

OpenTheGovernment.org

Americans for Less Secrecy, More Democracy

Steering Committee

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Goals and Objectives – 2007-2009

The partners in OpenTheGovernment.org believe that access to information, especially about our government and its activities, is part of our common heritage as Americans and is a human right. It is a right that is under increasing threat.

The mission of OpenTheGovernment.org is to make government more open to achieve accountability, security, and safety.

Our goals are to:

- Broaden the base of national, state and local organizations active on right to know and anti-secrecy issues. The current constituency base of nonprofit organizations, media allies, prominent citizens and others willing to respond to crises and advocate for the right to know is inadequate to meet today's trend against openness.
- Advance right-to-know at the federal and state levels through legislative and other vehicles. These vehicles may be useful as a tool or set of tools to organize around or as policy objectives in and of themselves.
- Better publicize secrecy efforts through the media using messages that resonate with the public and are framed in a way that is supportive of improving hometown safety.

We will do this over the next several years by laying out and pursuing an agenda of policy changes that will accomplish this goal

STEPS TO ACHIEVE OUR GOALS

We have identified the following areas as those in which OpenTheGovernment.org can best leverage the work of the coalition as a whole and of our partners to achieve our goal of making government more open to achieve accountability, security, and safety.

- Policy work: legislative, executive branch/regulatory, judicial;
- Engaging the public through outreach and action with national, state and local organizations, or with the public more directly;
- Raising the visibility of secrecy/openness issues with funders to increase resources for work in these areas;
- Raising the visibility of a secrecy/openness message through work with the media, through our website, and through coordination with our partners, and with policy makers;
- Research: Analysis & Reports – on developing and ongoing issues, to be shared with our partners and others;

POLICY WORK OUR AGENDA FOR OPENNESS

The Steering Committee for OpenTheGovernment.org recently completed its strategic-operational discussion for 2007-2009. While there may be some variation in language, we are agreed that our Agenda for Openness will include the following objectives:

Promote Digital Access to Government Information – We have assigned a high priority over the next year to improving online access to legislative, executive, and judicial information. The OpenTheGovernment.org Steering Committee recognizes that federal policies for access to government information are outmoded, primarily based on the 1960's Freedom of Information Act.

In light of this recognition, we will, in addition to our legislative agenda, work through our partner, OMB Watch, to develop and promote a *21st Century Right-to-Know Agenda* to recommend changes to the next President and Congress in our public access infrastructure. OMB Watch has developed a proposal which will involve the participation of the OpenTheGovernment.org Steering Committee and other stakeholders. The product of the process will be presented to the coalition's Steering Committee and, if embraced, will lay the foundation for future work of OpenTheGovernment.org.

OpenTheGovernment.org will also work with our state and local level partners to ensure their awareness of the discussion, solicit their thoughts, and engage them in the promotion of the resulting Agenda.

Make FOIA work/work better – An opportunity exists through bills that will be introduced this spring to make significant changes in the process of FOIA. Work on this opportunity will be an immediate priority. We will work to achieve other changes through later bills, and through building on the research work of our partners such as the National Security Archive, and also the Sunshine in Government Initiative.

Promote Congressional Transparency – Although Congress has made some progress in this area, there is much left to be accomplished. We have identified further transparency issues, such as requiring a two-thirds vote before new exemptions to access under the Freedom of Information Act can be legislated (currently, much of this happens in secret), and will pursue these and others identified below.

Limit Security Restrictions on Information – An effort is underway in the Office of the Director of National Intelligence to rein-in the creation and use of what have been called “pseudo-classification” markings such as “sensitive but unclassified,” and promoting reforms in the declassification process for national security information. We will endeavour to stay informed on this effort (the recommendations will not necessarily be made public) by continuing to meet with the program office undertaking it. We will encourage Congress to exercise authority over the process.

We will also work to strengthen the process of mandatory declassification of documents that are older than 25 years.

We will also explore how to educate the courts, and Congress, on their responsibility to question the national security claims of the Administration.

End “Secrecy Fetishes” – many types of information are withheld routinely for no legitimate reason, other than the agency controlling the information treats it as “an object, idea, etc., eliciting unquestioning reverence, respect, or devotion.” These include the Intelligence (and other “black”) budgets, and Congressional Research Service (CRS) reports. The concerns in this agenda item are folded into others (Executive Branch Accountability and Congressional Transparency).

Promote Executive Branch Accountability – This agenda item will include such things as the information infrastructure for a Contractor Disclosure database, and budget transparency. Some aspects will occur through legislative action; others through work on and with the Executive Branch.

Our legislative agenda for the next 2 years will focus on the following initiatives. In each of these initiatives, OpenTheGovernment.org will work with and through its partners, with staff taking the lead where needed.

Agenda for Openness

Promoting Digital Access to Government Information –Ensuring that the promise of digital technology is utilized by all branches of the federal government to make information created, collected, or maintained by or for the government accessible and usable by any member of the public at no-fee, and to ensure that permanent public access is maintained for permanently valuable information. Access to legislative branch information is addressed below under “Congressional Transparency.” Components of legislative action to ensure this objective include:

Executive Branch – legislative action sought will include:

- Congressional oversight of contracts being negotiated in many agencies that allow private contractors to digitize non-electronic documents. In some cases, the private contractors appear to be given proprietary control over the information for extended periods of time. The Paperwork Reduction Act may need to be amended to clarify the prohibition on such practices, while encouraging appropriate use of contractors to provide no-fee, permanent public access to government information.
- Oversight of implementation of E-Government Act in terms of availability and use of government information
- At re-authorization of the Paperwork Reduction Act, change the PRA to an Information Management bill/Amend E-Government Act. Components would include:
 - Lifecycle management for permanent public access to permanently valuable information, and authentication of government information
 - An index of agency government information (not just site indexes of government websites) searchable government-wide – as required by the E-Government Act of 2002.

Other components might be sought through work directly with the Executive Branch

- A requirement that USA.gov (formerly FirstGov.gov) become a venue into government databases, not just text-based documents;Information architecture/infrastructure for searchable, integrated databases, such as a Contractor Responsibility Database

- E-Rulemaking – revamping the existing system or starting over to make public participation in federal government rulemaking effective and efficient.

Federal Courts – legislative action sought will include:

- Push to get free public access (or at a minimum free through Federal Depository Libraries – online) to PACER. This may necessitate work to ensure funding for this access.
- Oversight to ensure courts are meeting requirements of E-Government Act
- Requirement that courts publicly report revenues garnered through PACER and how they are being used to promote public access.

Making FOIA work/work better – Through bills that have been introduced (and passed) this spring, and through building on the research work of our partners such as the National Security Archive, and also the Coalition of Journalists for Open Government.

Components of legislation sought will include:

- Reform of the FOIA Process, in particular delays in response and processing, and ensuring that attorneys’ fees are provided to plaintiffs when the government changes policy before a judgment is made in court (e.g., while the case is before the judge, while it is on administrative appeal within the agency that denied disclosure);
- Restoration of the “foreseeable harm” standard for discretionary disclosures.
- Amending the Homeland Security Act to:
 - limit the Critical Infrastructure Information FOIA exemption to relevant “records” (rather than “information”) submitted by the private sector, so that only those that actually pertain to critical infrastructure safety are protected;
 - allow for government oversight, including the ability to use and share the records within and between agencies, and not limit the use of such information by the government, except to prohibit public disclosure where such information is appropriately exempted under FOIA;
 - protect the actions of legitimate whistleblowers rather than criminalizing their acts; eliminate civil immunity to companies that voluntarily submit information and allow such information from being used directly in civil suits by government or private parties; and

- allow local authorities to apply their own sunshine laws, and not restrict the use of such information by state agencies.

Other legislative action components include:

- Oversight on the utilization and impact of the Critical Infrastructure Information exclusion from FOIA.
- Oversight on impact of (b)(3) exemptions.
- Oversight on use of various other exemptions to the FOIA, such as privacy, that appear to have been mis- and over-used in the last 6 years;
- Oversight on failure of implementation of E-FOIA requirements.

Promoting Congressional Transparency – Making Congress more transparent – and through transparency, accountable – through use of technology. Components of this effort will include:

- Making Congressional Research Service (CRS) reports accessible to the public at no fee through a full-text searchable database – such as that now available to Members of Congress and their staff. CRS reports are one example of the “secrecy fetishes” that we seek to end.
- Ensuring the transparency of the Committee Process –
 - Manager’s amendments available to public at mark-up or shortly thereafter
- Ensuring the transparency of the Legislative Vote Process
 - Amendments available online a specified number of hours (e.g., 72) before any vote;
 - Conference reports available online a specified number of hours before any vote;
 - Every vote of all Members searchable by Member or by bill
- Ensuring the transparency of the Legislative Drafting Process
 - Members identify meetings of the Members and/or staff with registered lobbyists and topics of discussion
- Ensuring the transparency of the Flow of Funds to and from Members of Congress (including campaign donations, earmarks, etc.)
 - All required disclosures accessible to the public in searchable, integrated databases
- Ensuring the transparency of (b)(3) Exemptions to FOIA – components sought might include:

- Congressional oversight of the number and impact of these exemptions;
- Creating a higher threshold for the creation of new;
- Exploration of new/other models, such as Public Information Impact Assessments

Limiting Security Restrictions on Information – there are two distinct aspects to this objective:

Controls on Unclassified Information/New Control Markings – Working to limit the use of “pseudo-classification” markings such as “sensitive but unclassified” which have dramatically increased in recent years – without accountability, statutory authority in most cases, and any process for review or appeal of the denial of access to such information. Components will include:

- Requiring a public report to Congress of Information Sharing Environment recommendations;
- Congressional oversight of Information Sharing Environment recommendations;
- Requiring public reporting to Congress on use of markings and the impact on the public’s access to information;
- Creation of a higher threshold for new authority for such markings.

Declassification – Ensuring that mandatory declassification of documents older than 25 years proceeds as expeditiously as possible. Components will include:

- Pushing for adequate funding for mandatory declassification (see also Research and Analysis below)
- Supporting the establishment of a statutory National Declassification Initiative that would apply a more open standard for releasing historical records, and ending agencies’ unitary control over their own records
- Supporting a Historical Records Act that would alter the standard for review and withholding of records older than 25 years

Executive Branch Accountability – Some of the aspects of this effort are addressed under “Digital Access to Government Information” above. Another important aspect is:

Budget Transparency – the amounts and processes for arriving at agency budgets should be transparent and should allow for public review and opportunity for comment.

- Requiring overall numbers for “black budgets,” including the overall figure for the U.S., numbers, be made public . U.S. intelligence agencies argue that public disclosure of intelligence budget appropriations would "damage national security" and jeopardize "intelligence sources and methods." This proposition has been disputed for decades by critics in Congress and elsewhere, and a growing number of other nations now routinely publish their intelligence spending levels as an act of democratic accountability. Intelligence budget numbers are another example of “secrecy fetishes.”
- Requiring that agency budget justifications (made to Congress) be made public in a searchable database or format like US budget document – with time for public review and comment.
- Make agency Program Assessment Rating Tool (PART) assessments/OMB evaluations more available to the public and provide opportunities for public comment.

We will pursue the items on our legislative agenda, in collaboration and coordination with our partners and others.

We will, in collaboration with OMB Watch and other partners, work with our state and local level partners with a stake in government openness and access to government information toward the end of developing and promoting the 21st Century Right-to-Know Agenda.

Coordinate timely responses to threats. We will continue to follow the issues various groups are working on and take action where there is a common threat cutting across all constituencies in the coalition. This may include circulating sign-on letters and policy updates, coordinating meetings, submitting comments on proposed regulations, advising Congressional staff, and contacting policymakers.

ENGAGING THE PUBLIC THROUGH OUTREACH AND ACTION WITH NATIONAL, STATE AND LOCAL ORGANIZATIONS

The legislative agenda will not succeed if we are not able to generate the support of the public. We have several activities planned.

- We will produce a [flash video](#) that will the raise the growth of secrecy, how it corrupts our political system and politics, and will lead to action steps on our website. Our intent is to then provide viewers with links on and from our web site to issue areas and specific campaigns.

- We are working with People For the American Way to update “[Government Secrecy: Decisions Without Democracy](#),” first published in 1987 and not since updated. It will be distributed on the Hill and also made available on our website. We are exploring setting up a moderated Wiki to allow for updating of issues identified in the publication. We will explore the possibility of a “series” of publications in this line, such as on judicial secrecy and openness, digital democracy, etc.
- We are working closely with our [Steering Committee](#) member, the National Freedom of Information Coalition (NFOIC), the library associations, and others to engage public interest organizations in organizing a national [webcast teleconference](#) for March 12th, at the beginning of [Sunshine Week](#). This will be our second annual event, and interest is high. [Sunshine Week](#), an effort by the news media to focus public attention on transparency in government and why it matters, has as its purpose to educate the public and strengthen the network and capacity of the open government community. We anticipate continuing to do these events, as they have been well-received.
- We are continuing to work to inform the American public about the issue of government secrecy through our own publicity efforts and reports, and through coordination with the Coalition of Journalists for Open Government (CJOG) and a new media coalition, [SunshineInGovernment.org](#).
- We are working with a web designer and information architecture specialist to make our web site more informative, usable, and lively.

[RAISING THE VISIBILITY OF SECRECY/OPENNESS ISSUES WITH FUNDERS AND BROADEN INVOLVEMENT OF PHILANTHROPY IN SECRECY ISSUES TO INCREASE RESOURCES FOR WORK IN THIS AREA](#)

A very few foundations have supported right-to-know work in the past and we know that our work will not end with this Administration. Secrecy and control over information are a given, only the intensity and extent change. Generating interest in the mechanics of creating and sustaining openness is an ongoing challenge.

- We are planning to conduct up to three more funders’ briefings around the country over the next two years to raise awareness of the issues and expand resources for all organizations working on open government (not just this coalition).
- We will communicate regularly with funders about our reports and events.

**RAISING THE VISIBILITY OF A SECRECY/OPENNESS MESSAGE
THROUGH WORK WITH THE MEDIA, THROUGH OUR WEBSITE, AND
THROUGH COORDINATION WITH
OUR PARTNERS, AND WITH POLICY MAKERS**

In addition to the planned effort to educate Members of Congress and the public on openness, we continue to devote time to engaging new coalition members (now up to 61 organizations and more than 164 individuals) to join our work with theirs.

- We will work with of the National Freedom of Information Coalition to broaden the base of awareness and engagement at the state and local levels. Our work with them on the Sunshine Week webcast is a part of this effort.
- The “Government Secrecy,” publication noted above will, among other uses, be one component of a packet on openness and accountability that we plan to distribute to both new and returning Members of the 110th Congress.
- We will publish an annual edition of the [Secrecy Report Card](#). The 2006 edition was released on September 2nd. The 2005 edition reached over 7 million readers; we estimate the 2006 edition reached similar numbers. The 2006 edition has been covered by nearly 70 news outlets, including the Associated Press and the Cox newspapers. We are still gathering data and coverage is ongoing. OpenTheGovernment.org data highlighted in a Cox News story by secrecy beat reporter Rebecca Carr.
- We are continuing to work to inform the American public about the issue of government secrecy through our own publicity efforts and reports, and through coordination with the Coalition of Journalists for Open Government (CJOG) and a new media coalition, the Sunshine in Government Initiative.
- The staff of OpenTheGovernment.org are pursuing opportunities to work with new media to educate them on openness and secrecy and to learn how to convey our message to and through them.
- One of our partners, the Sunlight Foundation, has begun discussions with legislators who support or are friendly to our issues to explore interest in an “Openness Caucus” and we will work with them to promote that.
- We are planning a half-day [forum](#), in collaboration with the Center for American Progress, on Congress’ access to national security information – aimed primarily at Congressional staff and the media – to educate them about Congress’ role and responsibility in relation to the Executive Branch’s assertions of sole control of this kind of information.

CONDUCTING RESEARCH AND ANALYSIS

Because of the strength and diversity of our coalition, we have broad resources to supply others – both within and outside our coalition – with information and analysis needed to pursue our objectives. These resources have not been fully utilized.

- We will continue producing highly praised policy updates and issue-tracking compendia. The [*Policy & News Updates*](#) are designed to keep policy advocates and others up to date on the many legislative and regulatory proposals on secrecy and open government. We send the *Update* on a roughly biweekly basis to over 2000 people, most of whom are self-subscribed. We have begun doing more substantive reporting on events, hearings, etc., and occasional interviews with informed partners on important and timely topics.
- As noted above, we will publish an annual edition of the Secrecy Report Card.
- We will identify other areas where research and analysis are needed and provide, coordinate, or arrange for such work. Topics could include:
 - Research into what is needed to make E-FOIA work to provide meaningful information about/access to agency records;
 - Review of THOMAS (possibly by AALL members) to assess its usability for information for accountability and transparency;
 - Research into what agencies need to do the declassification job.