

United States Senate

WASHINGTON, DC 20510

May 16, 2013

Dear Colleague,

We write to encourage you to co-sponsor the Free Flow of Information Act, legislation we are introducing shortly. In the wake of the debate about the subpoena of Associated Press phone records, it has become even more evident that we need unambiguous and fair rules of the road.

The Free Flow of Information Act, also known as the media shield bill, would provide clear and meaningful protection at the federal level for journalists against improper intrusion into the free press. The bill would prohibit demands for protected information (such as confidential source information) from journalists unless a court determines that the public interest is better served by disclosure of the information than by protecting the journalist's source. The legislation includes carefully crafted exceptions for national security—in cases where a judge finds that the information sought is necessary to prevent terrorism or harm to national security, the information must be disclosed. However, a judge will still have to approve that request. In addition, the bill treats requests for records from third parties—such as phone companies—in the same manner as requests from journalists themselves, and requires notice to those journalists when such a request is made.

The legislation we are introducing represents the product of extensive negotiations between the journalism community and the national security experts in the Administration, and has won the support of both the Administration and the Newspaper Association of America. It passed out of the Senate Judiciary committee by a strong bipartisan vote in 2009. In sum, the bill is a balanced approach that meets both the needs of the press and the needs of our national security.

The facts in the AP phone records case are still coming to light, so we cannot say for certain whether the bill would have changed the ultimate outcome. However, it would undoubtedly have ensured a fairer, more deliberate process, and would have set up a legal, predictable framework for a court to approve the subpoenas that would guarantee consideration of the public's interest in protecting the freedom of the press.

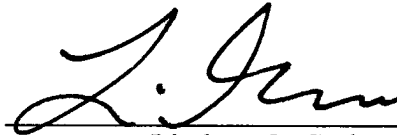
The government has a legitimate interest in preventing and investigating leaks of classified information; at the same time, the public has a legitimate interest in a robust free press. This bill strikes a fair and reasonable balance between those interests, and we urge you to join us in advancing it.

If you have any questions, please contact Rebecca Kelly Slaughter on Senator Schumer's staff at 202-224-6971.

Sincerely,



Charles. E. Schumer



Lindsey O. Graham