

Statement of

# **The Honorable Russ Feingold**

United States Senator  
Wisconsin  
November 19, 2009

Senate Judiciary Committee  
"Executive Business Meeting"  
Thursday, November 19, 2009

Statement of U.S. Senator Russell D. Feingold Regarding the Free Flow of Information Act of 2009

Mr. Chairman, I would like to take this opportunity to thank Senators Specter and Schumer for all of their efforts in negotiating an effective compromise on this bill. Their dedication to moving the Free Flow of Information Act forward while carefully considering and trying to accommodate the concerns of both the administration and media groups is admirable, and they deserve a great deal of credit for what they have managed to put together here.

As we all know, a federal media shield law has been a long time coming. Forty-nine states and the District of Columbia have already adopted some form of reporter's shield, either by statute or court decision. Yet, thirty-seven years after the Supreme Court's decision in *Branzburg*, we still do not have a media shield statute for federal cases. In the meantime, hundreds of reporters have been subpoenaed and questioned about their sources in federal court. The protection offered to these reporters has been inconsistent. We have seen reporters in handcuffs for refusing to reveal confidential sources. Untold numbers of other reporters have had their investigations chilled by the fear of having to reveal a source to the government.

Now, the time has come to finally enact this important legislation. This is an area where Congress has the power, and the responsibility, to set out the limited parameters under which testimony of this kind can be compelled and to offer the protection to a free press that it needs in our free society.

Today's substitute strikes the appropriate balance between the government's investigatory needs and the public's right to the free flow of information and news. The government has an undeniable interest in conducting investigations to keep Americans safe, and I support the bill's negotiated framework for national security and terrorism related matters. At the same time, the bill recognizes that it is very important to protect the relationship between a reporter and his or her sources. I am also satisfied that the bill adequately covers bloggers and other unpaid journalists in addition to traditional reporters.

A free society needs a robust free press. This bill is the culmination of many years of hard work to protect reporters and ensure a free and independent press. The press will certainly benefit from this law, but more importantly, the nation will benefit. Thank you, Mr. Chairman.