

Statement of

# **The Honorable Russ Feingold**

United States Senator  
Wisconsin  
September 30, 2009

Senate Judiciary Committee  
Hearing on "Advancing Freedom of Information in the New Era of Responsibility"  
Wednesday, September 30, 2009

Statement of U.S. Senator Russell D. Feingold

I want to thank the Chairman for holding this hearing on an extremely important issue. For too many years, Americans have been denied access to too much information about their government. Americans have not had adequate access to government documents, whether those documents are mundane or controversial. A strong commitment to the public's right to know helps ensure that our government acts in the public interest. That is why, in my advocacy for restoring the rule of law under this new administration, I included government openness and FOIA reform in particular as critical aspects of that effort.

It is therefore with great optimism that I view recent improvements in the open operation of our government. Both Congress and the executive branch have made changes that reflect a genuine commitment to public knowledge and government accountability.

In 2007, Congress enacted the OPEN Government Act to improve the operation of the Freedom of Information Act, and the Chairman deserves enormous credit for that. As part of the implementation of those reforms, earlier this year Congress passed a spending bill that included funding to establish the Office of Government Information Services. This office will serve as the mediator for FOIA claims and help ensure that administrative agencies are complying with FOIA provisions. In addition, the individual FOIA reforms imposed by the OPEN Government Act will further streamline FOIA procedures and administration.

The executive branch also has demonstrated its renewed commitment to an open and accountable government. On January 21, the day after the inauguration, the President reversed the prior administration's policy and declared that a presumption of openness will govern FOIA requests: "All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government." And in March, the Attorney General issued guidelines limiting the circumstances under which the Justice Department will defend FOIA denials. The executive branch deserves credit for taking these important steps toward more transparency, as well as others like releasing more Office of Legal Counsel opinions.

That said, more still needs to be done. I continue to believe that over-classification is a problem, in particular with regard to certain information relating to the implementation of Patriot Act authorities that should be part of the public debate.

Congress and the administration must re-dedicate ourselves to accountability through transparency, and the FOIA reforms being discussed today are an important step in that direction. Thank you, Mr. Chairman.