

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
March 15, 2011

Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Committee On The Judiciary
Hearing On "The Freedom Of Information Act: Ensuring Transparency And Accountability In
The Digital Age"
March 15, 2011

Today, the Committee holds an important hearing on the Freedom of Information Act (FOIA). When Congress enacted FOIA more than 40 years ago, this watershed law ushered in a new and unprecedented era of transparency in government. Four decades later, FOIA continues to give citizens access to the inner workings of their government and to guarantee the right to know for all Americans.

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 public access to government information, officials can make decisions in the shadows, sometimes in collusion with special interests, escaping accountability for their actions. In the digital age, FOIA remains an indispensable tool in protecting the people's right to know.

As Americans from every corner of our Nation commemorate Sunshine Week 2011, they have many good reasons to cheer. I am pleased that one of President Obama's first official acts when he took office was to issue a historic new directive to strengthen FOIA. Just yesterday, the Department of Justice launched the new FOIA.gov website, which compiles all of the Department's FOIA data in one online location.

The Attorney General has also issued new FOIA guidance to help make our government agencies more open to the American people. Last year, the Obama administration also issued another FOIA memorandum instructing federal agencies to update their FOIA training and guidance.

The Congress has also made good progress in strengthening FOIA. Last year, the Senate unanimously passed the Faster FOIA Act - a bill that Senator Cornyn and I introduced to establish a bipartisan Commission to study FOIA and to make recommendations to Congress on ways to further improve FOIA. We will reintroduce this bill later this week.

I hope that the Congress will quickly enact this good government legislation.

There is also reason to cheer the recent unanimous decision by the Supreme Court in *Federal Communications Commission v. AT&T Inc.*, concluding that corporations do not have a right of personal privacy under the Freedom of Information Act. I am pleased that, in reaching this

decision, our highest court honored congressional intent about the narrow scope of the personal privacy exemption to FOIA.

These FOIA victories have made our Government more open and accountable to the American people. But, our Government is still not as open and accessible to its citizens as it could - and should - be.

Implementation of FOIA continues to be hampered by the increasing use of exemptions - especially under section (b)(3) of FOIA.

Last year, Senators Grassley, Cornyn and I worked together on a bipartisan basis to repeal an overly-broad FOIA (b)(3) exemptions in the historic Wall Street reform bill, so that the American public will have access to important information about the state of our financial system.

It is also essential that the American people have a FOIA law that is not only strengthened by reform, but properly enforced. A report released yesterday by the National Security Archive found that, while there has been some progress in implementing the President's FOIA reforms, only about half of the Federal agencies surveyed have taken concrete steps to update their FOIA guidance and assess their FOIA resources. FOIA delays also continue to be a problem. Twelve of the agencies surveyed had pending FOIA requests that were more than six years old, according to the report. That is simply unacceptable.

I am pleased that we have representatives from the Department of Justice and the Office of Government Information Services to discuss the Obama administration's efforts to address these concerns and strengthen FOIA. We are also fortunate to have a distinguished panel of FOIA experts to provide valuable perspectives on the importance of FOIA in guaranteeing the public's right to know.

I have said many times before - during both Democratic and Republican administrations - that freedom of information is neither a Democratic issue, nor a Republican issue. It is an American issue. I value the bipartisan partnership on FOIA matters that I have shared with Senator Cornyn over the years. I will continue to work with Senator Cornyn, Senator Grassley and others on this Committee to advance freedom of information, so that the right to know is preserved for future generations. I thank all of the distinguished witnesses that are appearing before the Committee today. I look forward to today's discussion.

#####