

**Opening Statement
Tom Fitton, President
Judicial Watch**

**Hearing of the House Energy and Commerce Subcommittee
on Oversight and Investigations entitled
“White House Transparency, Visitor Logs and Lobbyists”**

May 3, 2011

10:30 a.m., in 2322 Rayburn House Office Building

Good morning, I'm Tom Fitton, president of Judicial Watch. Judicial Watch is a conservative, non-partisan educational foundation dedicated to promoting transparency, accountability and integrity in government, politics and the law. We are the nation's largest and most effective government watchdog group. Judicial Watch is, without a doubt, the most active Freedom of Information Act (FOIA) requestor and litigator operating today. Thank you, Chairman Sterns and Congresswoman DeGette for allowing me to testify on this important topic.

Judicial Watch used the open records laws to root out corruption in the Clinton administration and to take on the Bush administration's penchant for improper secrecy. Founded in 1994, Judicial Watch has nearly 17 years' experience in using FOIA to advance the public interest.

The American people were promised a new era of transparency with the Obama administration. Unfortunately, this promise has not been kept.

To be clear: the Obama administration is less transparent than the Bush administration. We have filed over 325 FOIA requests with the Obama administration. And we have filed well over 45 FOIA lawsuits in federal court against this administration.

I would like to shed light on the truth behind the Obama White House's repeated trumpeting of the release of Secret Service White House visitor logs.

In fact, the Obama administration is refusing to release tens of thousands of visitor logs and insists, repeating a Bush administration last-ditch legal position that the visitor logs are not subject to the Freedom of Information Act.

So while the Obama administration attempts to take the “high ground” in the debate by releasing a select number of visitor logs, it shields tens of thousands of other records that continue to be withheld in defiance of FOIA law. Why release some and not all?

In the fall of 2009, Judicial Watch staff was invited to meet with senior White House official Norm Eisen, then-Special Counsel to the President for Ethics and Government, to discuss Judicial Watch's pursuit of the White House visitor logs. The White House encouraged us to publicly praise the Obama administration's commitment to transparency, saying it would be good

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for them and good for us. However, the Obama team refused to abandon their legally indefensible contention that Secret Service White House visitor logs are not subject to disclosure under FOIA law.

So we filed a lawsuit to ask the court to enforce the law.

The Obama administration continues to advance its ridiculous and bogus claim that the visitor logs “are not agency records subject to the FOIA,” but the Obama administration doesn't have a legal leg to stand on. As we noted in our [original complaint](http://www.judicialwatch.org/files/documents/2009/jw-v-ussc-complaint-12072009.pdf) (*Judicial Watch, Inc. v. United States Secret Service*, USDC Case No. 9-2312; <http://www.judicialwatch.org/files/documents/2009/jw-v-ussc-complaint-12072009.pdf>), filed on December 7, 2009, the administration's claim “has been litigated and rejected repeatedly” by the courts.

To date, every court that has reached this issue has concluded that the White House Secret Service visitor logs are agency records and must be processed in response to a properly submitted FOIA request.

In fact, the Secret Service had released White House visitor logs in response to [previous FOIA requests](http://www.judicialwatch.org/judicial-watch-v-u-s-secret-service)) from Judicial Watch and other parties (<http://www.judicialwatch.org/judicial-watch-v-u-s-secret-service>).

Now we know from published reports that White House officials have been meeting with lobbyists and interests at a nearby Caribou Coffee shop or across the street in an anonymous conference center to specifically prevent disclosure of visitors who might otherwise have their names disclosed as a result of visiting the White House complex itself.

And other investigators at the Center for Public Integrity have further confirmed what Judicial Watch has long known: that the visitor logs “voluntarily” disclosed by the White House are little more than a data dump full of holes that shield rather than shed light on visitors and their business at the White House (<http://www.iwatchnews.org/2011/04/13/4115/white-house-visitor-logs-riddled-holes>).

On major issue after major issue, FOIA is ignored by this administration.

For instance, I am sure this committee is aware about the astonishing 1,000 + Obamacare waivers issued by the Department of Health and Human Services. Judicial Watch first began asking for documents about this issue last October. We sued in January (*Judicial Watch, Inc. v. Department of Health & Human Services*, USDC Case No. 10-2328; <http://www.judicialwatch.org/files/documents/2010/jw-v-hhs-complaint-12302010.pdf>). Months after our initial request, we do not have one document about these highly controversial waivers. Given the obvious public interest in this matter, this stonewall seems to us nothing more than arrogant lawlessness.

The difference between this administration's rhetoric and its practice is vast. This White House, we were promised, would not hire lobbyists. But now we know that actually meant that

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the Obama administration wouldn't hire lobbyists unless it wanted to. *The Washington Examiner's* Timothy Carney tracked at least 40 lobbyists hired by the Obama White House (<http://washingtonexaminer.com/politics/obama-makes-mockery-his-own-lobbyist-ban>).

And the American people were also promised the highest standards of ethics. The so-called "revolving-door ban" is part of an ethics pledge that appointees supposedly sign upon entering the administration. Administration appointees promise not to work, for two years, on matters related to former employers or lobbying clients. In many ways, the lobbyist ban and ethics pledge are silly. But rather than admit that the anti-lobbyist rhetoric might lead to the absurd result of fine Americans with high levels of expertise unable to work for government, the Obama administration started issuing "ethics waivers" of the president's anti-lobbying and ethics rules (<http://www.whitehouse.gov/the-press-office/ethics-commitments-executive-branch-personnel>).

So an administration that promised transparency and the rule of law would be the touchstones of this presidency, now regularly "waives ethics" for top appointees. Only in Washington could you "waive ethics" with a straight face. By our count, there have been at least 32 ethics waivers by the Obama administration (<http://www.judicialwatch.org/ethics-waivers>). Even worse, we have a report in the *New York Times* that the Obama White House actually advised some to de-register as lobbyists to get around the anti-lobbyist rules issued by President Obama on the very first day of his presidency (<http://www.nytimes.com/2010/06/25/us/politics/25caribou.html?pagewanted=2>).

This ethics gamesmanship undermines the rule of law and makes one think that this administration has something to hide.

Let me end by noting that a commitment to transparency should cut across partisan and ideological lines. The Founding Fathers understood the importance of knowing what our government is up to. John Adams wrote:

Liberty cannot be preserved without a general knowledge among the people, who have a right, from the frame of their nature, to knowledge, as their great Creator, who does nothing in vain, has given them understandings, and a desire to know; but besides this, they have a right, an indisputable, unalienable, indefeasible, divine right to that most dreaded and envied kind of knowledge; I mean, of the characters and conduct of their rulers.

Thank you.