

JOHN CORNYN ASKS ERIC HOLDER IF AARON SWARTZ PROSECUTED BECAUSE OF FOIA REQUESTS

John Cornyn just sent a letter to Eric Holder asking a series of questions about the Aaron Swartz prosecution. (h/t Julian Sanchez) Many of them are utterly appropriate coming from a member of the Senate Judiciary Committee: why Carmen Ortiz said the prosecution was “appropriate,” whether DOJ’s prior investigations, plural, of Swartz had had an influence on their conduct, why Ortiz filed the superseding indictment. Kudos to Cornyn for conducting oversight, as intended.

But here’s a question I didn’t expect, the second of seven questions.

Second, was the prosecution of Mr. Swartz in any way retaliation for his exercise of his rights as a citizen under the Freedom of Information Act? If so, I recommend that you refer the matter immediately to the Inspector General.

It’s one thing to ask whether Swartz was targeted—and he appears to have been—for his advocacy on Open Access and Internet freedom.

But to ask whether this was retaliation for his use of FOIA? As far as I know, only Jason Leopold and I have even looked at his FOIAs in relation to his prosecution, and only for insight onto how he responded to it.