



## Office of the Attorney General

Washington, D.C. 20530

July 29, 2013

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Chairman Leahy:

This letter presents the views of the Department of Justice on the substitute amendment (ALB13659) to S.987, the "Free Flow of Information Act of 2013." The Department is pleased that the Senate Judiciary Committee will be considering this bill, which strikes a careful balance between safeguarding the freedom of the press and ensuring our nation's security and the safety of the American people. The Department supports the passage of this media shield legislation, and will continue to work with leaders from both parties to achieve this goal.

Over the past few months, the Department has engaged in a rigorous review of its own internal policies governing investigations and other law enforcement matters that involve journalists, including extensive engagement with news media organizations, First Amendment groups, media industry organizations, and academic experts. As a result of this process, the Department announced that it would make substantial revisions to its policies to strengthen protections for members of the news media, while maintaining the Department's ability to protect the American people by pursuing those who violate their oaths through unlawful disclosures of information.

Notwithstanding the significant modifications the Department intends to make to its policies with respect to investigations involving the news media, certain measures will require legislative action. As provided in the substitute amendment to S. 987, for example, a media shield law could establish a mechanism for advance judicial review of investigative tools such as subpoenas when they involve the news media. The proposed bill establishes an important procedural framework for such judicial review, including by providing for expedited judicial determinations and under seal or ex parte review for good cause. In addition, the definition of "covered person" appropriately identifies individuals and entities engaged in gathering and disseminating public news or similar information.

The Department reiterates its support for this bill, and looks forward to continuing to work with lawmakers to achieve its passage.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric H. Holder, Jr.", written in a cursive style.

Eric H. Holder, Jr.  
Attorney General