

THE WHITE HOUSE

WASHINGTON

July 20, 2017

The Honorable Charles E. Grassley
Chairman
United States Senate Committee on the Judiciary
Washington, D.C. 20510

Dear Chairman Grassley:

I write in response to your letter of June 7, 2017, to the President regarding Executive Branch responses to inquiries from the Legislative Branch. Thank you for the opportunities you have provided to discuss this issue further. At the outset, let me assure you that this Administration views congressional oversight of the Executive Branch as an important and necessary means for Congress to evaluate the performance of all Executive Branch agencies, departments, programs, and personnel.

The Administration understands and respects the concerns you have raised regarding the Office of Legal Counsel Letter Opinion dated May 1, 2017 (“OLC Letter”), and looks forward to working with you and others in Congress to accommodate requests consistent with the constitutional roles and obligations of both the Legislative and Executive Branches.

Although media reports describe the OLC Letter as a policy of the White House, please know the OLC Letter does not set forth Administration policy. Instead, it provides legal advice consistent with the research of the Congressional Research Service:

[N]o House or committee rules authorize either ranking minority Members or individual Members on their own to institute official committee investigations, hold hearings, or issue subpoenas. Although individual Members may seek the voluntary cooperation of agency officials or private persons, no judicial precedent has directly recognized an individual Member’s right, other than a committee chair, to exercise the committee’s oversight authority without the permission of a majority of the committee or its chair.

Alissa M. Dolan *et al.*, Cong. Research Serv., RL30240, *Congressional Oversight Manual* 65 (Dec. 19, 2014) (footnote omitted). In addition, the OLC Letter describes certain historic practices of the Executive Branch in responding to requests for information from individual Members of Congress.

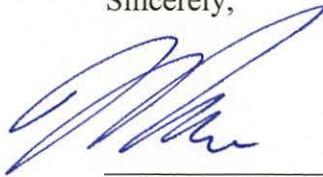
We understand your disagreement with the OLC Letter on the question whether requests for information from individual Members of Congress are best described as “oversight” requests that the Executive Branch should attempt to “accommodate.” At the same time, your letter suggests, and our recent meeting confirmed, several critically important points of agreement. In particular, we agree that the Executive Branch has greater obligations in responding to requests from a Committee, acting through its Chairman, Chairman and Ranking Member, or through a majority

of its Members, than it does in responding to requests from individual Members. We also agree that the Executive Branch should voluntarily release information to individual Members where possible, even though individual Members cannot by themselves legally compel such release. Finally, we agree that the Executive Branch, in responding to requests for information from the Legislative Branch, should prioritize those coming from a Chairman of a Committee or a majority of its Members.

Please be assured that the OLC Letter was not intended to provide, and did not purport to provide, a statement of Administration policy. The Administration's policy is to respect the rights of all individual Members, regardless of party affiliation, to request information about Executive Branch policies and programs. The Administration will use its best efforts to be as timely and responsive as possible in answering such requests consistent with the need to prioritize requests from congressional Committees, with applicable resource constraints, and with any legitimate confidentiality or other institutional interest of the Executive Branch. Moreover, this policy will also apply to other matters on which individual Members may have an interest, whether it be considering possible legislation, evaluating nominees for confirmation, or providing service to constituents.

I hope this clarifies the Administration's position. Please do not hesitate to contact me with any questions or concerns if you believe our Administration is not complying with the Legislative Branch's oversight function.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Short', is written over a horizontal line.

Marc Short
Director of Legislative Affairs

cc: Senator Dianne Feinstein, Ranking Member, Committee on the Judiciary