

<http://www.star-telegram.com/225/story/380504.html>

Fort Worth Star Telegram

Good work, folks

Before recessing for its holiday break, Congress gave Americans who are interested in open and accountable government an early present: Federal lawmakers passed much-needed improvements in the Freedom of Information Act.

Sens. John Cornyn, R-Texas, and Patrick Leahy, D-Vt., co-sponsors of the bill, deserve a big heaping of praise for doggedly working to keep the bipartisan reform package alive through a series of back-and-forths between the Senate and House chambers.

After the Senate unanimously passed the bill and sent it to the House, questions arose about how fines would be paid if an agency improperly withheld a record that, by law, should be open. Cornyn and Leahy didn't give up. With a surprise assist from Sen. Jon Kyl, R-Ariz., the three introduced a new version that appeased the House.

The Senate approved the new bill on Dec. 14; the House followed suit on Dec. 18. Both votes passed by veto-proof margins. Should President Bush choose not to veto or sign the bill, it automatically will become law on Monday.

Among the bill's provisions are financial consequences to agencies that miss a 20-day deadline for responding to an open records request and the closing of a loophole that government agencies used to deny requests and force the person to go to court. The bill also establishes a freedom-of-information ombudsman who can act as an alternative to settle a dispute before it reaches the point of litigation.

Throughout Cornyn's service as an elected official -- from Texas attorney general to state Supreme Court judge to U.S. senator -- he has remained a consistent advocate for more openness and less secrecy. The people of Texas and the nation are well served in this arena by his work.

<http://www.washingtonpost.com/wp-dyn/content/article/2007/12/27/AR2007122702132.html>

Washington Post

Open Government

President Bush's signature would strengthen the Freedom of Information Act.

THERE LIES upon the president's desk a bill that would make a government of, by and for the people more responsive to the people who request information from it. Rather than make an affirmative statement of support for open government, President Bush

seems content to let the legislation become law Monday without his signature. We urge him to reconsider.

Since the terrorist attacks of Sept. 11, 2001, the Bush administration has had an expanding soft spot for secrecy. Citing national security a month after the attacks, then-Attorney General John D. Ashcroft directed federal agencies to clamp down on the amount and types of information they released. The Open Government Act of 2007, originally sponsored by Sens. Patrick J. Leahy (D-Vt.) and John Cornyn (R-Tex.), would change that and give the sneered-at and too-easily-stymied Freedom of Information Act (FOIA) the teeth it needs.

The FOIA requests would have to be responded to within 20 days. Those that might take longer than 10 days to process would be assigned a tracking number, which would be given to the requester. That person would then be able to keep tabs on the request by telephone or on the Internet. To ensure accountability, each agency would have to monitor the number of requests it received and how long it took to respond to them. The statistics collected would be available to the public on the Web. If the agency took longer than 20 days to answer a request, it would not be able to charge search fees.

Each agency would have an FOIA public liaison tasked with "reducing delays, increasing transparency . . . and assisting in the resolution of disputes." This person would report to the agency's designated chief FOIA officer. Finally, the legislation would create the Office of Government Information Services within the National Archives to review agency FOIA policies and recommend improvements to the president and Congress.

Mr. Bush's spokespeople demurred when asked this month whether the president would sign the bill. We had no luck getting an answer, either. Because Congress is technically still in session, the bill will become law automatically if it is not signed by the president within 10 days. Still, that Mr. Bush won't sign it is a shame. Normally, this would be a win-win situation. But his apparent unwillingness to embrace openness taints this particular win.

<http://www.mlive.com/news/kzgazette/index.ssf?/base/columns-3/119885704919340.xml&coll=7>

Kalamazoo Gazette

Freedom of Information Act needs strengthening

The federal government knows more about your personal life than it ever has in the past. And yet it is getting harder and harder for Americans to find out what is going on in the inner workings of the federal government.

A bill passed by Congress last week, and now awaiting President Bush's signature, would strengthen the federal Freedom of Information Act and restore the act's original intent -- to force greater transparency in government.

“No matter who is the next president, he will have to run a government that is more open than in the past,” if the bill becomes law, Judiciary Committee Chairman Patrick Leahy, D-Vt., said on the Senate floor.

President Bush, whose administration has presided over greater and greater government secrecy since the Sept. 11, 2001, terrorist attacks, has not indicated whether he will sign or veto the bill, which passed the U.S. House unanimously last week by voice vote.

But because Congress will stay in session throughout the holiday break -- Democrats' strategy for preventing the president from making recess appointments -- if Bush neither signs nor vetoes the bill, it will automatically become law within 10 days, which has been described as a “pocket veto in reverse.”

Why should Americans care about a tougher Freedom of Information Act? Isn't it just something for the news media?

No. The law, also known as FOIA, is a tool that virtually any American can use to pry information out of the government. And not just the federal government. Michigan's FOIA is designed to make it easier for Michigan residents to find out what their state and local governments are doing for you, to you, or on your behalf.

The federal FOIA improvements would restore the “presumption of disclosure” standard -- the presumption that information must by law be disclosed unless the agency can reasonably foresee harm from disclosure. Many inquirers were being asked to prove why disclosure should be granted, instead of government having to prove why disclosure should be denied.

Under the FOIA bill, agencies would have 20 days to respond to requests, on pain of having to refund search and duplication fees it had charged people asking for FOIA searches.

Redactions would have to be better explained by the government.

Nonproprietary information from government contractors would be subject to disclosure.

The bill also sets up a system to allow the status of FOIA requests to be tracked, as well as establishes an ombudsman to handle disputes over disclosure. Transparency is important. FOIA is important.

President Bush should sign the bill this week, or get out of the way and let it take effect.

<http://www.desmoinesregister.com/apps/pbcs.dll/article?AID=/20071228/OPINION03/712280354/-1/SPORTS01&template=printart>

Des Moines Register

Bill's passage a victory for open government

In an otherwise unimpressive session, Congress passed an important piece of legislation that will give Americans more access to their federal government. A bill that adds needed teeth to the federal Freedom of Information Act passed both the Senate and the House.

President Bush has until Jan. 2 to sign the bill, and he plans to do so, a White House spokesman told the Register on Thursday.

This package of amendments to the 40-year-old act is regarded as the most important improvement in open government at the federal level in more than a decade, according to government-access experts. The revisions should make it easier for citizens to gain access to federal documents, and the process should be faster.

The original act was passed in 1967 to assure public access to government records. In most cases, where there is no doubt about the public nature of federal documents, the public can obtain federal records by simply asking, and they should be readily available. In cases where there is doubt, however, or if fetching and copying the requested records requires staff time, agencies require that formal FOI Act requests be made in writing. That process can drag on, sometimes for years. Citizens often have to hire an attorney to pry information out of the government.

The amended FOI Act should help correct those problems.

Among the key revisions: The bill creates an office of FOI Act ombudsman that will mediate between citizens and the government over disputed records; establishes a tracking system so FOI Act filers can search for the status of a request; and requires federal agencies to pay the legal fees of a citizen who successfully sues to obtain federal records.

There are legitimate, though narrow, exceptions to the general principle that members of the public should have access to information about their government. Unfortunately, it is too often a case of bureaucratic incompetence, sloth or indifference that prevents citizens from getting the information they seek and have a right to obtain.

These amendments to the Freedom of Information Act, passed with broad support by Congress, should go a long way toward removing those barriers.

<http://thefacts.com/story.lasso?ewcd=58c260b86ba15df0>

The Facts, Brazoria County, TX

American public, media entitled to know

In the aftermath of the Sept. 11 terrorist attacks, then-Attorney General John Ashcroft issued an order to all federal agencies that essentially gave our government a blanket excuse to not reveal what the public wanted to know. Since then, we have heard that excuse reflexively repeated from every level of government:

We can't tell you because it could hurt national security.

A legitimate threat is sufficient reason to us to withhold information. The public and media don't need to know the details of covert operations that target those who plot to do us harm. The problem with the federal government's trend toward secrecy has been its broad application, epitomized in Ashcroft's memo telling agencies to not release anything if there was even a smidgen of uncertainty about its effect on security.

In other words, we don't know if telling the public about this or releasing this document would hinder our efforts to protect the homeland, but on the off chance it just might at some point, you're outta luck.

Sen. John Cornyn, R-Texas, is among those who believes all that hiding is hogwash, and finally succeeded last week in helping shepherd through the first reforms of the federal Freedom of Information Act in a decade. The approval of the bill, co-sponsored by Sen. Patrick Leahy, D-Vt., followed the failures of previous attempts since joining Congress in 2003.

The pivotal provision of the measure undercuts Ashcroft's order and returns the country to a presumption of openness unless a true threat to security can be confirmed.

It also opens nonproprietary information of government contractors to public access and scrutiny, sets specific timelines for federal agencies to comply with open records requests and toughens penalties for those that fail to do so, and requires agencies to explain their reasoning behind redaction of information in released documents.

Cornyn, a former Texas attorney general, said the bill was modeled after the Lone Star State's open government laws, which we can attest from experience work well.

"Texas has one of the strongest open government laws in the nation," Cornyn said. "When I came to the Senate five years ago, bringing a little Texas sunshine to the federal government was a cornerstone of my legislative priorities. It is a principle I have advocated throughout my years in public service."

The bill sailed through the Senate and then passed unanimously in the House. It now awaits action from President Bush — although inaction is seen as a possibility, allowing it to become law without his signature.

Regardless of how it becomes law, it is important for a nation that prides itself on an open government responsive to the people that it does so.

This editorial was written by Michael Morris, assistant managing editor of The Facts.

<http://www.wacotrib.com/opin/content/news/opinion/stories/2007/12/28/12282007wacedit.html>

Waco Tribune

Open government best for democracy

During his campaign for the presidency, George W. Bush told voters that he believed in open government and promised that his administration would reverse the Clinton administration's efforts to prevent public access to government records.

Instead, Bush will be remembered as the head of one of the most secretive and closed administrations in the nation's history.

Bush's first attorney general, John Ashcroft, began the secrecy process even before the Sept. 11 terrorist attacks on the World Trade Center and the Pentagon.

Ashcroft instructed all executive branch agencies to deny freedom of information requests whenever possible. He ordered the agencies to give secrecy a chance by withholding public information in cases where there was doubt.

After Sept. 11, the Bush administration really stepped up efforts to keep government operations secret, generally by claiming the need to protect national security.

Fortunately, the Bush administration's penchant for secrecy became so flagrant that Republicans joined with Democrats to pass reforms to the Freedom of Information Act that should go a long way toward restoring transparency in government.

Sen. John Cornyn, R-Texas, co-sponsored the legislation along with Sen. Patrick Leahy, D-Vt., in the Senate. In the House, Rep. William Lacy Clay, D-Mo., Rep. Tom Davis, R-Va., and Rep. Henry Waxman, D-Calif., sponsored similar legislation.

Called the Open Government Act, the new legislation will become the first major reform to the FOIA in more than a decade. Bipartisan support for the legislation appears strong enough to overcome a Bush veto.

The bill will reverse the Ashcroft policy by requiring agencies to provide evidence that releasing government records would harm national security.

The new bill also requires agencies to respond to FOIA requests in 20 days. It has become routine for agencies to fail to respond to requests for months or even years.

FOIA requests will be assigned tracking numbers to keep track of the status of requests on the Internet or on telephone hot lines.

For the first time, the public can gain access to records held by private contractors who perform government contracts. This has become especially important since so many government operations are being turned over to private contractors who deny public access to operational records that were open to public inspection when run by the government.

Under the new law, citizens forced to sue to obtain government records will have an easier time recovering their attorneys' fees.

Although newspapers and other news organizations utilize government records, only 6 percent of FOIA requests come from news media. Most requests come from businesses, and more than 30 percent of the requests come from private citizens.

"Open government is a prerequisite for a free society," Cornyn argued in support of this legislation.

Bush should sign the FOIA bill into law.

http://www.timesheraldonline.com/ci_7821423

Vallejo Times Herald

Freedom of Information Act

A big win for open government

Last week, Congress stuck a blow for open government by passing legislation to improve the Freedom of Information Act. It is a welcome antidote to the secrecy that has pervaded the Bush administration.

The president has been silent on the measure, but it appears to be veto-proof. It moved quickly through the Senate and was unanimously passed by the House.

The bill restores a presumption-of-disclosure standard committing government agencies to releasing requested information unless there is a finding that such disclosure could do harm.

This provision is aimed at reversing an order by former Attorney General John Ashcroft after the Sept. 11, 2001, attacks, in which he instructed agencies to lean against releasing information when it was uncertain how doing so would affect national security.

Government agencies would have to meet a 20-day deadline for responding to FOIA requests. Their FOIA offices would have to forward requests for information to the correct agency within 10 days of receiving them.

If they fail to meet the 20-day deadline, agencies would have to refund search and duplication fees for noncommercial requesters. They also would have to explain any redaction by citing the specific exemption under which the blacked-out information qualifies. Nonproprietary information held by government contractors also would be subject to the law.

The legislation creates a system for the media and public to track the status of FOIA requests. It establishes a hot line service for all federal agencies to deal with problems and an ombudsman to provide an alternative to litigation in disclosure disputes.

When government agencies lose or settle a FOIA lawsuit, money to pay for attorneys' fees will now have to come from other programs within each agency.

If the legislation becomes law, as appears likely, it would be the first makeover of the FOIA in a decade. It is an overdue reform and essential to open government.

<http://www.lufkindailynews.com/opin/content/news/opinion/stories/2008/01/03/editorial.html>

Lufkin Daily News

Open Records

President reluctantly signs legislation restoring precious rights to information

Our government was designed and created to be an open one, but the Bush administration

has done nothing to promote that. On the contrary, it has taken steps to reduce the freedom of information that the citizens of the United States should enjoy.

Until this week.

President Bush, under pressure from Congress, on Monday signed into law a bill that strengthens the Freedom of Information Act. He did so without comment, giving you an idea of how excited he was to make it harder for government agencies to hide information from the public that owns it.

The new legislation does a few key things in restoring our access to public information: It, in effect, reverses an order by former Attorney General John Ashcroft that gave agencies a vague "national security" loophole after 9/11, and it makes it a lot easier for people to track their open records requests.

Sen. John Cornyn (R-Texas) and Sen. Patrick Leahy (D-Vt.) introduced the bill and credited bipartisanship in getting it passed into law. Cornyn, who helped improve Texas' open records laws when he was attorney general here, deserves a pat on the back for his part in passing the new federal legislation.

"When I came to the Senate five years ago, I pledged to bring a little Texas sunshine to Washington D.C. This new law does just that," Cornyn stated in a press release. "It holds politicians and bureaucrats accountable in an age of ever-expanding size and scope of government. It strengthens our democracy by building on the ideals this nation was founded upon — the people's fundamental right to know. Enactment of this important, bipartisan legislation is a victory for the American people."

Cornyn said the new law will:

- * Restore meaningful deadlines for agency action under FOIA;
- * Impose real consequences on federal agencies for missing FOIA's 20-day statutory deadline;
- * Clarify that FOIA applies to government records held by outside private contractors;
- * Establish a FOIA hotline service for all federal agencies; and
- * Create a FOIA Ombudsman to provide FOIA requestors and federal agencies with a meaningful alternative to costly litigation.

We are pleased with the work Cornyn, Leahy and other FOI advocates did on this new law. As Cornyn said, it really is a victory for U.S. citizens who deserve to know what their government is doing.

<http://www.sacbee.com/110/story/605390.html>

Sacramento Bee

The public's right to know gets a welcome boost

Signing of OPEN Government Act gives new life to the late John Moss' vision.

John E. Moss, who died in 1997 after serving 13 terms in Congress from Sacramento, would be pleased. The Freedom of Information Act, which he authored and championed for 12 years until it finally passed in 1966, has been updated and improved. Reluctantly, to be sure, and without public ceremony or comment, President George W. Bush – like President Lyndon B. Johnson before him – signed a law to ensure public access to public records. Bush signed the OPEN Government Act of 2007 (S. 2488) on New Year's Eve.

Moss' original Freedom of Information Act was supposed to make government more open, more responsive and more accountable to the public by assuring access to public records. The idea was that you should be able to get information in timely fashion without government staff questioning why you want the information and what you're going to do with it.

But access to the conduct of government is eroding, as an August report by the Coalition of Journalists for Open Government made clear. The report, "Still Waiting After All These Years," found that "(t)here has been a clear shift toward less disclosure in the current administration." Backlogs, delays and blacked-out portions of documents abound.

The Bush administration adopted a policy, announced in October 2001 by then-Attorney General John Ashcroft, with a presumption against disclosure – providing information "only after full and deliberate consideration of institutional, commercial and personal privacy interests that could be implicated by disclosure of the information."

Congress finally took action, passing the OPEN Government Act on Dec. 18. The new law restores the presumption that government agencies will release information on request unless disclosure will do actual harm. So what will the new law do?

The old law required government agencies to respond to requests for information within 20 business days. Few agencies meet that deadline, however; many agencies have requests that are one, five, even more than 10 years old. At the Department of Housing and Urban Development a request for information filed in September 2006 will not even be reviewed until summer 2008.

The new law requires a tracking system, including a hotline for the public to check on the status of any request that takes more than 10 days to process. And any agency that fails to meet the 20-day deadline cannot charge for research or copying costs, a financial penalty that provides an incentive for agencies to act in timely fashion. Unfortunately, this doesn't take effect until Dec. 31, 2008, as Bush's term in office nears its end.

The new law also creates an ombudsman at the National Archives, to whom the public can turn when an agency fails to respond to a request for information. In the past, the only recourse was an expensive lawsuit.

As Moss said in 1966, the law puts the burden of proof of withholding information on federal agencies. He considered it to be a much-needed "moderating influence" on government officials who "on occasion, have an almost proprietary attitude toward their own niche in government."

Moss was dedicated to the idea that inherent in our constitutional right of free speech and of free press "is the right to know." The new law helps restore that vision of open government.

<http://www.floridatoday.com/blogs/brevardwatchlist/2008/01/your-right-to-records-gets-boost-from.html>

Florida Today

Your right to records gets boost from U.S. reps

Good news, watchdogs. Your right to review federal government documents and data got a big boost this week when President Bush signed the Open Government Act of 2007. And it's encouraging to see that Brevard County's congressmen supported it.

The first reforms to the Freedom of Information Act (FOIA) in over a decade will:

- Impose a 20-day deadlines for agencies to respond to public requests for records;
- Impose consequences on federal agencies for missing the deadline, including denying them the right to charge requestors for search or copying costs;
- Grant fee-waivers to journalists including bloggers and freelance writers;
- Allow easier recovery of attorneys' fees and litigation costs by FOIA requestors if information is withheld by the government;
- Grant access to government records held by outside private contractors;
- Establishing a FOIA hotline service for all Federal agencies;
- Require agencies to provide tracking numbers for FOIA requests and status information;
- Establish an Office of Government Information Services to review FOIA policies and procedures, conduct audits, and offer mediation services.

U.S. representatives Dave Weldon, R-Indialantic, and Tom Feeney, R-Oveido, both voted to pass the House version of the bill. U.S. senators Bill Nelson, D-Orlando, and Mel Martinez, R-Orlando, also voted to pass the bill.

"The Open Government Act will help to reverse the troubling trends of excessive delays and lax FOIA compliance in our government and help to restore the public's trust in their government," said Sen. Patrick Leahy, D-Vt., who sponsored the bipartisan legislation with Sen. John Cornyn, R-Texas.

Florida Gov. Charlie Crist, who has championed government "transparency" in the Sunshine State, issued a statement applauding the passage:

"As Florida public officials continue to strive for government integrity and transparency with the Florida Office of Open Government and Commission on Open Government, I am encouraged to see the federal government mirror our actions to better serve the people."

How much will all this openness cost federal taxpayers?

The Congressional Budget Office estimated that the legislation would increase direct spending by \$6 million in 2008, primarily to reimburse citizens making FOIA requests for attorneys' fees and litigation cost payments. That cost should drop as agencies wake up to the expense of stonewalling those who seek public information. The budget office also estimates that federal agencies will forego about \$500,000 per year in fees they used to charge residents for retrieving and copying information.

<http://www.uticaod.com/viewpoints/x531358307>

Utica Observer Dispatch

An open government best for all

The year just ended contained examples of both hope and frustration when it comes to making government activity more transparent to the public.

All government leaders should work in 2008 to foster more examples of openness, leading to more voter faith in how their leaders operate.

On the bright side, Oneida County legislators took the unprecedented step of opening up party caucuses even though they weren't required to do so by law. And a state judge cited two Herkimer County towns' failure to follow Open Meetings Law as grounds for rescinding those towns' key approval of a wind-turbine project.

Yet some governmental leaders obviously still don't get it. Just last weekend, Utica's Common Council Democrats conducted a private caucus to discuss policy and political issues. And New Hartford's leaders continue to limit public access to proceedings, even scheduling meetings at odd times such as Saturday mornings and late Friday afternoons.

Why is open government important? Our nation is different from so many others around the globe because the public chooses its government, because the public has the right to seek redress from the government for its grievances against our leaders. Looking at repression around the globe, it's vital we all remember just how revolutionary that concept remains more than 230 years after the Declaration of Independence was signed.

In modern times, the state and federal governments passed "Sunshine Laws" enshrining the openness of government actions. In state law, meetings must be open and records

must be made available except in the case of specifically delineated exceptions such as ongoing criminal investigations, land deals and specific lawsuits.

There are interpretations involved, of course. When the county legislature's Democrats went behind closed doors in their caucus last week to discuss the performance history of a potential aviation commissioner, they were seeking to follow Open Meetings Law even though technically as a caucus they weren't bound to do so.

No doubt both county parties will feel their way along as the new era of open caucuses emerges; certainly, they are not bound to discuss certain sensitive topics in public that the full board would not legally be required to talk about in open session.

Another strength of sunshine laws is that governments must state explicitly why access will be denied. If a record is not made available, an appeals process exists. If a meeting is closed, the public may protest and ultimately may even go to court. That's what happened in the Herkimer County towns of Warren and Stark.

Frustrated that those town boards went behind closed doors without stating clear reasons, only to emerge and take key votes in support of the wind-turbine project, some local residents sued. The subsequent court decision states in no uncertain terms that the towns' failure to follow Open Meetings Law was grounds for annulling the wind-turbine approvals. The cost to the towns may be millions of dollars if the project now does not go forward.

In short, potential for public embarrassment is not grounds to go behind closed doors or to withhold records. The public needs to know where its leaders are succeeding, and where they're falling short.

Whatever short-term struggles that causes leaders or their community pale in comparison to the costs of shutting the public out of the decision-making process.

<http://www.registerguard.com/csp/cms/sites/dt.cms.support.viewStory.cls?cid=42469&sid=5&fid=1>

Eugene, Or, Register Guard

Removing the shroud

For four decades, the Freedom of Information Act has been the pass key for citizens who want to find out what their government is doing.

Better known as FOIA, the open-government law has taken a series of major hits since Sept. 11, 2001. In the wake of the terrorist attacks, then-Attorney General John Ashcroft issued an order that put chokeholds on the amount and nature of information that federal agencies could release to the public.

In a low-key move earlier this month, Congress overwhelmingly approved a measure that provides new muscle to FOIA and strips away some of the heavy shroud of secrecy that the Bush administration has draped over government.

Introduced by Sens. Patrick Leahy, D-Vt., and John Cornyn, R-Texas, the Open Government Act of 2007 would increase penalties for federal agencies that do not respond to requests for information within 20 days. Agencies that fail to meet the new deadlines will face clear penalties, including mandatory repayment of applicants' attorney, search and copy fees.

The measure would also:

Establish a tracking system that would enable the news media and general public to check on the status of FOIA requests by telephone or the Internet. Agencies would be required to keep public records on the number of requests they receive and how long it takes to respond to them.

Create an ombudsman position within the National Archives to address inquiries and resolve disputes over requests.

Require federal agencies to justify redactions in materials provided in response to requests. Any time information is blacked out in documents, the agency is required to cite the specific exemption allowing it under the Freedom of Information Act.

Make private government contractors holding nonproprietary information subject to disclosure requirements.

President Bush has played coy on whether he plans to sign the bill. Since Congress is technically still in session, the bill will automatically become law next week if he doesn't sign it, and that's probably the strategy that this president, so enamored with government secrecy, will choose.

That's a mistake. By signing the bill, Bush could send the message that he understands the importance of accountability and accessibility in a free society and that he recognizes there can be a reasonable balance between open government and national security in a post-9/11 America.

<http://www.wacotrib.com/opin/content/news/opinion/stories/2007/12/28/12282007wacedit.html>

Waco Tribune

Open government best for democracy

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open government and promised that his administration would reverse the Clinton administration's efforts to prevent public access to government records.

Instead, Bush will be remembered as the head of one of the most secretive and closed administrations in the nation's history.

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After Sept. 11, the Bush administration really stepped up efforts to keep government operations secret, generally by claiming the need to protect national security.

Fortunately, the Bush administration's penchant for secrecy became so flagrant that Republicans joined with Democrats to pass reforms to the Freedom of Information Act that should go a long way toward restoring transparency in government.

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“Open government is a prerequisite for a free society,” Cornyn argued in support of this legislation.

Bush should sign the FOIA bill into law.

<http://www2.tbo.com/content/2007/dec/31/na-bring-freedom-of-information-to-life/>
Tampa Tribune

Bring Freedom Of Information To Life

While professing a belief in open government, President Bush has hardly run the country that way. His administration has looked with disdain upon the Freedom of Information Act and worked to make even more information secret.

Bush isn't alone. For decades, Washington politicians have tried to block citizens from getting the information they need to assess how government is working.

But now Bush has a chance to prove his support of government transparency by signing the Open Government Act of 2007. The Senate passed the bill in early December, and the House followed suit shortly before Christmas. Support was overwhelming.

The Open Government Act strengthens the Freedom of Information Act by demanding greater responsiveness to public requests. It restores a presumption-of-disclosure standard, which requires agencies to release information unless the disclosure could do harm.

The legislation also clarifies that outside agencies in possession of government data are subject to FOIA, makes it easier to recover legal fees when information is wrongly withheld, and establishes a hotline and an ombudsman to facilitate public access.

If there is a downside to the legislation, it is that agencies still will be allowed to determine what can be legitimately withheld. Whatever was withheld before can still be withheld.

Still, this legislation sends an important and powerful message. Citizens want to see how their government works and Congress supports the cause.

<http://www.star-telegram.com/225/story/383770.html>
Fort Worth Star-Telegram

Logging in

When the federal Freedom of Information Act finally won overwhelming support in Congress 41 years ago, it reflected, an Illinois congressman said, that Americans had become aware of "the threat involved in government secrecy" because of a "continuing tendency toward managed news and suppression of public information that the people are entitled to have."

That insight came from then-Rep. Donald Rumsfeld.

President Bush's defense secretary has since moved on. Not so the suppression of information or the threat it poses to good government. In fact, the administration repeatedly has concocted new ways of keeping Americans in the dark.

But on Dec. 17, U.S. District Judge Royce Lamberth roadblocked one end-run around FOIA, ruling that visitor logs generated by the Secret Service at the White House and the vice president's residence must be disclosed to the public.

FOIA requires federal agencies -- except for the president and his advisers, Congress and the federal judiciary -- to make available voluminous information, unless it falls within specified categories such as classified documents, personnel records and internal litigation memos.

In 2006, Citizens for Responsibility and Ethics in Washington (CREW), Judicial Watch and *The Washington Post* filed FOIA requests for visitor logs to find out how often visitors such as disgraced lobbyist Jack Abramoff and influential conservative religious leaders went to the White House and the vice president's residence. Lawsuits resulted when the records weren't turned over.

The litigation revealed, among other things, that the White House and Secret Service had an agreement that the visitor records would be considered presidential records, which aren't subject to FOIA requests.

But Lamberth cut through the subterfuge. "These visitor records at the White House Complex and Vice President's Residence are created (or obtained) and controlled by the Secret Service and are therefore 'agency records' under our circuit's case law," he wrote in a 40-page ruling.

He rejected arguments that disclosing the logs would interfere with sensitive policymaking. "Knowledge of these visitors would not disclose presidential communications or shine a light on the president's or vice president's policy deliberations," he wrote. "It seems unlikely that visitor records will often pose a bona fide risk of improper disclosure."

Ruling in one of CREW's cases, Lamberth ordered the Secret Service to release records about visits by nine people, including James Dobson, Gary Bauer and Paul Weyrich.

The dispute over records of Abramoff's visits remains pending. The administration probably will appeal the order, just as it did a 2006 ruling that Vice President Dick Cheney's visitor logs had to be made public.

But history isn't -- and shouldn't be -- on the side of secrecy. Clinton visitor logs brought out the truth about White House visits by former intern Monica Lewinsky, Democratic Party donors Johnny Chung and Charlie Trie, and others whose connections embarrassed the administration.

Maybe that's why the Bush administration wants to keep the records under wraps -- and all the more reason why that shouldn't happen.

<http://www.timesunion.com/AspStories/story.asp?storyID=651008&category=OPINION&newsdate=12/30/2007>

Albany Times Union

FOI worthy of the name

New York's Freedom of Information Law and its federal counterpart, the Freedom of Information Act, are supposed to help citizens get the information they need about what their government is doing in their name. But for far too long, neither law was much of a match for bureaucrats intent on keeping information from public review. Both laws ostensibly required government agencies to respond to information requests in a timely fashion. But often those requests went unheeded for months, even years, wearing down the patience and persistence of those who had filed requests. Benign bureaucratic neglect had trumped FOI.

But things are changing for the better. In his last two years in office, former Governor Pataki supported reforms in New York's law, and the Legislature agreed. As a result, government agencies that stonewall legitimate requests for information can wind up paying legal bills if it is found they acted in bad faith.

And now the federal Freedom of Information Act has been strengthened by a Congress that finally found the spine to challenge the Washington tradition of strangling countless FOIA requests in red tape. President Bush has apparently decided to allow the measure to become law Monday without his signature.

Like the New York reforms, the federal changes contain strict deadlines for agencies to acknowledge and respond to information requests, as well as the threat of holding agencies liable for a complainant's attorney fees if they are found to have needlessly impeded a legitimate inquiry.

But the federal reforms also contain a provision that New York would be wise to adopt -- an ombudsman to resolve disputes. Under the reforms approved by Congress, the FOIA ombudsman would work out of an office at the National Archives and mediate disputes involving requests, particularly those that were denied by an agency.

The ombudsman has been hailed by many community newspapers that cannot afford to pay for legal assistance every time an FOIA request is denied. Ordinary citizens, special interest groups, businesses and organizations will also benefit from a process that provides an open door to all those who have good reason to inquire about what the government is doing in their name. New York should open that door just as wide.

THE ISSUE: Congress agrees to make public data more accessible.

THE STAKES: The public's right to know must come first.

<http://www.desmoinesregister.com/apps/pbcs.dll/article?AID=/20071228/OPINION03/712280354/-1/SPORTS01>

Des Moines Register

Bill's passage a victory for open government

In an otherwise unimpressive session, Congress passed an important piece of legislation that will give Americans more access to their federal government. A bill that adds needed teeth to the federal Freedom of Information Act passed both the Senate and the House.

President Bush has until Jan. 2 to sign the bill, and he plans to do so, a White House spokesman told the Register on Thursday.

This package of amendments to the 40-year-old act is regarded as the most important improvement in open government at the federal level in more than a decade, according to government-access experts. The revisions should make it easier for citizens to gain access to federal documents, and the process should be faster.

The original act was passed in 1967 to assure public access to government records. In most cases, where there is no doubt about the public nature of federal documents, the public can obtain federal records by simply asking, and they should be readily available. In cases where there is doubt, however, or if fetching and copying the requested records requires staff time, agencies require that formal FOI Act requests be made in writing. That process can drag on, sometimes for years. Citizens often have to hire an attorney to pry information out of the government.

The amended FOI Act should help correct those problems.

Among the key revisions: The bill creates an office of FOI Act ombudsman that will mediate between citizens and the government over disputed records; establishes a tracking system so FOI Act filers can search for the status of a request; and requires federal agencies to pay the legal fees of a citizen who successfully sues to obtain federal records.

There are legitimate, though narrow, exceptions to the general principle that members of the public should have access to information about their government. Unfortunately, it is too often a case of bureaucratic incompetence, sloth or indifference that prevents citizens from getting the information they seek and have a right to obtain.

These amendments to the Freedom of Information Act, passed with broad support by Congress, should go a long way toward removing those barriers

http://www.denverpost.com/opinion/ci_7794950

The Denver Post

Congress takes a shot at secrecy

Lo and behold, federal lawmakers stopped their infighting long enough last week to bestow a holiday gift on the American public.

With little fanfare, Congress overwhelmingly approved a measure that toughens the federal Freedom of Information Act.

It's the first significant modification of the act in the last decade, and it's a step toward breaching the walls of secrecy that the Bush administration has built around government.

To this, we say: Hallelujah.

The Freedom of Information Act (FOIA) is the 1966 landmark federal law that provides access to federal agency records.

The bill passed last week would strengthen penalties for federal agencies that don't respond to a request for information within 20 days. If they don't meet the deadline, they will have to refund the requester's search and copy fees, and the money would come out of their agency budgets.

Considering that it's not unusual for federal agencies to delay requests for months or even years, this modification has the potential to vastly improve the system.

Along with delays, it's also not uncommon to make a FOIA request and receive document copies with large portions blacked out or redacted. The bill would require federal officials to explain the redactions by citing which exemption in law they are relying on to withhold information.

Government contractors holding nonproprietary information also would be subject to the law.

The legislation also sets up a system whereby the public and the media may track the status of their requests under FOIA. And it creates an ombudsman position within the National Archives to address inquiries.

These are good revisions to a well-used law. The government received 21.4 million FOIA requests last year, according to an Associated Press story.

And it's not just journalists who turn to FOIA. A study by the Coalition of Journalists for Open Government, an alliance of more than 30 journalism-related organizations, found that businesses accounted for 60 percent of requests.

The second largest group using the law are private citizens who sought a diverse array of information, ranging from information about family members to UFO enthusiasts looking for proof of alien life.

According to the study, journalists accounted for 6 percent of requests.

The fate of the measure now lies with President Bush. The White House last week declined to say whether the president will sign the bill. We hope he does, or that it becomes law without his signature.

It's encouraging to see that in passing this measure, a bipartisan group of federal lawmakers recognized the value of open government. We look forward to seeing the changes become law.

http://www.nytimes.com/2007/12/22/opinion/22sat3.html?_r=1&oref=slogin

New York Times
December 22, 2007

Information Con Game

The very title of a now 41-year-old law — the Freedom of Information Act — sounds naïve in today's Washington, where government secrecy has become an even higher and darker art under the Bush administration.

The open-government law, known as FOIA, should be one of the chief tools for citizens to find out what's actually happening. For that, citizens' requests for information would have to be answered. Instead, FOIA requests have disappeared into the bureaucratic maw for up to 20 years with no answer for why the statutory 20-day deadline has become such a Dickensian maze of delay and frustration.

Call it reform or call it revenge, but Congress has just passed a measure to tackle glaring flaws in the FOIA process. With overwhelming bipartisan support, the measure would:

- Prod stricter deadlines with a numerical tracking system so citizens could follow their requests like (lost) package deliveries.
- Establish clear penalties for foot-dragging, including repayment of attorney fees for applicants found suffering the run-around at recalcitrant agencies.
- Create an ombudsman office at the National Archives to mediate disputes over requests, which currently are rejected outright in a full third of the cases.

- Ensure that information records held by private government contractors can no longer be kept off-limits to FOIA requests.

Contrary to initial expectations, FOIA has come to be used mainly by business firms, lawyers and information services, with the news media accounting for only about 6 percent of requests. This undoubtedly made for easier passage of reforms in Congress. The Justice Department registered some early objections, but so far there's been no veto threat from President Bush. It's no final cure-all for the secrecy that infects Washington, but Mr. Bush owes this measure of relief to constituents entitled to their curiosity.

http://www.palmbeachpost.com/opinion/content/opinion/epaper/2007/12/27/a16a_foia_edit_1227.html

Palm Beach Post

Keep the info flowing

Thursday, December 27, 2007

Overwhelming bipartisan support in Congress is just one reason President Bush should sign the 2007 Open Government Act. The first major reform of the 40-year-old Freedom of Information Act removes bureaucratic obstacles and streamlines access to the information the American public needs to hold their government accountable.

A key provision in the legislation restores the presumption-of-disclosure standard, committing agencies to release requested information unless there is a finding that such disclosure could do harm. The legislation further protects the public's right to know by restoring meaningful deadlines for agencies to respond, with real consequences for stonewalling. It clarifies that the FOIA applies to government records held by outside private contractors. It establishes a FOIA hotline for all federal agencies, and a FOIA ombudsman to provide a meaningful alternative to costly litigation.

"Open government is an American value," said Sen. Patrick Leahy, D-Vt., the Senate Judiciary Committee chairman. "The Freedom of Information Act is critical to ensuring that all American citizens can access information about the workings of their government. But, after four decades, this open government law needs to be strengthened." He and lawmakers such as Sen. Jon Kyl, R-Ariz., navigated myriad concerns to deliver the reforms that he also noted are endorsed by more than 115 business, public interest and news organizations across the political and ideological spectrum.

By signing the well-crafted legislation into law, President Bush can help the White House show good faith toward stemming the tide of unwarranted government secrecy. There are citizens who may not care about the workings of their government. That's different from government officials not wanting the public to know, or, worse, not letting them.

http://www.sptimes.com/2007/12/27/Opinion/Reform_of_information.shtml

St. Petersburg Times

Reform of information act overdue

Published December 27, 2007

The information generated by the federal government is the work product created on our behalf. Certainly, taxpayers paid for it. But federal agencies are notoriously dismissive of requests by the public for information under the Freedom of Information Act. In the 40 years since the act was initially passed, the government's responsiveness has slowed to a bureaucratic crawl.

Despite the terms of the law that direct federal agencies to provide a preliminary response to any request for documents within 20 days and fulfill it within a reasonable time, some agencies have outstanding requests that are more than 15 years old. Others deny requests for the most outlandish of reasons. In one example from 2002 in the New York Times, the National Zoo in Washington refused to provide the medical records for a giraffe because it said that to do so would violate the animal's privacy rights.

The Bush administration has encouraged this kind of intransigence. John Ashcroft, President Bush's first attorney general, issued a memo early in his tenure that urged federal agencies to resist FOIA requests whenever possible.

But thanks to the dogged efforts of a bipartisan group of lawmakers, many of these long-standing problems finally have been addressed. Congress has passed the Openness Promotes Effectiveness in Our National Government Act, a bill that would put some teeth in the rules that currently govern FOIA. It is now awaiting the president's signature.

The vital reforms contained in the bill include penalties to agencies that don't meet the 20-day initial response time limit, a new electronic tracking system that assigns each request an individualized tracking number to make it easier to determine the status of a request, and clarifying that FOIA applies to government records even when they are held by outside contractors.

The bill also would create a new ombudsman's office, providing an avenue other than litigation to resolve FOIA disputes.

The importance of this legislation cannot be overstated. Certainly the media would benefit from having more timely access to government records. But the biggest beneficiaries would be average citizens. The news media accounts for just 6 percent of FOIA requests.

The White House refuses to say whether the president is favorably inclined to sign the bill. It wouldn't be out of character for this president, who has such a penchant for government secrecy, to stand in the way of these reforms. That would be unfortunate, and if it happens Congress should override his veto.

<http://www.courant.com/news/opinion/editorials/hc-foi.artdec24,0,1382397.story>

Hartford Courant

Freeing Flow Of Information

December 24, 2007

Congress has finally adopted legislation that promises to cut through much of the red tape and outright obstructionism that often hampers requests for public information under the federal Freedom of Information Act.

Among other things, the bill sets up a tracking system for FOIA requests that take longer than 10 days to process. It also penalizes agencies for sluggish responses to requests for information (which have been known to drag on for 20 years).

The legislation establishes an ombudsman's office at the National Security Archive, the non-government research institute and library located at George Washington University. The office will be charged with issuing opinions, developing best practices and mediating disputes between citizens and federal agencies about unfulfilled FOIA requests — a promising alternative to time-consuming and costly lawsuits.

The legislation gives agencies a strong incentive to respond promptly to FOIA requests. An agency that receives a request will have a 20-day deadline to respond. Agencies missing that deadline will be automatically denied the right to bill for research or copying expenses.

Finally, the legislation gives members of the public who sue agencies over their FOIA requests a better chance at collecting for their attorney's fees.

The Bush administration, whose penchant for secrecy is probably the best-known secret in Washington, has opposed this measure in its earlier incarnations. This time, it's expected to pass. We thank Democratic Sen. Patrick Leahy of Vermont and Republican Sen. John Cornyn of Texas for championing a measure whose common-sense reforms will ease the flow of information into the public arena, where it belongs.

http://www.recordnet.com/apps/pbcs.dll/article?AID=/20071224/A_OPINION01/712240311/-1/A_OPINION06

Stockton Record

Media legislation good for access to vital information

December 24, 2007

Those who value the virtues of open government have reason to be reassured.

Information from the federal government could flow a little more freely next year thanks to Senate legislation that easily passed in both houses of Congress last week.

The bill, unanimously approved in the House of Representatives after a similar voice vote in the Senate, toughens the Freedom of Information Act and increases the penalties for agencies that don't comply.

It reverses the compunction for secrecy that has characterized the Bush administration.

Bush appears prepared to allow the legislation to become law without his signature under a constitutional technicality, thereby avoiding a veto that undoubtedly would be overturned.

By leaving the bill alone, Bush also avoids an affirmative endorsement that, if nothing else, maintains his administration's consistent commitment to keep a full accounting of governance from the governed.

The bill represents the first revision of the Freedom of Information Act in a decade and forces nonproprietary information held by government contractors to be subject to federal law.

Part of the compromise language has the effect of reversing an order issued by former Attorney General John Ashcroft after the Sept. 11, 2001, attacks.

The bill restores the presumption that government agencies must release requested information unless there is a finding that such a disclosure could do harm or imperil national security.

"We'll continue to try to balance national security with the vital interests of open government," said Rep. Tom Davis, R-Va.

Even as this bill was being approved on Dec. 18, the conflict was intensifying over the destruction of videotapes that showed terrorist detainees being interrogated by the Central Intelligence Agency.

The House Intelligence Committee threatened Dec. 19 to subpoena two high-ranking CIA officials to testify, rejecting the Bush administration's request to allow an executive branch investigation.

America's free and open democracy has been a model to most of the world. That beacon has been dimmed in recent years.

Every major news-gathering organization in America supported the Freedom of Information Act reforms.

This common-sense bill reaffirms the fundamental right of Americans to know more about how their government is being operated.

<http://www.modbee.com/columnists/vasche/story/160512.html>

Modesto Bee

The perfect Christmas gift from Washington, D.C.: Openness

By MARK VASCHE

December 22, 2007

Congress came up with the perfect present to put under America's holiday tree this past week: revisions to the Freedom of Information Act that would improve the public's access to federal documents and records.

What's needed now is for President Bush to put the perfect ribbon and bow on the gift by signing the bill into law.

Whether he will do that is up in the air, given his administration's dismal record on openness in government.

And even though the bill could become law without Bush's signature, his endorsement would be a strong affirmation of the principle that led to the Freedom of Information Act's creation in 1966: A democracy functions best when the public has access to all the information that the security of the nation permits.

"Nothing undermines public confidence in our government as much as obstruction and obsessive secrecy," Rep. William Lacy Clay, D-Mo., one of the bill's sponsors, was quoted as saying. "The legislation substantially strengthens the Freedom of Information Act by reaffirming the idea that the United States government belongs to the people, and whenever possible, we should err on the side of full disclosure of information."

Full disclosure has always been problematical at all levels of government, from here at home to up in Sacramento to back in Washington, D.C.

But security concerns in the wake of Sept. 11 brought new restrictions on public access. And while some of those restrictions may have been necessary, at least short term, too many public officials and agencies used Sept. 11 as an excuse to draw the curtains of secrecy even tighter for no good reason.

Congress recognized that in passing the Open Government Act this past week. The bill on the president's desk is the most far-reaching expansion in FOIA's 41-year history.

Among other things, it restores a "presumption of disclosure" requiring federal agencies to release information requested by the public unless the agency can specifically show that disclosing the information could cause harm.

In the wake of Sept. 11, the Bush administration instructed federal agencies to withhold all sorts of information by claiming uncertainty over national security.

Congress' action also ends a long-established pattern of foot-dragging by federal agencies by requiring them to respond to requests in a more timely manner. Agencies that fail to meet FOIA's 20-day response requirement would be penalized by funding reductions.

Why should San Joaquin Valley residents care about changes to the federal law?

For one thing, everyone has a stake in open government, whether they live in Modesto, Calif., or California, Pa.

For another, at least some of last year's more than 21 million FOIA requests were filed by local residents and-or with federal agencies in our region.

And for another, secrecy is every bit as rampant at the local and state level as it is at the federal level.

While the FOIA applies to federal agencies, California has its own set of open government laws that cover local jurisdictions and state government.

The Brown Act and the Public Records Act clearly require that the public's business be done in the open, and that citizens have access to the documents and records of government.

Yet on a regular basis city officials, county agencies, school boards and law enforcement authorities in our region circumvent the law.

A statewide access audit conducted early this year by the Californians Aware advocacy group and a host of news organizations, including The Bee, gave poor or failing marks to many local and state agencies.

Unfortunately, things haven't changed much since then, at least not based on our experience. We still have too many boards doing the public's business in private, and too many agencies refusing to release public information in a timely fashion, if at all.

When the annual Sunshine Week, with its focus on open government, rolls around in a few months, let's hope our local officials and agencies do better on their report cards.

In the meantime, the president could do himself and the country a favor by joining Congress in drawing back the curtains of secrecy and letting the light shine on the doings of government.

That would be a fine present indeed to find under America's holiday tree.

Vasché is the editor of The Bee.

<http://www.telegram.com/article/20071223/NEWS/712230395/1020>

Worcester Telegram

Tighter Freedom of Information Act is welcome

A bill to tighten the 40-year-old Freedom of Information Act and increase penalties for noncompliance, passed by the U.S. Senate earlier this year, was approved by the House last week. The changes, which streamline and improve the people's access to government documents, will help individuals, advocates and journalists shine the light of scrutiny on the inner workings of government.

The legislation, which is the first change to FOIA in 10 years, is intended in part to counterbalance actions taken by the federal government in the name of homeland security after the Sept. 11, 2001, terrorist attacks.

Among other provisions it commits government agencies to releasing requested information unless it is certain that doing so would cause harm. Also new, the law opens access to information, except proprietary material, held by government contractors. It also creates a system that journalists and the public can use to track their requests.

Agencies still would be able to black out sensitive material in the requested documents, but any such redactions would have to be accompanied by a detailed explanation, citing the specific exemption that justified withholding the information.

If an agency exceeds a 20-day deadline to respond to requests, it must waive search and copying charges to noncommercial entities making the requests.

Advocates of the changes had to agree to some compromises to get the measure passed, but overall the bill being sent to the president still effectively reverses some of the secrecy orders since the terrorist attacks, balancing the government's need for security with the people's crucial need to have an open government.

The legislation was aggressively promoted by media interests throughout the nation, but the changes also benefit advocacy and watchdog groups and individuals. Indeed, such laws are not primarily about allowing access to journalists but about maintaining an informed electorate and protecting the people's right to know.

At a time when much of the decision-making on the federal level takes place behind closed doors, the revamped Freedom of Information Act sends a welcome message about the desirability of transparent governance.

http://www.muskogee phoenix.com/opinion/local_story_357191556.html?keyword=topstory

Muskogee Daily Phoenix

If in doubt, disclose

Government disclosure is good. Government secrecy is bad. It's that simple, and the first inclination of government should be to disclose when the public seeks information rather than to search for reasons to enforce secrecy.

That's why Congress voted appropriately this mid-December to expand the Freedom of Information Act and reverse the trend toward secrecy implemented by the Bush administration following 9/11.

The attacks on New York and Washington, D.C., in 2001 created a need for global awareness of terrorism and ways to battle acts of terror. But government should not be able to use the excuse of terrorism to hide its operations and financial dealings.

The bill passed by Congress earlier this week would reverse an order by former Attorney General John Ashcroft instructing agencies to lean against releasing information if there was any uncertainty about how it would affect national security. Ashcroft's order was an open invitation to nondisclosure of activities unrelated to national security, and as we've seen with the CIA, an invitation to avoid accountability.

The bill also would increase penalties for noncompliance and making records held by government contractors subject to the FOIA laws.

The bill is expected to become law with or without the president's signature.

<http://www.journalgazette.net/apps/pbcs.dll/article?AID=/20071223/EDIT0501/712230415>

Fort Wayne Journal Gazette

FOIA bill aids public scrutiny

Commentary by Sylvia A. Smith
Washington editor

WASHINGTON – Between 1989 and 1992, we managed to elect a new president, invade three countries and replace two retiring Supreme Court justices.

What the thousands of federal workers in the Department of Health and Human Services could not do, however, is answer a simple request for information.

A Freedom of Information Act request I filed in December 1989 – by typewriter and with a stamped envelope in those pre-Internet days – was not resolved until September 1992, nearly three years later.

My request was denied, based on a 1979 court ruling. But you know what? I don't think it took the HHS Freedom of Information Division 13 years to notice that it was legally prohibited from telling me what I wanted to know.

My experience wasn't unique; taxpayers' multiyear waits for information about the government operations they pay for were commonplace from the very beginning of the Freedom of Information Act, which went into effect 40 years ago.

Until that point, the public didn't have the right to (figuratively) rummage in government's file cabinets, which were chock full of evidence that the official view of reality was an artfully constructed charade.

In other words, they told us what they wanted us to know, and if there were documents to contradict that – well, who needs to know about tainted meat that's not caught? Or the FBI infiltration of peace groups? Or Pentagon overspending, broken locks at jails, no-bid contracts?

So hip hip hooray for Congress for passing a bill that significantly updates a formal procedure for openness in government.

The bill bars agencies from collecting search fees if they fail to respond to a request in 20 days. Not three years – 20 days. Journalists are generally exempt from the fees, so the money wasn't the issue for my HHS dealings. But this is a significant boon for non-journalists, and it sets the expectation that requests are to be handled promptly.

The legislation also makes it more difficult for a federal agency to avoid paying a FOIA requestor's attorney fees when the requestor successfully sues to overturn a rejection. Even better, it creates an FOIA ombudsman to mediate disputes.

Bloggers and freelancers might especially benefit from the bill, which widens the definition of a (generally fee-exempt) journalist.

Since the Sept. 11 attacks, there has been a growing tendency in the Bush administration toward secrecy rather than openness. Congress pushed back, finally, with the improvements it adopted to FOIA.

It's certainly not a perfect bill. It does not restore a Clinton administration standard that agencies should release information unless they determine doing so would do harm. This approach was reversed by former Attorney General John Ashcroft, who ordered federal agencies to lean toward withholding information if they are uncertain about releasing it.

But it is at least an effort to stand up to a White House that often seems obsessed with blocking information from the very people who pay their salaries and fund their actions and – in fact – own that information.

This is legislation that journalist groups (such as the National Press Club, with which I am affiliated) publicly support. It's rare when my profession advocates for or against a public policy. But journalism – and in this I include information-gathering blogging – is what allows citizens to monitor their elected leaders. Without access to information, none of us, journalist or citizen, can do our jobs properly.

The White House has not indicated whether Bush will sign the bill or let it become law without his signature. He is not likely to veto it, but his lack of enthusiasm makes one wonder whether he will insist that his administration abide by the bill's provisions.

<http://www.goupstate.com/article/20071220/NEWS/712200330/1022/OPINION01>

Spartanburg Herald Journal

More open government

Congress strengthens the right of citizens to see

In order to distinguish its policies from the Bush administration's penchant for secrecy, Congress voted this week in favor of openness and accountability by strengthening the federal Freedom of Information Act.

It's the right tone for Congress to set. The Freedom of Information Act enforces the right of the people to learn what their government is doing. It makes the government accountable to its citizens.

The legislation passed makes several worthwhile changes in the law.

It expanded the scope of government documents available under the law, including government contracting information. And it strengthened penalties for agencies that delay fulfilling requests made under the law. The legislation also makes it easier for citizens to recover their legal fees if they have to sue an agency to force it to release information.

The changes don't represent a major shift in the law, but they are significant. They will make it easier for citizens to monitor their government.

And that's the message Congress wanted to send.

The White House has relied too heavily on secrecy, citing national security and executive privilege to keep many matters hidden.

While some secrecy is necessary, particularly in combating and preventing terrorism, much of the secrecy the administration insists upon has little to do with security. Instead, the White House acts as though it is accountable to no one, that its actions are by definition lawful and beneficial.

That's not how our government should work. Each branch of the government is accountable to the other two, and all three are accountable to the people.

Citizens will accept some secrecy, particularly in dealing with other nations and terrorists. But too much secrecy breeds suspicion and distrust. When a government at any level keeps secrets, its citizens are likely to wonder what it is hiding from them.

As the government is forced by national security interests to enforce some secrecy, it becomes even more important to insist on openness in the rest of government to keep that secrecy from spreading.

Congress recognized that. While it is locked in battles with the White House about accountability between branches of the government, it improved the law that enforces openness and accountability to the citizens.

The White House has criticized the bill. The president should embrace it, sign it and renew his commitment to open government.

<http://www.madison.com/wsj/home/opinion/index.php?ntid=263951&ntpid=1>

Wisconsin State Journal

Congress gets it right

For more than four decades, the Freedom of Information Act has made the federal government more accessible, accountable and transparent.

And now, thanks to Congress, this invaluable law is being revised to reflect changing technology and other concerns. The result will be an open government law more useful and powerful than ever.

A bipartisan majority of Congress this month finalized the Openness Promotes Effectiveness in our National Government Act of 2007. President Bush has indicated he will sign these revisions into law.

Journalists have used the Freedom of Information Act since 1966 to uncover abuse of power and illegal activity by public officials and institutions.

Yet ordinary citizens are even more frequent users of the act. The law allows them to track government spending, public health, school safety, police tactics, deadbeat parents and discrimination.

Many requests for public records have led to deep-rooted and lasting change. Yet the law still needed an overhaul to reflect computer technology and government attempts to deflect or delay legitimate requests for public information.

Because of an increase in requests, combined with a significant number of stingy record-keepers, huge backlogs exist. Too many citizens have to wait years to get records, which can delay or derail justice.

The revisions approved by Congress this month should shorten waits and provide for monitoring and evaluation of responses to Freedom of Information requests.

Congress will now require government agencies to:

Respond to requests within 20 working days or else waive search and copy fees.

Set up hotlines and tracking systems to help the public follow up on requests.

Report on response times, including a list of the 10 oldest active requests for information pending at each agency.

Submit to an independent ombudsman who will review agency policies and procedures, audit agency performance, recommend policy changes and mediate disputes.

Government agencies can still keep sensitive information secret by successfully demonstrating that national security or privacy concerns outweigh the public's right to know. But government bureaucrats must quickly release other public information under the stronger rules going into effect.

Congress and the president are taking a big step toward a government that serves, rather than swindles, the public.

Our leaders in Washington should build on this momentum and also pass a federal shield law for journalists. A shield law would protect journalists from revealing confidential whistle-blowers.

Keeping government open and honest is a never-ending job for ordinary citizens, the media and government officials themselves. Congress has shown it recognizes this by beefing up the Freedom of Information Act. Now it should move on from there and adopt the shield law.

<http://www.pantagraph.com/articles/2007/12/26/opinion/129314.txt>

Bloomington Pantagraph

Changes in Freedom of Information Act victory for public

Openness in government and the public's right to hold its officials accountable received a boost with unanimous passage of a measure to strengthen the federal Freedom of Information Act.

The Senate passed S. 2488 unanimously on Dec. 14 and the House followed with approval by voice vote with no dissent on Dec. 18.

President Bush should sign the bill to demonstrate his commitment to government accountability and accessibility.

Protection of national security will continue to be a valid reason for denying disclosure of information.

However, the legislation explicitly puts the presumption in favor of releasing information requested by the public. There must be a finding that such disclosure would do harm in order to deny the request.

Without mentioning former Attorney General John Ashcroft by name, the bill in effect reverses an order he issued in the wake of the 9-11 attacks that directed agencies to lean against disclosure if there was uncertainty about how the information could do harm. In practice, that order encouraged denial of requests.

This bill would restore the proper balance between open government and national security.

Other strong points in the legislation are establishment of a tracking system so the media and

general public can check on the status of their requests and a hotline for all agencies. If information is blacked out, the specific exemption allowing it under the Freedom of Information Act would have to be cited.

The measure also creates an alternative to litigation by having an ombudsman to mediate disputes.

The bill's primary sponsor, U.S. Sen. Patrick Leahy, D-Vt., worked with the Justice Department to address its concerns.

Both senators from Illinois, Democrats Dick Durbin and Barack Obama, were co-sponsors of the legislation.

In addition to upholding the American public's right to know, the congressional action sends a strong signal to other countries about American ideals and the importance of openness in a democracy.

<http://www.floridatoday.com/apps/pbcs.dll/article?AID=/20071226/OPINION/712260301/1004>

Florida Today

Our view: The citizen watchdogs

Expanding Freedom of Information Act victory for holding the powerful accountable

Democracy thrives in the open, when the free flow of information allows citizens to know what their government is doing.

It withers and dies in the darkness, when politicians and bureaucrats operate in secret and strangle the openness that's necessary to keep the powerful in check.

That's why Congress gave every American an early Christmas present last week with its overwhelming approval of a bill that strengthens the Freedom of Information Act, an important tool that shines light on what goes on behind the closed doors in Washington.

Since the measure became law 40 years ago, journalists and citizens alike have used it to destroy deception and reveal the truth, picking the lock on everything from White House and CIA files to the squandering of taxpayer money by federal agencies.

For instance, FLORIDA TODAY and its three sister Gannett newspapers in Florida used the act to obtain documents from FEMA about how it misspent millions of dollars after the 2004 hurricanes tore through our community and state.

But it didn't happen without a legal fight after FEMA refused to hand over the material. In a strongly worded opinion, the 11th Circuit Court of Appeals said the documents were public records and ordered them released.

The case reflects the Bush administration's obsession with secrecy since 9-11, which it has used to stonewall record requests on just about everything, in essence telling you to shut up and mind your own business.

What the White House ignores is that the business of government is the business of the people, making the Freedom of Information Act one of the most valuable assets to hold elected officials accountable.

Fortunately, members of Congress understand that, too.

With broad support from Democrats and Republicans, the Senate and House have approved a measure that takes major steps to end the long delays, costly legal fees and tsunami of red tape that journalists and citizens face while trying to pry open records.

Bush has fought the measure but it's expected to become law during the Congressional recess this week, when bills left unsigned for 10 days can pass without the president's signature.

The act's importance is seen with its use to rip away the lies and cover-ups surrounding the Iraq war.

Documents related to manipulating the intelligence about Iraq's non-existent weapons of mass destruction, detaining and torturing prisoners, illegally spying on American citizens and no-bid contracts given to Halliburton have shed light on the Bush administration's actions.

It also continues to be used by the families of troops killed in Iraq who are trying to gain information the Pentagon is withholding about the death of their loved ones through suicide and friendly fire.

Charles Davis, executive director of the National Freedom of Information Coalition, sums up the act best, saying it enables ordinary citizens "to serve as civic watchdogs."

In a government of the people, by the people and for the people, that's essential to ensure our democracy remains alive and strong, not strangled to death in the secret back rooms of power.

St. Louis Post Dispatch

Your right to know

Congress this week sent the most far-reaching expansion of the Freedom of Information Act in the 41-year history of the law to the president who has run one of the most secretive administrations in U.S. history.

Now George W. Bush must decide whether to sign the law, thereby repudiating some of his own decisions, or veto it and risk an override by a Congress that passed the bill with overwhelming bipartisan support.

Fortunately for Bush, Congress could give him a face-saving back door if it chooses to go into recess for the holidays instead of formally adjourning. By law, bills passed by a Congress that is in session — even if it's only technically in session — go into effect within 10 days unless the president vetoes them.

It would be better for the nation — and better for his own legacy — if Bush signed the bill. Just this week a federal judge ordered the administration to stop blocking the Secret Service from releasing White House visitors logs. Those lists had been requested under the FOIA by a group investigating lobbyist activity, but the White House claimed the visitors lists were "presidential documents" protected by executive privilege. It was only one example of Bush's claims to decide on his own what the public has a right to know.

However the FOIA expansion becomes law, it is a welcome reaffirmation of the principle that government must be open and accountable to the people it serves. The bill puts additional teeth into the FOIA by requiring federal agencies to stop dragging their feet on requests for records.

More than 21 million requests were filed last year under the Freedom of Information Act. Although requests filed by news outlets tend to get more publicity, 90 percent of the requests come from private citizens or companies. Agencies are supposed to comply within 20 days, but cases often drag on for years.

The new legislation penalizes agencies that fail to meet deadlines — they lose money from elsewhere in their budgets, a dire bureaucratic penalty — and establishes a hotline allowing easier tracking of information requests. Each agency will get an "ombudsman" to handle complaints.

Most significantly, the bill reasserts the "presumption of disclosure" principle: Unless an agency can show that disclosure would be harmful or unless there is uncertainty over how disclosure might affect national security, records must be disclosed.

Rep. William Lacy Clay, D-Mo., one of the key sponsors of the bill, put it nicely: "Nothing undermines public confidence in our government as much as obstruction and obsessive secrecy. The legislation substantially strengthens the Freedom of Information Act by reaffirming the idea that the United States government belongs to the people, and whenever possible, we should err on the side of full disclosure of information."

http://www.contracostatimes.com/opinion/ci_7798854?nclick_check=1

Contra Costa Times

Open government win

LAST WEEK, CONGRESS stuck a blow for open government by passing legislation to improve the Freedom of Information Act. It is a welcome antidote to the secrecy that has pervaded the Bush administration.

The president has been silent on the measure, but it appears to be veto-proof. It moved quickly through the Senate and was unanimously passed by the House.

The bill restores a presumption-of-disclosure standard committing government agencies to releasing requested information unless there is a finding that such disclosure could do harm.

This provision is aimed at reversing an order by former Attorney General John Ashcroft after the Sept. 11, 2001, attacks, in which he instructed agencies to lean against releasing information when it was uncertain how doing so would affect national security.

Government agencies would have to meet a 20-day deadline for responding to FOIA requests. Their FOIA offices would have to forward requests for information to the correct agency within 10 days of receiving them.

If they fail to meet the 20-day deadline, agencies would have to refund search and duplication fees for noncommercial requesters. They also would have to explain any redaction by citing the specific exemption under which the blacked-out information qualifies. Nonproprietary information held by government contractors also would be subject to the law.

The legislation creates a system for the media and public to track the status of FOIA requests. It establishes a hot line service for all federal agencies to deal with problems and an ombudsman to provide an alternative to litigation in disclosure disputes.

When government agencies lose or settle a FOIA lawsuit, money to pay for attorneys' fees will now have to come from other programs within each agency.

If the legislation becomes law, as appears likely, it would be the first makeover of the FOIA in a decade. It is an overdue reform and essential to open government.

<http://www.orlandosentinel.com/news/opinion/orl-ed21207dec21,0,1522134.story>

Orlando Sentinel

Our position: The president needs to sign a bill to ensure agencies respond to information requests

Every once in a while the two parties in Congress put down their brickbats long enough to do something significant together. That's what happened recently when Democrats and Republicans agreed on a bill to improve government openness and accountability.

The bill would strengthen the Freedom of Information Act, the law that makes government documents, with limited exceptions, available to citizens who request them. Some federal agencies have flouted the law by sitting on requests for months or even years, though it requires a response within 20 days. Delays have gotten worse under President George W. Bush, whose administration has operated with unprecedented secrecy.

Under the bill, information requests could be tracked online. Agencies that missed the deadline wouldn't be able to charge requesters for searches or copies. A new office would field complaints about unfulfilled requests and issue opinions about disputes. Citizens who sue for information would have an easier time collecting their attorneys' fees.

It's not just an issue for reporters when federal agencies refuse to abide by the law. A study on the law last year found the news media accounted for just 6 percent of information requests. Most came from businesses; a third came from private citizens, for such purposes as records about benefits or their family backgrounds.

Congress put aside partisanship in favor of more responsible government in crafting this bill. Now Mr. Bush needs to sign it.

http://seattlepi.nwsourc.com/opinion/344057_opened.html

Seattle Post-Intelligencer

Open Records: Unhealthy secrecy

The wall of unhealthy secrecy around the Bush White House is being breached, at least a little. The much-feared American public could soon be close enough to peer at the door of ... the people's house.

In a case involving an effort to check the frequency of White House visits by evangelical politician-preachers, a federal judge ruled Monday that visitor logs are public records. The White House may appeal.

Meanwhile, Congress on Tuesday passed a modest expansion of the federal Freedom of Information Act. Government agencies could face fines, to be taken out of their budgets, if they lose a lawsuit over withholding public information. The White House hasn't said if President Bush will sign the bill, but it passed the Senate with support from some of his top conservatives allies, including Sens. John Cornyn and Jon Kyl.

The Senate also must restore longstanding provisions for many presidential records to be released 12 years after an administration leaves office. New Mexico's Sen. Jeff Bingaman has hopes of a vote Wednesday; the House earlier gave the records measure veto-proof support.

After seven years of the Bush administration, it's easy to forget conservatives care about open government as much as any part of the public. Undoing the Bush-Cheney obsession with secrecy will take bipartisanship, patience and commitment to reform by a new administration. But a few doors may already be close to reopening.

<http://dnj.midsouthnews.com/apps/pbcs.dll/article?AID=/20071221/OPINION01/712210309/1016>

MurfreesboroDaily News Journal

Openness gets boost this week from yeas, ???

It has been a good week for the cause of more open government, with promising signs on the state and national levels that at least some elected officials understand the importance of the public's right to know what its government does.

Nationally, Congress overwhelmingly passed bipartisan legislation that toughens the 40-year-old Freedom of Information Act (FOIA) and increases penalties on agencies that don't comply with open records requests. This marked the first makeover of FOIA in a decade and would go a long way toward bringing back some balance to what has been a disturbing trend toward secrecy in the federal government in general and the Bush Administration in particular.

While President Bush and his administration has leaned toward more secrecy since the 2001 terrorist attacks, it was no secret that lawmakers from both parties increasingly felt like the administration had gone much too far in its use of a national security defense to justify closing off previously open records.

It's unclear if the president will sign the legislation, but even without his signature, the bill would become law during the congressional recess that begins next week. We hope the president does the right thing and puts his John Hancock on a bill about which the founding fathers would be proud.

Among the improvements to the act: a 20-day deadline for responding to FOIA requests; refund of search and duplication fees for noncommercial requesters if the deadline is not met; a system for media and the public to track the status of FOIA requests.

A myriad of media groups, such as the American Society of Newspaper Editors and the Society of Professional Journalists, supported the bill, but much more was at stake than the access journalists have to public records. As we've said in this space before, it is ultimately the people's government. Last year, the government received 21.4 million requests under the act, certainly a lot from the media, but many requests came from private citizens.

This bill is a strong step toward keeping our federal government open and accountable.

Meanwhile, it was good to hear that state Sen. Randy McNally is hesitant to sponsor legislation that would change the state's open government laws. We still feel the proposed changes would be atrociously damaging to the state's open government laws and should be strongly rejected.

McNally, R-Oak Ridge, chaired the study committee that handed down its final recommendations this week. The panel is recommending, among other things, that up to three members of a government body be allowed to meet in private and even decide on how they would vote. That's absolutely foolish and detrimental to open local government.

While committee chairmen normally sponsor legislation stemming from the panel's work, McNally hasn't committed to do so. He should go a step further and recommend the panel reassembles, perhaps with a different make-up, and craft recommendations that protect citizens, not politicians

<http://www.masslive.com/editorials/republican/index.ssf?/base/news-2/1198225317187470.xml&coll=1>

The Republican, Springfield Mass

Law shines a light so make it bright

Since 2001, when then-Attorney General John D. Ashcroft issued a memo instructing agencies not to release documents if there was a possibility that it might endanger national security, it has been harder for American citizens to learn what their government is doing.

The Ashcroft memo was a natural reaction to the Sept. 11, 2001, terrorist attacks, but it has nearly destroyed the Freedom of Information Act.

Congress sent a bill to President Bush this week that would strengthen the Freedom of Information Act and penalize agencies that fail to comply with it.

The Bush administration has been one of the most secretive in modern U.S. history. In the weeks after the terrorist attacks, extreme measures were taken to prevent another attack. History will record the Ashcroft memo as a symptom of a nation under duress. It is time to correct course. A government must be open and accountable to the people it serves. The Freedom of Information Act makes that possible.

The president should sign this bill and signal to the nation that the public's right to know is fundamental to its freedom.

The burden should be on the government - not the public - to prove that disclosure would threaten national security, endanger public safety or harm the public in some other way. The legislation on the president's desk does this by requiring federal agencies to prove that disclosure of a government record would be harmful.

The legislation will also make it possible for an individual to monitor the progress of his request for a government document.

The government spends millions of dollars responding to formal requests for information - and, if you value democracy, it is worth every penny.

There are few countries in the world that have a law making it possible for anyone to obtain a government record by simply asking for it.

It is the duty of Congress and the president to make certain that it's a good law.

<http://www.democratandchronicle.com/apps/pbcs.dll/article?AID=/20071221/OPINION04/712210360/1041/OPINION>

Rochester Democrat and Chronicle

Congress this week struck an important blow for government openness, strengthening the Freedom of Information Act and reversing some of the decisions the Bush administration has made over its tenure as perhaps the most secretive presidency in history.

The president, if he wishes to alter history's likely perception, should embrace this bill, which essentially holds government agencies accountable for meeting the requirements of the original legislation passed 40 years ago.

Under this legislation, federal offices that fail to meet FOIA deadlines will have to pay costs that applicants incur in seeking the information.

As penalties go, these aren't earth-shaking, and the lasting answer is for federal workers and their supervisors to understand and respect the law, and its underlying principle that government documents belong to the people, not the agency that complies and stores them.

The new law also erases the post-9/11 directive of former attorney general John Ashcroft stating that agencies should lean against releasing information if there's uncertainty about its effect on national security. Now the presumption is to be the opposite — unless there's a finding that disclosure would be harmful, the data will be made available.

Changing the law is one thing. Changing government behavior is another. But FOIA has teeth now, and that matters.

http://www.republicanherald.com/site/news.cfm?newsid=19135394&BRD=2626&PAG=461&dept_id=530483&rfi=6

Republican & Herald, Schuylkill County, Pa

New FOIA Act has major improvements

America often has struggled with simultaneously preserving liberty and security and, too often, easy access to government information has been a casualty.

Even before the terrorist attacks of Sept. 11, 2001, former Attorney General John Ashcroft advised executive branch agencies to lean against compliance with freedom of information requests, and the lid on government data has been bolted down even more firmly since the government attacks.

This week Congress struck a blow for freedom when it reemphasized that word, and ideal, in the Freedom of Information Act. A new FOIA was passed unanimously by the House Tuesday after easily passing the Senate by a veto-proof margin.

The most important aspect of the new bill is that it restores a presumption of disclosure. That is, it commits government agencies to releasing requested information unless they can prove that doing so would cause harm to the national interest.

That is crucial because, too often, politicians and their minions protect information in order to protect their own political or employment interests.

Agencies would be required to respond to FOIA requests within 20 days.

The bill also creates a system for members of the public to track their FOIA requests through the system. It mandates a hotline to report FOIA complaints and creates an ombudsman to help resolve complaints outside of litigation.

A major improvement of the bill is that, for the first time, it would include non-

proprietary information of government contractors as public information.

This bill repudiates secrecy as standard operating procedure and restores public disclosure as a crucial aspect of democracy.

http://www.thecabin.net/stories/122207/opi_1222070010.shtml

Log Cabin Democrat, Conway, AR

FOIA Updated after a decade

Congress on Tuesday took steps to open up the secrecy of the Bush administration since Sept. 11, 2001, by passing legislation to increase the strength of the federal Freedom of Information Act. The legislation also increases penalties levied on agencies that do not comply with FOIA laws.

In the newspaper business, we rely on the Freedom of Information Act on a near daily basis. It is what allows us access to police and fire department reports; it keeps politicians and other public figures from discussing public business in secrecy; it ensures the free, open government we in the newspaper business have relied on for more than 40 years. But one misconception many have is that the FOIA is only for the press. It isn't. It is a law for citizens so that they can be informed about what the government is doing for them, with their tax dollars.

The Bush administration hasn't said whether or not President Bush will sign the act into law, but if Bush doesn't veto it, the Openness Promotes Effectiveness in our National Government Act (OPEN) could become law without his signature next week when the congressional recess begins, which would allow him to save face without taking too much criticism from the GOP.

The bill will require government agencies to establish FOIA offices with chief officers to mediate disputes with the public as an alternative to litigation. It will also require agencies to cite laws that allow certain documents to be redacted, containing fields that are blacked out.

The act also adds provisions making more government documents held by private contractors available. Something tells us Halliburton and Blackwater will be receiving many new FOIA requests.

The main purpose of the act was to reverse an order given by then-Attorney General John Ashcroft to restrict giving out public information if agencies believed it would affect national security, an excuse media has received more frequently since the attacks on the World Trade Centers and the Pentagon. Now agencies must have evidence to support the claim that releasing certain documents could cause harm to national security.

Under the new bill, if it becomes law, tracking numbers will be assigned to FOIA requests, and media and members of the public will have access to Web sites and telephone hot lines where they can check the status of their request.

The true benefit of this bill, though, is that it will pull back the curtains on our federal government, which has become quite secretive under the present administration.

Government has been proven not to work well when decisions are being made behind closed doors. Politicians would then be doing things to their satisfaction, not ours. There is nothing more fundamental than the public's right to know. It is how our representative democracy works. Without it, we may as well live in a dictatorship. Much like the institutional mechanism of checks and balances it prevents abuse by all branches of government.

While the new act isn't perfect, it is a step in the right direction.

Rick Blum of the Sunshine in Government Initiative said, "After years of growing government secrecy, (Tuesday's) vote reaffirms the public's fundamental right to know."

We couldn't agree more.

And Now a Word from the Sponsor

http://www.statesman.com/opinion/content/editorial/stories/12/25/1226cornyn_edit.html

Austin American Statesman

Cornyn: Now there's a little more Texas sunshine in Washington

Sen. John Cornyn, R-Texas, U.S. SENATE

Tuesday, December 25, 2007

At a time when government seems to be growing by the day, Congress made an important move at year-end towards increasing government openness, transparency and accountability. Both the Senate and House approved the most sweeping reforms to our freedom of information laws in more than a decade.

I first introduced the OPEN Government Act with U.S. Sen. Patrick Leahy, D-Vt., two years ago. After months of hearings and negotiations, it was finally approved overwhelmingly in December. The Cornyn-Leahy bill, when signed by the President, will not merely be a victory for transparency in federal government operations. It will be a vital building block to strengthen our democratic process.

Texas has long had one of the nation's strongest open government laws. When I served in state government as Attorney General, I had a key role in enforcing that law. So bringing a little Texas sunshine to the federal government was a top legislative priority for me when I arrived in Washington five years ago.

The Cornyn-Leahy bill updates the Freedom of Information Act (FOIA) to address undue delays and onerous burdens that often greet Americans looking for information from their government.

The underlying FOIA law was initially enacted more than 40 years ago. Achieving prompt responses has been a serious problem in its enforcement from the beginning. Some pending requests for information are more than a decade old, possibly sitting in a bureaucrat's drawer somewhere. And many information requests can only be resolved through costly lawsuits, which effectively prevent citizens from receiving information they're entitled to.

The bill restores meaningful deadlines—with consequences—to the FOIA system, encouraging government agencies to provide timely responses. It creates a new initiative for tracking pending FOIA requests and an ombudsman to review agency compliance. It provides safeguards against misuse of the law, and closes loopholes used to avoid compliance. It recognizes changes in the way information is circulated, and allows journalists and public representatives equal access to information.

The OPEN Government Act bolsters the most fundamental requirement for an effective democracy—a free and informed citizenry. It reinforces Abraham Lincoln's notion of a government "of the people, by the people, for the people" by facilitating the flow of information into the hands of Americans. I have tried to advance these principles throughout my years in public office.

These FOIA reforms come after years of legislative work that required significant bipartisan cooperation. In a year when gridlock seemed periodically to take over Congress, Sen. Leahy and I are proud that we were able to achieve consensus in both chambers, and among both parties, for this bill. It is clearly one of the signature accomplishments of the current Congress.

James Madison once declared: "The advancement and diffusion of knowledge is the only guardian of true liberty." But I know firsthand that government, unless prodded, has a natural tendency to suppress distribution of information, particularly when it is inconvenient or embarrassing to those in office.

There are always exceptions to the rule that must be observed, such as the need to keep confidential information that could compromise our national security. Our FOIA reforms recognize that. But our underlying principle is this: when information can be made open and available, it should be.

These reforms will require federal agencies to make significant changes in the way they operate. I will be watching closely to make certain they comply. And Congress itself needs to do much more to improve transparency. The earmark process—when legislators insert narrow projects into a massive spending bill—should have far greater openness and accountability. I intend to pursue that reform as well.

Texas has long prided itself on its wide-open spaces, and open government. Accountability is also an important Texas value. Our state has been a national leader in advancing the ideals of transparency in our public business. We are all safer, and our liberty more secure, whenever Washington adopts more of that Texas sunshine.

Cornyn serves on the Armed Services, Judiciary and Budget Committees and he is Vice Chairman of the Senate Select Committee on Ethics. He serves as the top Republican on the Judiciary Committee's Immigration, Border Security and Refugees subcommittee and the Armed Services Committee's Airland subcommittee.

And from the Bloggers

<http://arstechnica.com/news.ars/post/20071220-foia-reform-bloggers-are-journalists-too.html>

FOIA reform: Bloggers are journalists, too

By [Nate Anderson](#) | Published: December 20, 2007

It's not every day that a senator takes to the floor to defend "Internet blogs and other Web-based forms of media," but Sen. Patrick Leahy (D-VT) has done just that in his recent push to pass a Freedom of Information Act reform bill he has coauthored with two Republicans.

The Senate passed the OPEN Government Act last week (which builds on previous reform attempts), and the House followed suit on Tuesday of this week. The reforms in the bill make it easier for bloggers and other Internet journalists to make FOIA requests without paying fees, and they strengthen deadlines for agencies to respond to requests. Contractors who work for the federal government are now explicitly covered by FOIA rules, and a new FOIA Ombudsman will help resolve disputes outside of court. The legislation awaits President Bush's pen.

FOIA has always exempted journalists from paying fees to access government records (other citizens and companies are charged for search time and duplication of documents), but the rise of the Internet has made it more difficult for government agencies to decide if someone is a legitimate "journalist" or not.

The OPEN Government Act sets up what seems to be quite a reasonable standard for making these decisions: prior publication history. Writers need have no official affiliation; if they have a history of publishing pieces, on the Internet or elsewhere, they should be considered for a fee waiver. Even those without such a publication history may be eligible for a waiver if they offer a compelling explanation of how they will distribute the material in question to a broad audience.

The Act also seeks to stop a devious legal strategy where federal agencies bent on stonewalling the disclosure process could refuse to answer FOIA requests, force the requester to bring an expensive lawsuit against the agency, then release the requested documents just before a judicial decision came down. Because a court had not ruled against the agency, the requestor couldn't collect attorneys' fees. Under the new law, agencies would have to pay so long as the complainer had "substantially prevailed" in the case.

The Act is already being hailed by journalism organizations and digital civil liberties groups alike. "Passage of the FOIA bill will allow not only members of the press but all Americans to hold their government more accountable," said Clint Brewer, president of the Society of Professional Journalists. "In a time when First Amendment rights are under attack almost daily in this country, this bill is a major step to ensuring America has a free press and a government that is transparent and open."

The EFF, a group that has made good use of FOIA requests in the past, says that the legislation "isn't perfect" but that "it will take some steps towards streamlining the process and creating more accountability."

<http://www.cbsnews.com/blogs/2007/12/19/publiceye/entry3631532.shtml>

Public Eye, Posted by [Brian Montopoli](#)

Is FOIA Becoming (A Little) Less Frustrating?

As any journalist can tell you, dealing with the Freedom of Information Act (FOIA) can be enough to make you wish you'd gone into a different line of work.

It all sounds so simple at first: If you want a document or piece of unreleased but legally available information from the U.S. government, you submit a FOIA request. But government agencies are, unsurprisingly, reticent to cooperate with journalists or other individuals seeking information that could make them look bad, so the response is almost never what you're hoping for.

Instead of a few pages of documents or a neat summary of what you're looking for, you might face long response times, be offered incomplete documentation, or be told that to pay high fees. You might get buried in so much paper that it becomes extremely difficult to find what you first requested. You might never hear back at all.

Which is why it's good news that Congress has passed legislation to strengthen the Freedom of Information Act. If the president does not veto the bill, it would mandate that agencies respond to FOIA requests within 20 days – and be punished if they don't – and create a system for tracking requests, among other innovations.

“Currently, delays, staggering legal fees and mountains of red tape undercut FOIA's usefulness for citizens and journalists,” David Cuillier of the Society of Professional Journalists in a statement emailed to Public Eye. “This bill is crucial for helping FOIA work better, which in turn, helps democracy work better.”

In recent years, agencies' response time to FOIA requests has decreased, and the Bush administration has not exactly shown a propensity towards making information publicly available. In 2001, for example, President Bush signed an executive order allowing presidents to delay the release of many of their records indefinitely.

It is thus something of an open question whether the president will sign the legislation, which reflects a compromise crafted after the White House and Justice Department objected to some of the details, including restoration of a provision that agencies release information unless they determine it will do harm. (After Sept. 11, then-Attorney General John Ashcroft had instructed agencies to err on the side of not releasing information.) The Associated Press speculates that Mr. Bush might simply ignore the bill, which would

have the effect of causing the new rules to go into effect after 10 days.

“This pocket-veto-in-reverse would give Bush some political cover, allowing the FOIA bill to become law without taking the affirmative step of endorsing it,” notes the AP.

<http://tech.blorge.com/Structure:%20/2007/12/22/yes-suzie05-bloggers-are-journalists-too/>

In a step to help bring freedom of press to the world wide Internet, Sen. Patrick Leahy has co-authored and helped push through the OPEN Government Act. A reform to the Freedom of Information Act that will help online journalists access information easier and for less money.

Freedom of Information Act requests have always been available to everyone, but journalists have been the only group exempted from the search time and file duplication fees. With the mainstreaming of online journalists and bloggers, government agencies have had a hard time separating legitimate journalists from the rest of the crowd.

The reform to the FOIA, The OPEN Government Act, will help with the decision process by including a simple precedent. Previous publishing history, online journalists and bloggers with a history of publication will have the normal FOIA fee waived plus they will be recognized as legitimate journalists therefore requiring the agency to keep to a more concrete deadline.

There is also an exception to the requirement of a publishing history in the new reform, if you can give the agency an explanation of your use of the information for public distribution you will receive the same benefits as a journalist. In addition, this reform will also close a nasty little loophole that some government hired agencies have been using to discourage particular FOIA requests. The previous loophole was a legal technicality where agencies would force the party making the request to sue the agency for the FOIA information. Waiting till days before the court made a final decision, the agency would then give the information to the requestor leaving them with all of the bills of the suit that they would have otherwise got reimbursed on in the winnings of the suit. Now the agency will have to pay the bill as long as the other party had "substantially prevailed" during the law suit even if the agency caves early.

With such a reform only needing President Bush's signature to go into effect, according to Ars Technica, publication groups such as the Society of Professional Journalists are hailing it for the positive impact it will have upon all journalistic venues.