

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Committee On The Judiciary,
Hearing On "Advancing Freedom Of Information In The New Era Of Responsibility"
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Today, the Committee holds an important oversight hearing on the Freedom of Information Act ("FOIA"). The enactment of FOIA 42 years ago marked a watershed moment in our Nation's history. The Freedom of Information Act guarantees the right of all Americans to obtain information from their Government and to know what their Government is doing.

In his historic Presidential memorandum on FOIA, President Obama said that "[i]n our democracy, the Freedom of Information Act (FOIA), which encourages accountability through transparency, is the most prominent expression of a profound national commitment to ensuring an open Government. At the heart of that commitment is the idea that accountability is in the interest of the Government and the citizenry alike."

From the start of his transition to the White House, I have urged President Obama to make a clear commitment to FOIA. I am pleased that one of the President's first official acts was to issue this new directive to strengthen FOIA.

Now in its fifth decade, FOIA has become an indispensable tool in protecting the people's right to know. The right to know is a cornerstone of our democracy. Without it, citizens are kept in the dark about key policy decisions that directly affect their lives. Without open government, citizens cannot make informed choices at the ballot box. Without access to public documents and a vibrant free press, officials can make decisions in the shadows, often in collusion with special interests, escaping accountability for their actions. And once eroded, the right to know is hard to win back.

It is essential that we fully honor the President's promise to restore more openness and accountability to our Government. That is why I have called on the Justice Department to conduct a comprehensive review of its pending FOIA cases, so that information sought under FOIA is not improperly withheld from the public. In March, the Attorney General issued new FOIA guidance that rightfully restores the presumption of disclosure for Government information. I welcome this new policy and I am pleased that the Associate Attorney General is here to discuss how the new FOIA guidelines are being implemented.

In Congress, we have also made good progress towards strengthening FOIA. Earlier this year, the Congress enacted an omnibus spending bill that includes critical funding to finally establish the Office of Government Information Services at the National Archives and Records Administration -- a key reform in the OPEN Government Act, which I wrote with Senator Cornyn. I am very pleased that the first Director of this new office is here today to discuss the effort underway to get OGIS up and running.

There are also other important reforms in the OPEN Government Act - to ensure better tracking of FOIA requests, to reduce FOIA processing delays and to provide for more accountability for the government's handling of FOIA requests - that became effective for the first time in December. These FOIA reforms have made our government more open and accountable to the American people today, than it was just a few months ago. But, there are still challenges ahead.

Implementation of FOIA remains hampered by the increasing use of legislative exemptions that are often sneaked into legislation without debate or public scrutiny. Just recently, I worked closely with Senator Feinstein, the chair of the Select Committee on Intelligence, to remove an unnecessary FOIA exemption from the Intelligence Reauthorization bill. Senator Cornyn and I have also reintroduced the OPEN FOIA Act - a bill that requires Congress to explicitly and clearly state its intention to provide for a statutory exemption to FOIA when it includes such an exemption in new legislation. This commonsense bill has twice passed the Senate this year as part of other legislation. I hope that the Congress will promptly enact this measure.

I have said many times before -- during both Democratic and Republican administrations -- that freedom of information is not a Democratic issue, nor a Republican issue. It is an American issue. I thank the distinguished witnesses that are appearing before the Committee today. They each bring valuable perspectives on the importance of FOIA in guaranteeing the public's right to know.

During the last Congress and the last administration, we held a FOIA oversight hearing that resulted in the enactment of the first major reforms to FOIA in more than a decade. This Committee will continue to do its part to advance freedom of information, so that the right to know is preserved for future generations. I look forward to today's discussion.

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