

over 300 magazines in the United States, I would like to add our voice in support of H.R. 5012, pending before your subcommittee.

Magazine publishers and editors believe that there should be the maximum interchange of information between the Government and the people and that the magazines of our Nation are effective disseminators of information to the people. The purpose of H.R. 5012 is to require Government agencies to make "records promptly available to any person" unless that information falls within certain specified exempted categories. For too long, too many Government agencies have unduly restricted the availability of information. Much of this has been to protect officials from criticism in the press without any substantial security reason for withholding the information.

When the Administrative Procedure Act (5 U.S.C. 1001 et seq.) was enacted in 1946, the Senate Judiciary Committee described the basic intent of the public information section of that act as follows:

* * * that administrative operations and procedures are public property which the general public * * * is entitled to know or have the ready means of knowing with definiteness and assurance. (S. Doc. 248, 79th Cong., 2d sess., p. 198, 1946.)

The House Judiciary Committee explained that,

* * * all administrative operations should as a matter of policy be disclosed to the public except as secrecy may obviously be required. (Id., pp. 251-252.)

The work of your committee in the past has resulted in disclosure of many misinterpretations by Government agencies of this section of the APA and of title 5 United States Code, section 22, the general housekeeping statute, which have resulted in a withholding rather than a disclosure as intended by Congress. The latter was amended through the efforts of this committee to preclude reliance on that section when information was withheld. H.R. 5012 would further amend that act to affirmatively require disclosure except for certain exceptions and provide judicial relief where there was an unlawful withholding.

Magazine publishers and editors seek no special privileges on access to Government information. We recognize the need for restriction of certain information for security purposes. However, we believe that all categories of information which are not specifically exempted under the Constitution or the provisions of H.R. 5012 should be available to the public and the press.

The enactment of H.R. 5012 would recognize the right of the public to information relating to the operation of its Government. We support its enactment.

Sincerely,

CHARLES D. ABLARD.

STATEMENT OF LAWRENCE SPEISER, DIRECTOR, WASHINGTON OFFICE, AMERICAN CIVIL LIBERTIES UNION

Mr. Chairman, the American Civil Liberties Union supports the general aim and purpose of H.R. 5012 which would establish a Federal Public Records Law, by amending section 3 of the Administrative Procedure Act of 1946. The aim of this legislation is to protect the right of the public to information and is designed to regulate the policies of the various administrative agencies, departments, and bureaus of the Federal Government. Our organization believes that access to the records of Government agencies by public and press is vital to the continued functioning of the democratic process.

During the 88th Congress we testified in hearings before the Subcommittee on Administrative Practice and Procedure of the Committee of the Judiciary of the U.S. Senate on S. 1666, a similar bill. During our testimony we pointed out some of the inadequacies of the present law which had come to our attention and expressed concern about various provisions of S. 1666 as introduced. A number of changes were made in S. 1666 which are reflected in the present bill, H.R. 5012. Nevertheless, we are still concerned about some of the exemptions set forth in subsection (e).

In our oral testimony before this committee last week we referred to the excellent memorandum by Deputy Assistant Secretary of Defense, Security Policy, Walter T. Skallerup, Jr., which was sent to each of the Under Secretaries of the services on November 26, 1962. This memorandum covers the subject of civil and private rights during security investigations and hearings and sets forth guidelines to bar improper questions. A copy of the memorandum is attached to this statement.