

August 30, 2006

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Specter and Leahy:

The undersigned are state and national press associations. Together we represent almost 7,000 daily and weekly newspapers nationwide.

We write with concern over recent legislation aimed at criminalizing the leak of classified information by federal workers and contractors. This legislation, if enacted, would deter whistleblowers from coming forth with vital information on fraud, waste and abuse in government or on lapses of mission that threaten the nation's security. It would chill newsgathering and reporting on issues of legitimate public interest. By requiring no showing of harm to national security, the legislation would make it a federal crime for any unauthorized release of classified information by any current or former government official. This law could and inevitably would be used for political purposes in any administration.

Indeed, while much emphasis is placed on leaks, very little is placed on one of the major causes of leaks of classified information: overclassification. If the government devoted equal attention and care to monitoring the use and infinite power of the classification stamp as it does to chasing leaks, the republic would be well served.

Our organizations believe national secrets should be protected by the government. But the nation's safety rests upon more than control of information. Indeed, the flow of information is often the remedy for the failures we have already seen in our intelligence and homeland security lapses. The 9-11 Commission report clearly found information and public understanding of the threats to the nation and the government's responses to them to be a part of the infrastructure that makes the nation safer.

The breadth of representation reflected here should be a demonstration that we believe this chilling effect on reporting of public affairs would not be isolated to the large, metropolitan daily newspapers. Smaller weekly and daily newspapers routinely report on matters where classified information might conceivably be provided to them, even without their soliciting it—particularly on issues involving the safety and preparedness of home towns.

The government currently has at its disposal the proper tools for dealing with unauthorized leaks of classified information. Numerous statutes, including espionage laws, are part of the prosecutor's tools to discourage leaks. Formal sanctions, such as removal of security clearance or termination of employment, are also useful. They are being used. And where they are not being used to address

truly harmful disclosures, the focus should be upon enforcement, not new, sweeping legislation. We have no reason to believe that these provisions are insufficient.

We urge you to consider alternatives to criminalization, and to engage in dialogue with journalists on the nature of reporting on national matters before you proceed with this legislation.

We appreciate your time and consideration.

Sincerely,

National Newspaper Association
Newspaper Association of America
Alabama Press Association
Georgia Press Association
Pennsylvania Newspaper Association
Texas Press Association
Tennessee Press Association
Mississippi Press Association
Utah Press Association
Montana Newspaper Association
New Mexico Press Association
South Carolina Press Association
Ohio Newspaper Association
Iowa Newspaper Association
Alabama Press Association
Kansas Press Association
Arizona Newspapers Association

Cc: Senator Orrin Hatch
Senator Edward M. Kennedy
Senator Charles E. Grassley
Senator Joseph R. Biden, Jr.
Senator Jon Kyl
Senator Herbert Kohl
Senator Mike DeWine
Senator Dianne Feinstein
Senator Lindsey Graham
Senator John Cornyn
Senator Russell D. Feingold
Senator Sam Brownback
Senator Charles E. Schumer
Senator Tom Coburn
Senator Richard J. Durbin

Senator Thad Cochran
Senator Conrad Burns
Senator Rick Santorum
Senator Pete Domenici
Senator Robert Bennett
Senator Lamar Alexander
Senator Trent Lott
Senator Saxby Chambliss
Senator Ted Stevens