

National Security Whistleblowers Coalition

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GOP SENATORS SUPPORT IMPLEMENTATION OF OFFICIAL SECRETS ACT

Bill Eliminates Government's Burden to Prove Damage in Prosecuting Whistleblowers

Alexandria, VA---Senators Rick Santorum, R-PA, and Conrad Burns, R-MT, support implementation of Official Secret's Act, [S.3774](#), introduced yesterday by Senator Christopher Bond, R-MO, to criminalize the unauthorized disclosure of classified information. Bond's bill seeks to enable the Executive Branch in prosecuting individuals engaged in disclosure of government secrets. According to the release issued by Senator Bond's office, the legislation seeks to unify current law and *ease the government's burden* in prosecuting and punishing leakers by eliminating the need to prove that damage to the national security has or will result from a disclosure. According to the new release by [Secrecy News reports](#), the new Bond bill is identical to the controversial [anti-leak legislation](#) sponsored by Senator Richard Shelby in the FY 2001 Intelligence Authorization Act that was [vetoed](#) by President Clinton in November 2000. The bill was called the "Official Secrets Act," after the U.K.'s repressive criminal secrecy statutes.

The United States has never had a statute generally criminalizing leaks or the publication of sensitive information. Despite consideration at a number of moments in our history, concern for the First Amendment and the principle that the press acts as an important check on government abuse has thwarted all previous efforts to pass such legislation. According to [Professor William Weaver](#), NSWBC Senior Advisor, "Such legislation is subject to a double standard in its application. For example, much information is *leaked* to the press with the approval of administrators. These sorts of *leaks* are an unofficial channel for shoring up administration positions and to influence public opinion. On the other hand, unauthorized *leaks* would be prosecuted when they undermine administration positions or embarrass the executive branch or reveal illegal agency activity. So whether or not a person is prosecuted depends on whether or not the *leak* is popular or unpopular with the administration in power at the time of the *leak*. If the statute were to be applied evenhandedly, the jails would be full of administrators and presidential advisors."

Rather than a genuine effort to enhance national security, this legislation is designed to deter legitimate whistleblowing. The result is that the statute would create an "Official Secrets Act" similar to that found in Great Britain. But, obviously, Great Britain does not have a First Amendment and we do. The government has consistently failed in its burden to prove that recent leaks of national security information somehow harmed the United States. Rather, these disclosures have encouraged public discussion on issues of executive abuses that this administration has tried very hard to cover up. Justice Brandeis wrote: "those who won our independence believed . . . that public discussion is a political duty; and that this should be a fundamental principle of the American government." Current law already protects against disclosure of specific types of sensitive information, like the design of a nuclear warhead or a covert agent's identities. Legislation that places the First Amendment entirely in the hands of the Executive Branch, such as Bond's Bill, is unconstitutional on its face. The Nation's Founders chose not to implement an Official Secret's Act on our public servants and there is no need for such a law now.

GAP Legal Director, Tom Devine, stated: "This is a bill to protect the bureaucracy, not America's security. It is about covering up government abuses of power that only can be sustained through secrecy. It is about canceling freedom of speech when it counts, by criminalizing whistleblowers who make unclassified disclosures. Most whistleblowers who would be targeted are those exposing cover-ups of the government's own security breaches."

On June 29, 2006, The National Security Whistleblowers Coalition ([NSWBC](#)), issued its list of Twelve Senators and Representatives, its Whistleblowers' Dirty Dozen, who by their action or inaction, have stood against real investigations, hearings, and legislation dealing with government whistleblowers who have exposed waste, fraud, abuse, and or criminal activities within government agencies. Senator Rick Santorum, R-PA, made the list. "Senator Santorum is on our list due to being very consistent in his stand against whistleblowers' protection and his strong support for unchecked and excessive government secrecy. His strong support of this new repressive bill, which takes away congress' right to know in order to exercise its oversight authority, goes a long way to demonstrate why he is an incumbent candidate unfit to represent our people and their interest and rights guaranteed under the constitution. Mr. Santorum acts as an extension of the executive branch that seeks to override the Separation of Powers and expand its power; not as an elected senator who has been vested with authority and a position to serve his constituents," stated [Sibel](#)

Edmonds, NSWBC Founder and Director.

National Security Whistleblowers Coalition, founded in August 2004, is an independent and nonpartisan alliance of whistleblowers who have come forward to address our nation's security weaknesses; to inform authorities of security vulnerabilities in our intelligence agencies, at nuclear power plants and weapon facilities, in airports, and at our nation's borders and ports; to uncover government waste, fraud, abuse, and in some cases criminal conduct. The NSWBC is dedicated to aiding national security whistleblowers through a variety of methods, including advocacy of governmental and legal reform, educating the public concerning whistleblowing activity, provision of comfort and fellowship to national security whistleblowers suffering retaliation and other harms, and working with other public interest organizations to affect goals defined in the NSWBC mission statement. For more on NSWBC visit www.nswbc.org

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