

[http://specter.senate.gov/public/index.cfm?](http://specter.senate.gov/public/index.cfm?FuseAction=NewsRoom.NewsReleases&ContentRecord_id=a702b47e-9ffe-e441-b7c4-16e591ed00d7)

[FuseAction=NewsRoom.NewsReleases&ContentRecord_id=a702b47e-9ffe-e441-b7c4-16e591ed00d7](http://specter.senate.gov/public/index.cfm?FuseAction=NewsRoom.NewsReleases&ContentRecord_id=a702b47e-9ffe-e441-b7c4-16e591ed00d7)

News Room

News Releases

[Home](#)

Specter, Schumer Announce Agreement With White House on Revised Reporter Shield Bill

Bill, Supported By White House and Media Organizations, Addresses National Security Concerns and Creates a Legal Protection for Journalists Guarding Sources' Anonymity



Washington, D.C.
Friday, October 30, 2009 -

U.S. Senators Arlen Specter (D-PA) and Charles E. Schumer (D-NY) today released a revised version of the Free Flow of Information Act which has received backing from the White House and the newspaper industry. The bill includes new provisions that further protect national security interests while providing legal protection for journalists guarding the anonymity of their sources.

Senator Specter said “The negotiated compromise creates a fair standard to protect the public interest, journalists, the news media, bloggers, prosecutors and litigants. White House negotiators for President Obama played a decisive role in working out this compromise. The news media kept up the pressure for years to produce this compromise for a major improvement over current procedures where journalists have been threatened, fined and jailed for appropriately protecting sources.”

“We’ve come a long way in these negotiations and have now reached a compromise that strikes the right balance between national security concerns and the public’s right to know,” Schumer said. “This new version preserves a strong protection for reporters interested in protecting their sources, while also making sure that the government can still do the job of protecting its citizens. This agreement should expedite this bill’s movement through committee and the full Senate.”

Specter and Schumer’s bill, in its previous form, earned committee approval by a 15-4 margin in 2007 but never advanced to the floor. More recently, the bill has been debated in Committee in October, but was slow-walked by Republicans.

The bipartisan proposal is co-sponsored by Senators Lindsey Graham (R-SC), Richard Lugar (R-IN) and Senator Amy Klobuchar (D-MN). It has also been endorsed by 42 state attorneys general and 72 media organizations, including The New York Times, the Washington Post, the Washington Times, the Associated Press, and Gannett Newspapers.

Currently, 49 states, plus the District of Columbia, provide some measure of legal protection to

reporters who decline, even under the threat of being held in contempt of court, to disclose the identity of confidential sources. However, no federally recognized protection exists. The Free Flow of Information Act seeks to change that by establishing a qualified privilege for reporters to withhold confidential source information obtained or created under a promise of confidentiality. The legislation has always accounted for the fact that, in certain instances, the public's interest in national security, law enforcement and fair trials outweighs the public's First Amendment interest in permitting reporters to protect the identify of sources.

The revised version:

- in cases where the government is attempting to compel the disclosure of information, continues to require a demonstration that the information is "essential" to the prosecution or defense in criminal cases;
- preserves a public interest balancing test for criminal and civil cases and in most leak cases (other than leaks with the potential for prospective harms); and
- revisits the change made to the definition of journalist in the September 24 Manager's Amendment by removing the requirement that the journalist be a salaried employee or independent contractor for a media organization. This should permit freelance authors to be covered, and it also provides the potential for journalists publishing on blogs to be covered as well.