations, internal agency rules and practices, trade secrets, personal privacy, law enforcement proceedings, supervision of financial institutions and geological information on wells.

One, known as Exemption 3, covers dozens of types of information that Congress shielded from disclosure when passing other laws.

In provisions often vaguely worded and buried deep in legislation, Congress has granted an array of special protection over the years: information related to grand jury investigations, additives in cigarettes, juvenile arrest records, the identities of people applying restricted-use pesticides to their crops, and the locations of historically significant caves. All can be legally withheld from the public.

The chairman of the Senate Judiciary Committee, Sen. Patrick Leahy, D-Vt., was so concerned about what he called "exemption creep" that last year he successfully pressed for a new law that requires exemptions to be "clear and unambiguous."

The federal government cited Exemption 3 protections to withhold information at least 14,442 times in the last budget year, compared with at least 13,599 in the previous one.

While not refuting AP's findings on the government's use of exemptions to withhold information, White House spokesman Ben LaBolt said the administration has made progress toward becoming more transparent.

"The majority of agencies – 12 out of the 17, or 70 percent of those surveyed – increased FOIA requests granted in full, in part or both," LaBolt said late Tuesday.

Much of the Obama administration's early effort seems to have been aimed at clearing out a backlog of old cases: The number of requests still waiting past deadlines spelled out in the open-records law fell from 124,019 in budget year 2008 to 67,764 at the end of the most recent budget year. There is no way to tell whether people whose cases were closed ultimately received the information they sought.

The AP examined the 2008 and 2009 budget year audits from the departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury and Veterans Affairs; the Environmental Protection Agency; and the Federal Reserve Board.

On the Net:

Freedom of Information Act annual reports: <http://www.justice.gov/oip>

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Filed by Michael Falcone |

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Thom Jefferson (Jefferson78)
1,471 Fans

1

One of many lies Obama the candidate made.
20 MAR 2010 9:42 PM

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Doreen S. (dlaurels)
SUPER USER · 375 Fans

I will never believe that the Obama administration is less open than the Bush administration. My God, Bush was taping all our phone calls without permission as one example of the Bush administration's control.
17 MAR 2010 3:17 PM

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jalee11201
0 Fans

1

Puh-LEASE. The National Security Agency has been listening to all our calls, reading our telegrams, cables, faxes, email, and every other blasted electronic transmission since it was created in 1952 by Executive Order (which is still classified, by the way) of President Harry Truman. They've been going at it full-blast all this time, like a gigantic vacuum cleaner. Check out Projects Minaret and Shamrock. Various Attorneys General have been asked to pass on the legality of NSA's methods over the intervening decades and all have refused to certify it. George W. Bush was only the most well-known President widely known when the NSA's extra-legal activities have come to light; prior to that, Lyndon Johnson was probably best known for bugging the Weather Underground, the civil rights movement, and other activities. And Obama has done absolutely NOTHING to curtail any of this. The NSA remains the largest and most clandestine of all our intelligence agencies.

23 APR 2010 11:39 AM

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MDCambridge
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I have been disappointed with several promises that Obama has broken; however, on this one, the other side of the coin was clearly illustrated in Liz Cheney's McCarthyistic attack on the Justice Department.

The spirit of the law was being abused for the purposes of intimidation and propaganda, not open government. She didn't attack the law under which these American ideals were being upheld, she was attacking the individuals while perverting the American justice system.

Contrary to the spirit of open government, which I wholeheartedly support, I am conflicted when I see it abused to intimidate real people with families.

It appears that Obama may have decided that the only way to mitigate someone's abuse of the First Amendment is to not give them information to misrepresent.

17 MAR 2010 11:35 AM

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Newt
0 Fans

That is some of the most brilliant and at the same time, childish justification I've seen in a long time. It's for the children, or your own good, or something.

23 APR 2010 9:01 AM

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bighat
SUPER USER · 239 Fans · Truth as I see it

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Just another case of Obama taking another Bush policy and expanding.

Even his poll numbers are going in Bush's direction.

17 MAR 2010 10:56 AM

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Dbos
3,270 Fans · Single payer universal health insurance agent

Worse than bush? headline writer hp what you smoken?

17 MAR 2010 9:42 AM

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tralbry
398 Fans

1

Read the stats. And can't you do better than "smoken?"
26 APR 2010 5:25 AM

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jerrde
56 Fans · tea is good for you

1

another broken promise ... o well
17 MAR 2010 5:59 AM

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Sub_Libertate_Quietum
104 Fans

2

On the same day he threatened to veto this oversight and transparency legislation, President Obama issued a proclamation celebrating "Sunshine Week" and hailing himself and his administration as "the most open and transparent ever."

He further praised himself as follows: "We came to Washington to change the way business was done, and part of that was making ourselves accountable to the American people by opening up our government."

-Glenn Greenwald

http://www.salon.com/news/opinion/glenn_greenwald/

17 MAR 2010 5:26 AM

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Barbara P. (ebanks84)
SUPER USER · 3,214 Fans · Grandma knows best!

On the same day that he became the presumptive Democratic nominee for President, Sen. Barack Obama introduced new legislation to expand public access to information about government spending.

The bill (pdf), known as "The Strengthening Transparency and Accountability in Federal Spending Act of 2008," was crafted on a bi-partisan basis with Sen. Tom Coburn (R-OK).

Sen. John McCain, the Republican presidential candidate, is also an original co-sponsor of the bill, as is Sen. Tom Carper (D-DE).

The new bill would build upon and improve previous efforts by Senators Obama and Coburn to provide public access to federal grant and contract information through the USASpending.gov web site. Among other things, it would require copies of each federal contract and details of the bidding process to be published online.

17 MAR 2010 6:25 AM

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MartyJo
1,243 Fans · If the world didn't suck, we'd all fall off.

Gotta luv the media.... if you don't h8 enuff.... here's some more..... unsubstantiated no less!!
16 MAR 2010 11:09 PM

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glockman
523 Fans

1

So then those half a million denied requests are fake? Gee whiz, Wally, who knew?

Good grief, where do you people come from?

17 MAR 2010 4:56 AM

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Benny L. (kdlaiusa)

943 Fans · Even B&B are smarter than the Republicans.

I don't care if it's open or not, I don't need to know every single detail even if they are available. Just get things done is more than enough. If Obama needs to play dirty, do it. GOPs are inhuman.

16 MAR 2010 9:19 PM

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glockman

523 Fans

2

And I'm sure you said that when ole Bush was playing dirty, weren't you?

17 MAR 2010 4:57 AM

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Canuckview

259 Fans

1

before he was elected,,from the man himself

Obama: Transparency Will Be Touchstone

<http://www.youtube.com/watch?v=72g7qmeP1dE>

Barack Obama "Public Will Have 5 Days To Look At Every Bill That Lands On My Desk"

<http://www.youtube.com/watch?v=o5t8GdxFYBU>

Obama: "Clintons Did Health Care The Wrong Way, By Going Behind Closed Doors"

<http://www.youtube.com/watch?v=XvyharXBI0Q>

Barack Obama on Government Transparency

<http://www.youtube.com/watch?v=CU0m6Rxm9vU>

Debate at Drexel University: Transparency

http://www.youtube.com/watch?v=K97hvOOdy_I

16 MAR 2010 4:46 PM

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Barbara P. (ebanks84)

SUPER USER · 3,214 Fans · Grandma knows best!

Bring something that is FACT already and not promises that can still be kept if given time. You cannot prove he will NOT deliver on his promises so let's not even go there.

FACTS my child, do you know what they are? Then bring them!

16 MAR 2010 4:49 PM

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