

for more efficient and streamline consideration of immigration claims with enhanced confidence by aliens and practitioners in the fairness and independence of the process.

The bill introduced today provides a solid framework on which to build debate on this important and far-reaching reform. I look forward to working with all interested parties in fine-tuning and further developing this proposal where necessary and enacting this much needed reform. It is my hope to see real progress made on this matter and I urge my colleagues to support the United States Immigration Court Act of 1999.

INTRODUCTION OF THE DISTRICT
OF COLUMBIA PRISON SAFETY
ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Ms. NORTON. Mr. Speaker, today, I introduce the District of Columbia Prison Safety Act, a bill to assure the safety of the District of Columbia and other Federal Bureau of Prisons (BOP) inmates, who may be placed in private prison facilities, as well as the communities where the prisons are placed. This provision has become necessary as a result of § 11201 the 1997 District of Columbia Revitalization Act (P.L. 105-33). That bill requires that BOP house in privately contracted facilities at least 2000 D.C. sentenced felons by December 31, 1999 and at least 50 percent of D.C. felons by September 30, 2003. Under the Revitalization Act, the Lorton Correctional Complex is to be closed by December 31, 2001, and the BOP is to assume responsibility for the maintenance of the District's inmate population. My bill would give the Director of BOP the necessary discretion to decide whether to house D.C. inmates in private prison facilities, and if so, when and how many. This mandate would mark the first time that BOP has contracted for the housing of significant numbers of inmates in private facilities. The extremely short time frames were placed in the statute without any reference to the BOP capabilities, but rather, in order to meet the 6 year limit for the closure of Lorton. I am introducing this bill because recent events have driven home the necessity for informed expert judgement before decisions to contract out inmate housing are made.

On December 3, 1998, the Corrections Trustee for the District of Columbia released a report on the investigation of problems arising from the placement of D.C. inmates in the Northeast Ohio Correctional Center (NEOCC). This highly critical report followed numerous violent confrontations between guards and inmates, an escape by six inmates, and the killing of two other inmates. The Trustee's report strongly and unequivocally criticized virtually all aspects of the operations of NEOCC. The company that runs this facility, Corrections Corporation of America (CCA), is the most experienced in the country.

The industry is a new one with relatively few vendors. The NEOCC experience is fair warning of what could happen if BOP proceeds on the basis of an automatic mandate in spite of the evidence that has accumulated here and around the country. The mounting troubles

have been so great that the BOP was forced to revise the original request for proposal (RFP). The new process employs two RFPs, thereby separating low security male inmates from minimum security males, females and young offenders. Furthermore, the RFP for low security inmates now requires the BOP to consider prior performance of the vendors before awarding the contract.

However, this action puts BOP behind schedule for privatization mandated by the Revitalization Act. The experience of the private sector argues for a much more careful approach than Congress was aware of at the time the 1997 Revitalization Act was passed. Whereas 50 percent of D.C. inmates are to be privatized in 5 years time, the 50 percent far exceeds any comparable number of inmates currently housed in any private facility.

My provision does not bar privatization, but it could bar further disasters that have surrounded such privatization contracts. BOP may still decide to house the same, or different number in private facilities. The only point in this provision is to keep the BOP from believing it must go over the side of a cliff even if there would be a more sensible path.

INTRODUCTION OF LEGISLATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 1999

Mr. BROWN of California. Mr. Speaker, I am introducing a bill to repeal a legislative provision included in P.L. 105-277, the omnibus bill making appropriations for Fiscal Year 1999. This provision directs the Office of Management and Budget to amend Section—36 of Circular A110 to require Federal agencies to ensure that all data produced under grants made to institutions of higher education, hospitals, and non-profit organizations will be made available to the public through procedures established under the Freedom of Information Act (FOIA).

This provision should be repealed on the basis of both the flawed process through which it was adopted and because of the damage it is likely to do to the publicly funded research structure which we have developed over the past fifty years. This scope of this provision has never been examined in public and has never been the subject of a hearing. And, if protests from the research community are correct, this provision poses a major threat to academic freedom in the United States.

On the process issue, it is ironic, that a provision which some have described as a sunshine provision was tucked into a 4,000-page bill in the dead of night. There were no bills introduced in the 106th Congress containing this provision. There were no hearings held to determine whether there was a problem with the current situation with regard to data availability in the scientific community. We do not know what the scope of any existing problem is, or whether using the Freedom of Information Act is the best way to address this alleged problem. No one in the university, hospital, or non-profit community was provided an opportunity to comment on this legislative provision or the need for it. To alter the rules that the scientific community has operated under for decades without providing them an opportunity to speak

to the need for this change or to participate in developing it, is not only unwise, it is unfair.

I fully support the free and open exchange of information, as I believe all Members do. I doubt we could have made the progress we have in science without sharing of new knowledge. Scientists, both publicly and privately funded, routinely use a variety of mechanisms to share data and information with one another and with the public. The proliferation of scientific journals, increased scientific programming on television and radio, and routine science coverage by daily news journals are all evidence of this. However, I believe there are numerous reasons to question the wisdom of mandating the application of the Freedom of Information Act to data generated under this category of federal research funding as a mechanism for achieving the laudable goal of facilitating the dissemination of scientific information.

A number of my colleagues joined me in sending a letter to the Administration to express some specific concerns regarding the implementation of this policy change, and I am appending this letter at the end of these remarks. One area of concern pertains to research involving human subjects. Public health and bio-medical research requires the voluntary participation of human subjects. Volunteers currently make agreements with researchers and their institutions to divulge personal medical information on the condition that their information will remain strictly confidential. They do this with the understanding that they are making this agreement with the research institution and not with the federal government. Although FOIA provides protections for some types of information, the provisions may not be adequate to ensure confidentiality. Even if they were, I believe individuals will be reluctant to divulge sensitive personal information knowing that this information effectively becomes the property of the U.S. government as an official government record. Significant loss of voluntary participation in public health and bio-medical research would be devastating.

I am also concerned that this provision could facilitate the theft of intellectual property. We have numerous statutes, such as the Bayh-Dole Act, which provide protections for the intellectual property of researchers receiving federal awards. Mandating the accessibility of all data produced under a federal award would undermine the protections for researchers' intellectual property rights guaranteed under copyright and other technology transfer laws. Although Circular A110 does not cover federal awards to businesses and contractors, there are numerous instances of university-private sector partnerships in which private and federal dollars are intermingled within research projects. While privately-funded research will not be subject to FOIA, companies may be reluctant to continue some areas of joint research with federally-funded institutions who must comply with this mandate because of ambiguities created in the determination of which data would or would not be subject to FOIA.

I am also concerned about the potential for increases in administrative burdens and costs for granting agencies and for award recipients. Universities and other grant receiving institutions are likely to feel compelled to create formal, centralized procedures for responding to requests for data and for implementing the requirements of FOIA. While the language of the