CONGRESSIONAL RECORD—HOUSE

October 8, 1986

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the able gentleman from Oklahoma (Mr. Emerson).

Mr. EMERSON. Mr. Speaker, there are several sections in the bill we are now considering that amend the Freedom of Information Act. I was somewhat surprised several days ago when I learned that the Senate had chosen this method of amending the FOIA. We have tried for some time to develop an acceptable set of FOIA amendments and have been unable to reach any agreement.

I would not have chosen this time or this vehicle for the amendments, but I am pleased to say that, viewed in this light, the changes proposed by the Senate represent an overall improvement to the FOIA.

There are two major sets of changes in the Senate bill. The first set relates to law enforcement. The changes to the seventh exemption relating to law enforcement records are based on proposals from the 96th Congress. The three so-called Glomar provisions are taken from a bill negotiated by my administration staff with the Justice Department.

Together, these law enforcement amendments make only modest changes to the FOIA. For the most part, the changes to the seventh exemption only codify existing law. Except for a slight expansion of exemptions (7)(E) and (7)(F), no information that is subject to disclosure today will be withheld under the revised seventh exemption.

The three so-called Glomar exclusions will change the amount of information that subject to withholding. However, the expansion is slight, precisely defined, and fully justified. For records regarding ongoing investigations, informants, foreign intelligence, counterintelligence, or international terrorism, the FBI will be able to withhold information on the existence of such records in cases where disclosure of the existence of the files will reveal information that should be protected. No substantive records that are disclosed today will be withheld under these exclusions.

I am pleased to learn that these very modest changes will solve the problems confronting law enforcement agencies. The small scope of the reforms confirms my previous view that the broad complaints from the law enforcement community about the retroactive effects of the FOIA were greatly exaggerated. I am pleased that the Justice Department limited its legislative proposals to these minor changes, we could have reached agreement on FOIA reform years ago.

The second set of changes involves the fee and fee waiver structure of the FOIA. The language is taken from a bill introduced during the 98th Congress along with Tom Kinnsman, ranking minority member on the Government Information, Justice, and Agriculture Subcommittee.

Until I am not in complete agreement with the Senate changes to this provision, I am pleased with several important features. First, fees for requests by the news media are minimal. Second, the concept of news media is very expansive and includes a broad range of those in the business of publishing or disseminating government information. The standard for fee waivers is broader than current law and will require the granting of more fee waivers. Essentially, although public interest groups do not fall within the most favorable fee category, all public interest groups—regardless of their name, identity or function—will be able to qualify for fee waivers and thereby obtain documents without charge if their requests meet the standard for waivers.

We have made several technical and minor changes to the FOIA provisions as passed by the Senate. We have also included a transition provision to clarify the bill's effect on pending requests. Other changes were considered, but any substantive questions that may have surrounded the Senate language have been resolved by the statement made by Senator LEAHY in the Congressional Record of September 30, 1986. I fully concur in that statement. I consider that Senator LEAHY's statement—and the statement made here today by Mr. Kinnsman and myself—reflect the intent of the Congress in making these changes to the FOIA. It is unnecessary, therefore, to amend the text of the bill since the intent has been so clearly stated.

In order to clarify the intent and purpose of the amendments for the benefit of our colleagues in the House, Tom Kinnsman, ranking minority member of the Government Information, Justice, and Agriculture Subcommittee—and I have jointly put together written explanatory materials that would have been included in a committee report. My statement includes an explanation of the fee waiver provisions.

Summary of House Changes to the Freedom of Information Act (as reported by the House Agriculture Committee to the Agriculture Appropriations Bill)

(1) The two freedom of information Act sections have been reorganized into four sections (§ 19810-19810a), including a short title, an introductory statement, and typographical errors have been corrected.

(2) An effective date provision has been added to the bill. The law enforcement provisions become effective upon enactment and are fully applicable to all requests in process or in litigation. The fee and fee waiver provisions become effective 90 days after enactment. Once effective, these fee provisions are fully applicable to all requests in process or in litigation. Except that no review costs can be charged to any requests made before an agency adopts regulations on or after the effective date.

(3) The exclusion for foreign intelligence, counterintelligence, and international terrorism contains two bracketed references defining these terms. The references of fee unnecessary or inappropriate and have been deleted. This is a technical change, and the waiving or reduced. As the fee schedule is intended to remain applicable.

(4) In the revision to exemption (TAC), relating to withholding or records on privacy groups, the words "could reasonably be expected" are deleted and the word "would" is included. This change makes the privacy standard in the law enforcement exemption consistent with the existing standard in exemption 6.

(5) A limitation on "review costs" has been added to clarify that such information incurred during initial examination can be charged but that review costs may not include any costs in resolving issues of law or policy.

ANALYSIS OF THE FEES AND FEES WAIVERS AMENDMENTS TO THE FREEDOM OF INFORMATION ACT, as reported by the House Agriculture Committee to the Agriculture Appropriations Bill, H.R. 5484

H.R. 5484 includes several provisions amending the Freedom of Information Act. The new language changes the rules governing fees and fee waivers for requests made under the FOIA.

Each agency is required to promulgate regulations specifying the rates of fees and establishing procedures and guidelines for determining when such fees should be charged to commercial users. The fees shall be limited to reasonable rates for document search, duplication, and review. The purpose of review costs for the first time under the FOIA, but review costs may only be charged to commercial users. A commercial user is one who seeks information solely for private or profit-making purposes. Higher fees for commercial users will recover more of the costs of processing. The business uses the FOIA to seek information about another under circumstances in which there are no public interest factors to the disclosure.

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Except for requests that fall within the second category, requests from a non-profit corporation or its representative may be promulgated by the agency as an exempt organization or a request from an individual may not be promoted to be for commercial use unless the nature of the request is such that it is being sought solely for a private, profit-making purpose. The public redaction of documents or information obtained from the government is specifically intended not to be used to obscure the identity or status of the requester.

The entire amendment adds a transitional section limited to law enforcement provisions become effective upon enactment and are fully applicable to all requests in process or in litigation. The fee and fee waiver provisions become effective 90 days after enactment. Once effective, these fee provisions are fully applicable to all requests in process or in litigation. Except that no review costs can be charged to any requests made before an agency adopts regulations on or after the effective date.

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Agency regulations must include procedures whereby a requester can determine its status under a category of semi-public, category of news media, or exempt information in government files to the public. Therefore, other vendors of information to the general public who also qualify as news media, even though the means of dissemination may not include traditional newspaper or magazine formats. For example, local government information services that provide subscribers with access to information obtained from the government that is not required under the FOIA because the services further the availability of government information to the public in the same way that a traditional newspaper does. Requests from these other information vendors whose dissemination functions are similar to that of newspapers and broadcasters must be treated in the same fashion.

The bill provides that most favorable fee explanation or the information dissemination business because the use of the FOIA for public dissemination of information in government files is in the public interest. Wide dissemination of government information supports public knowledge and oversight of government activities. The fact that a publisher, information vendor, or author seeks to make a profit through publication does not affect the public interest in the disclosure.

The republication of or dissemination of government information by a private concern is in the best interest as much as the original distribution by the agency that prepared the information. The public benefits directly from broader availability of the information. The public, the private dissemination actually saves the government effort and money that would otherwise be expended in information dissemination to the public. In short, therefore, disseminating information to the public is not intended to be a commercial use under the bill.

This broad understanding of "news media" will allow information to be readily disclosed by an agency whenever a newspaper or other entity qualifies as news media. This is determined that there is an interest in the information. The FOIA is intended to foster the free market of ideas and information. Non-exempt government information compiled at taxpayers expense should be widely available so that all public information can be shared. Easy and inexpensive access to government information by newspapers will prevent agencies from monopolizing information dissemination and from controlling public debate in any way. This is also the policy behind the provision of the Copyright Act that prevents the federal government from copyrighting information. See also the discussion of copyright issues in House Report 99-560.

FOIA is intended to allow government agencies to determine whether information is newsworthy. That is the responsibility of the news media. If government agencies are more efficient if agencies provide discoverable information to the news media without first having to publicize it over the course that have been a "seminal feature in FOIA literature. See the discussion of the first twenty years of the FOIA in House Report 99-230.

If a qualifying requester seeks information both for public dissemination and for a commercial or advertising purpose but the request falls under the third fee category. However, a request from a reporter or writer for a general circulation newspaper would generally qualify under the third fee category. If a requester qualifies under the third fee category that would qualify under the second fee category for new media. A request for information that is sought for possible publication is not a request for new media, even though the public interest group might also want the information for other purposes. This will keep fees from becoming burdensome and will keep agencies from inquiring unnecessarily into all intended uses of the information requested.

The third, for all other requesters, fees are limited to reasonable standard charges for document search and duplication. This is current law. Most requests from individuals will fall under this category. However, a request from an individual for Privacy Act requests telling him or herself will continue to be governed by the fees permitted under that Act.

All of the fees chargeable to any requester regardless of disclosure, for the information in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. This change is specifically intended to reflect the long-standing consideration the erroneous standards included in the January 1983 Justice Department fee guidelines and the guidelines have been heavily criticized by both House and Senate Committees as being inconsistent with the intent of the FOIA. See the discussion of fee waivers in Senate Report 98-218 and in House Report 98-523. While legislative action to overturn the fee guidelines is unnecessary, the opportunity to clarify the law is welcome.

The House action today on fee waivers is consistent with the view expressed in House Report 99-560 that current practices with respect to fee waivers are too restrictive and that legitimate requests for fee waivers are being improperly denied because of the 1983 Justice Department guidelines. Any requester, regardless of its identity or status under other provisions of the FOIA may qualify for a fee waiver. Even a commercial requester can qualify for a fee waiver if the standard is met, but a commercial requester seeking information about a commercial purpose will not be able to meet the standard.

As with the fee waiver standard that must be met, the requestor for fee waiver should be burdened to prove that the information is necessary to encourage full and complete disclosure of information in the possession of the government and that the information will not be used for a public or private interest. The new standard is specifically intended to make it easier for requesters and to encourage the submission of free fee requests, to qualify for fee waivers. Anyone who qualifies under the existing guidelines for fee waiver will also qualify under the new language.
The requirement that the information will be furnished must be understood should be objectively evaluated. For example, in Better Government Associates v. Department of State, 170 F.2d 86 (D.C. Cir. 1949), in which the government's refusal to grant a fee waiver was challenged, the court found that the government had failed to establish a reasonable basis for denying a fee waiver without reference to the consumer information that would be provided under the existing and the new standard.

The phrase "operations and activities of the agency" should be broadly construed. It can encompass requests for historical documents and information relating to foreign policy and national defense. Also, agencies dealing with private entities on a wide range of regulatory, enforcement, procurement, and other activities. Records which illuminate that relationship indicate how the agency is carrying out its mission. It may be impossible to understand an agency's activities or operations unless records submitted by those being regulated or otherwise affected by agency policies are available. Thus, records submitted to an agency can qualify as a fee waiver when either the source of the information reflects on agency operations and activities.

The first part of the current language requiring fee waivers only if "furnishing the information can be considered as primarily in the public interest" is intended to emphasize that a request can qualify for a fee waiver even if the issue is not of interest to the public-at-large. Public interest is not a criterion when the information is disclosed to the subject of the public most interested, concerned, or affected by a particular action or matter.

The bill includes several general limitations on the imposition of fees by agencies. The purpose of these limitations is to prevent agencies from using procedural plays over fees to discourage requesters or delay the disclosure of information.

First, fee schedules can only provide for the recovery of direct costs of search, duplication, or review. This is the current limitation extended to a public the newly permitted charge for review costs.

Second, no fee may be charged if the routine handling, searching, and processing are so inexpensive under the FOIA as likely to equal or exceed the amount of the fee. For example, a fee for a 110 page document would not be charged because no charges are applicable to the first 100 pages and 90 pages remaining ten pages would normally be waived at this point.

Third, except for requests for commercial use fees are subject to review charges. An agency may not charge any requester for the first ten hours of search time or for the first ten pages of documents. A request may not include the reasonable costs of the agency that exceed the cost of recovery of fees for purposes of this provision. Fee schedule may be charged for search time in order to recover the cost of fees for purposes of this provision.

Fourth, a fee schedule may not charge any requester for the first ten hours of search time or for the first ten pages of documents unless a request is made more than one year in advance of the time for which the fee may be charged. A request may include reasonable fees for search and the first ten pages of documents, but no fee is charged for search beyond the first ten pages. It is intended to encourage agencies to provide access to information in a timely manner and to provide a basis for determining whether the fee will exceed $25. This is to prevent agencies from incurring unreasonable costs in order to charge higher fees.

The fee schedule in the FOIA do not supersede fee charges under a statute that establishes a different fee charge for a type of fee for a particular type of record. This provision does not change current law. The new language allows for the setting specific alternative bases for recovering compensation costs can supersede FOIA fees. An agency may charge a fee under 44 U.S.C. § 2001 (1982) which does not charge the Public Printer to set charges at cost plus a fifteen percent markup to recover indirect costs. However, the U.S. Taxation, 31 U.S.C. § 701 does not qualify under new subparagraph (4)(A)(vi) of the FOIA because it does not establish a specific fees. Similarly, the statute governing the National Library of Medicine, 43 U.S.C. § 276, is too general to qualify under the new FOIA subparagraph. The more extensive discussion of fees for government information, can be found in House Report 99-568 which is incorporated here in its entirety by reference.

In an action brought by a requester regarding the court shall determine the matter de novo, except that the court's review of the matter shall be limited to the agency's fee decision. The purpose of this provision is to allow the courts to exercise independent judgment on the issue whether a requester is entitled to a fee waiver.

Finally, it is apparent that the effect of the changes in fee and fee waiver policies will be to change the FOIA by its operation for common press and by public interest and other nonprofit organizations as well. An increase in the fee waiver by the groups with less inference in the disclosure process by the public or bureaucratic processes of government is fully intended. It also seems likely that the exposure of the FOIA by business is for purely commercial purposes may decrease as a result of higher fees. If this happens, it will be an unintended side effect of higher charges.

Mr. KINDNESS. Mr. Speaker, I was naturally suspicious—but not surprised—when I learned that the other body had included amendments to the Freedom of Information Act in its version of the antitrust legislation. Nevertheless, I believe that these amendments—as perfected in the version of the bill before us today—maintain an appropriate balance between disclosure and confidentiality for the proper fulfillment of Government functions.

I have served since 1979 as ranking minority member of the Government Operations Committee on Government Information, which has legislative jurisdiction over the Freedom of Information Act. During that time, the committee has reviewed several significant concerns about the operation of the act, including the heavy reliance on information held by Federal law enforcement agencies and for information submitted by private businesses to Federal agencies, as well as the assessment and waiver of fees upon request by the General Accounting Office.

Because those concerns reflected the tension between disclosure and confidentiality inherent in the act, I have believed that it is necessary for Congress to take action to ensure that the act will be properly implemented. The bill before us is designed to address each of these concerns. I had hoped that the Government Operations Committee would be able to get such legislation to the House this year. The decision and I decided to request that such legislation with representatives of the Department of Justice, the press and public interest groups. A draft bill was developed from these requests which contained provisions similar to those incorporated in the Anti-Trust and Antitrust Amendments Act. But, the Justice Department encountered opposition from other executive branch agencies to the bill and the subcommittee decided not to proceed with a comprehensive reform of the Freedom of Information Act Amendments.

The Freedom of Information Act amendments contained in the Anti-Drug Abuse Act before the House today are addressed to the handling of requests for law enforcement information and to the assessment and waiver of fees on any FOIA request. These amendments have been derived from House and Senate compromises developed over the past 5 years. In brief summary, the provisions contained in the bill before us, and its legislative sources, are as follows:

Section 1901 states that these amendments may be cited as the "Freedom of Information Reform Act of 1985."

Section 1902 contains two subsections: Subsection (a) revises the law enforcement records exemption of the act—the seventh exemption—to bring its terms more into conformity with original congressional intent and accurate judicial interpretations of its terms. Subsection (a) was passed by the other body in the 98th Congress as section 10 of S. 774 and, a slightly modified version was included in the draft bill developed earlier this year by the Government Information Subcommittee.

Subsection (b) adds a new provision to the act, authorizing law enforcement agencies to treat certain law enforcement records as not subject to the act under certain circumstances in order to prevent the mere response to a FOIA request from serving as a tip-off to the subject of an investigation or from identifying an informant. This provision was included in the draft bill developed earlier this year by the Government Information Subcommittee, and a version of subsection (b)(2) was included in section 10 of S. 774.

Section 1903 reserves existing law on the assessment and waiver of fees. Currently, agencies are permitted agencies to charge fees for the search and for duplication of records responsive to a FOIA request and, it requires a waiver of those fees when disclosure of the information is in the public interest. It also specifies that in general all fees for records and that fees are to be used for the improvement of the Act. For example, if a fee is assessed for a fee for a fee request, the fee may not be more than the amount charged to the requester. The fee may be paid in full or in part. The fee is intended to cover the cost of services provided to the requester.
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was introduced at the end of the 88th Congress. Section 1804 provides two effective dates: Sections 1801 to 1803 take effect upon enactment and will apply to all pending requests and litigation; Section 1803 will take effect 90 days after enactment except that the authority to issue regulations will be effective upon enactment and all such regulations must be promulgated within 60 days of enactment; in addition, Section 1803 will apply to all requests and litigation pending 90 days after enactment, except that review clauses may not be applied before the effective date or before the agency has finally issued its regulations.

The chairman of the Subcommittee on Government Information, the gentleman from Oklahoma (Mr. English), has already provided to the House a detailed explanation of section 1805, the new fee and fee waiver provisions. Before continuing with a detailed explanation of the law enforcement record provisions contained in section 1802, I would like to commend and congratulate him for his good work on the Anti-Drug Abuse Act generally, and in particular Section 1806. No one, he has, in addition to overcoming the operation of the Freedom of Information Act, conducted regular oversight of the executive branch's efforts to interdict drug smugglers. Like the Freedom of Information Act, the effort to interdict drug smugglers raises a number of difficult issues. At times we have disagreed on how best to address and resolve those controversies; but his ultimate goals have been worthy of support. So, I congratulate him and I hope that the Congress will enact this legislation.

ANALYSIS OF THE LAW ENFORCEMENT RECORDS AMENDMENTS TO THE FREEDOM OF INFORMATION ACT INCLUDED IN THE ANTI-DRUG ABUSE ACT OF 1986

Much of the impetus for adjustment of the provisions of the Freedom of Information Act which affect the handling of requests for information maintained by law enforcement agencies comes from the concerns expressed by Federal Bureau of Investigation Director William Webster in congressional testimony that the act is exploited by organized crime figures attempting to learn whether they are targets of investigative law enforcement activities, as well as the identities of informants.

While some have disputed the extent of the abuse, there is, in my judgment, a potential compliance with the terms of the act can, in certain limited circumstances, create problems for law enforcement agencies in terms of their ability to conduct investigations and protect the identity of informants. The amendments to the Freedom of Information Act contained in the Anti-Drug Abuse Act are designed to deal with these particularized law enforcement problems.

Section 1802(a) of H.R. 5484 amends subsection (b)(7) of the FOIA to modify the scope of the exemption for law enforcement records, codify certain judicial interpretations, and clarify congressional intent with respect to the agency's burden in demonstrating the probability of harm from disclosure.

The language of those amendments is identical with one exception explained below that the final report of S. 774, proposed FOIA reform legislation which passed the Senate, but was not acted upon in the House, during the 88th Congress. The meaning and intended effect of the amendments was carefully explained in the report of the Senate Judiciary Committee on S. 774 (S. Rept. 98-221), the relevant portion of which is set out below:

SEC. 4. LAW ENFORCEMENT RECORDS

Section 10 of S. 774 would amend paragraph (b)(7) of the FOIA to modify the scope of the exemption for law enforcement records, codify certain explanatory caselaw, and clarify Congressional intent with respect to the agency's burden in demonstrating the probability of harm from disclosure. Under current law, an agency may invoke the (b)(7) exemption to withhold "investigatory records compiled for law enforcement purposes" in response to the request for release of law enforcement records, if the disclosure of such records "could reasonably be expected to:

(1) constitute an unwarranted invasion of personal privacy;
(2) constitute a unwarranted disclosure of the identity of a confidential source or, in certain cases, information provided only by a confidential source;
(3) disclose investigative techniques or procedures; or,
(4) endanger the life or physical safety of any law enforcement personnel.

The Committee finds, based upon testimony of the FBI and other federal law enforcement agencies, that this exemption...
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investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source is exempt, regardless of whether it might also have been obtained under another statute. Delete "investigative" and add "guideline" to (b)(7)(E). This amendment, like the deletion of "investigatory" from the exemption's threshold language, is intended to facilitate the protection of non-investigatory materials under the exemption. In this case, it is intended to make clear that "techniques and procedures for law enforcement investigations and prosecutions" can be protected, regardless of whether they are "investigative" or "non-investigative." The Committee, however, reemphasizes the intention of the Congress in the 1972 amendments which first created (b)(7)(E) that the subparagraph does not authorize withholding of routine techniques and procedures already well known to the public, such as ballistic tests, fingerprinting, and other scientific tests or commonly known techniques and procedures. See H.R. Rep. No. 93-1380, 93d Cong., 2d Sess. 12 (1974). The amendment also expands (b)(7)(E) to permit withholding of "guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." This is intended to cover situations similar to those contemplated by the D.C. Circuit's en banc holding in Jordan v. U.S. Dept. of Justice, 591 F.2d 783 (D.C. Cir. 1978), that a system for prosecutorial discretion guidelines under the (b)(2) exemption. The Committee intends that agencies and courts will consider the risk of "creating secret law together with the potential for aiding lawbreakers to avoid detection or prosecution." In so doing, the Committee was guided by the "circumvention of the law" standard that the D.C. Circuit established in its en banc decision in Crooker v. BATF, 670 F.2d 1051 (D.C. Cir. 1981) (en banc) (interpreting Exemption 2).

The Congressional Research Service of the Library of Congress recently analyzed the proposed amendments regarding the substitution of "could reasonably be expected to" for "would" in several of the subparagraphs in (b)(7), as well as the change in language to include State, local, and foreign agencies and private institutions within the meaning of "confidential source." The Committee, however, notes that the analysis of the Memorandum at the conclusion of the Committee's statement on September 29, 1986, (Congressional Record, 142nd Cong., 1st Sess., 9458) ("[t]here is no indication that the proposed changes in statutory language substantially affect the operation of existing procedures and would not appreciably alter the meaning of the affected provisions in their practical application.

The House bill includes a minor amendment to exemption (7)(C) relating to withholding of records on privacy grounds. The words "could reasonably be expected to" are replaced with the word "would." This change maintains the current language and retains the consistency with the privacy standard in exemption 8.

Subsection (b) of section 1902 sets forth the criteria for the particular circumstance in which criminal law enforcement agencies would not be required to acknowledge the existence of agency records in response to a FOIA request. The first circumstance, provided under paragraph (1)(B), is the withholding of information under exemption (7)(E) and the refusal to acknowledge the existence of records whose disclosure would interfere with a criminal law enforcement proceeding under exemption (7)(F). As a precaution against the possibility of unduly encouraging individuals to make FOIA requests that are not exempt from disclosure by virtue of exemption (b)(7)(A).

Moreover, its authority to refuse to acknowledge such records under this provision exists only so long as there is a reasonable belief that the subject of the proceeding is not aware of its existence. Thus the provision gives agencies no new substantive withholding authority, since they have already applied to records that are not already exempt from disclosure, and it would not be available to an agency where there is reason to believe that the subject of an investigation or proceeding is aware of its existence.

The law enforcement agencies carry the burden of demonstrating the subject's unawareness of proceedings, inasmuch as requesters will lack access to sufficient information to carry that burden, as a rule. However, certain publicly demonstrable facts will carry a heavy presumption of the subject's unawareness, which the agencies must rebut with clear and convincing evidence if records are to remain outside the scope of the Act. Among those facts are: public statements by law enforcement officials relating to an ongoing or contemplated investigation; returns of subpoenas and search warrants; public statements by subjects or persons associated with subjects; grand jury investigations of which subjects and/or the general public are aware and any other incident or statement that brings the existence of an investigation to public attention.

The second circumstance, where an agency is not required to acknowledge the existence of specific requested documents concerning FOIA requests for informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier. The authority provided under subsection 1902(a)(2), however, is limited to those instances in which the request for such information is made in such a way as to actually request not the informant itself, but specifically requests them by the informant's name or personal identifier. Moreover, an agency must acknowledge the existence or nonexistence of such records when the informant's status as an informant has been "officially confirmed."
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Mr. QUIRRETT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. O'Connell), and I am happy to accept the floor for that purpose.

Mr. O'Connell. Mr. Speaker, I thank the gentleman very much for yielding this time.

I want to congratulate the majority leadership, the Speaker, the majority leader, the gentleman from Texas (Mr. Womack), especially the gentleman from New York (Mr. Barron), the chairman of this committee who has done such a superb job.

I am especially proud to thank my colleague, the gentleman from New York, (Mr. Ben Grafa), who has served on this committee with me for the last 15 years and so has laboriously maintained an absolutely outstanding level of able, dedicated, conscientious and informed service on that committee.

This is a truly nonpartisan effort, a brilliant example of how well this two-party House can work when it sets its mind to it. I congratulate all concerned on both sides of the aisle.

I am particularly pleased that this bill represents more than an effort at enhanced law enforcement, because we have seen that can never be the whole answer. We know that eradication is helpful. We must keep up our efforts to stamp out the crops in the fields. We know that interdiction at the borders is essential. We know that control in our cities is an effort that we must continue, but the fact is that it has not solved the problem.

We know now and we have been informed by tough law enforcement officials at the Federal, State and local levels, that if we want to turn off this awful curse that has blighted our land, we have got to change the attitude among the youth of America through a comprehensive drug education program.

O 1220

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield 1 minute to the able gentleman from California (Mr. Pataki).

Mr. PATAKI. Mr. Speaker, I urge to support the rule on the bill before us. I particularly want to discuss a provision which will provide needed assistance to the homeless. Many of those who present this provision would have liked to see it added.

In 1984, the Department of Health and Human Services estimated that from one-half to two-thirds of the homeless population suffers from a combinat-