

**Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Committee On The Judiciary,
Hearing On “We the People: Fulfilling the Promise of Open Government Five Years After
The OPEN Government Act”
March 13, 2013**

Today, the Committee holds an important hearing on one of our most cherished open government laws, the Freedom of Information Act (FOIA). We also commemorate Sunshine Week – an annual celebration of transparency in our democratic society.

For more than four decades, FOIA has translated our great American values of openness and accountability into practice by guaranteeing access to government information. Sunshine Week is a timely opportunity to take stock of the progress we have made in improving the FOIA process, as well as the challenges that remain when citizens seek information from their government.

Five years ago, Congress enacted the Leahy-Cornyn OPEN Government Act -- the first major reforms to the Freedom of Information Act in more than a decade. Today, the Committee will examine how federal agencies are implementing the important reforms in this landmark law. When Congress enacted this bipartisan legislation, I said that our goal was to help reverse the troubling trends of excessive FOIA delays that we had witnessed for so many years, and to restore the public’s trust in their government. The OPEN Government Act sought to restore meaningful FOIA deadlines and increase transparency in the FOIA process.

In the five years since we enacted the OPEN Government Act, there have been promising developments. I commend the Obama administration for establishing innovative initiatives such as Data.gov and FOIA.gov, which have significantly increased the public’s access to government information. I am also pleased that we are beginning to witness progress in reducing FOIA backlogs across the government. These are all good signs, but there are still many challenges ahead.

Too many of our federal agencies are not keeping up with the FOIA reforms in the OPEN Government Act. A recent audit conducted by the National Security Archive found that fifty-six out of ninety-nine federal agencies -- more than half of all federal agencies -- have not updated their Freedom of Information Act regulations to comply with the OPEN Government Act.

I am also troubled by reports that the Obama administration is becoming more secretive about its national security policies. According to the Associated Press, during the past year, the Obama administration withheld more information for national security reasons in response to FOIA requests than at any other time since the President took office. For many years -- during both Democratic and Republican administration’s -- I have urged the Justice Department to be more

transparent about the legal opinions issued by its Office of Legal Counsel. Our Government must always balance the need to protect sensitive government information with the equally important need to ensure public confidence in our national security policies. The uneven application of fee waivers, growing use of exemptions and inadequate communication with FOIA requesters also remain key impediments to obtaining information under FOIA.

I am pleased that representatives from the Department of Justice and the National Archives and Records Administration are here to discuss these challenges and detail how the Obama administration is implementing FOIA. We also have a distinguished panel of expert witnesses.

This Committee has a long tradition of working across the aisle when acting to protect the public's right to know, during both Democratic and Republican administrations. I value the strong bipartisan partnership that I have formed over the years with Senator Cornyn and Ranking Member Grassley on open government matters. The annual celebration of Sunshine Week reminds us that openness and transparency in government is important to all Americans -- regardless of political party affiliation or ideology. I hope that this spirit will guide our work today. I look forward to a good discussion.

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