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Contact: Erika Masonhall, 202-224-4041

Specter, Lieberman, King Introduce Free Speech Protection Act

WASHINGTON, D.C. (May 7, 2008)—U.S. Senator Arlen Specter (R-PA), Ranking Member of the Senate Judiciary Committee, Senator Joseph Lieberman (I-CT), Chairman of the Senate Homeland Security and Governmental Affairs Committee, and U.S. Representative Peter King (R-NY), Ranking Member of the U.S. House of Representatives Committee on Homeland Security, today announced the introduction of the Free Speech Protection Act of 2008. This bill would protect American journalists from libel suits brought in foreign courts that do not have the same protections for free speech that are found in the U.S. constitution. It mirrors H.R. 5814, legislation recently introduced in the U.S. House of Representatives by Representative King.

"Freedom of speech, freedom of the press, freedom of expression of ideas, opinions, and research, and freedom of exchange of information are all essential to the functioning of a democracy, and the fight against terrorism," Senator Specter said. "There is a real danger that American writers and researchers will be afraid to address the crucial subject of terror funding and other important matters without these protections."

"Discovering the truth requires full and open debate, which is not possible when courts are used to chill inquiry and research," Senator Lieberman said. "The freedom of American journalists should not be threatened by foreign courts that do not adhere to America's principles of free speech."

"Our journalists provide us with insight on issues that affect all Americans, such as war and terrorism," Rep. King said. "We cannot allow their voices to be silenced by those who prefer to keep secret the inner details of these issues. American authors and journalists should be able to practice their first amendment right without the fear of a lawsuit."

This legislation creates a federal cause of action and federal jurisdiction so that federal courts may determine whether there has been defamation under United States law when a U.S. journalist, speaker, or academic is sued in a foreign court for speech or publication in the United States. The bill authorizes a court to issue an order barring enforcement of a foreign judgment and to award damages.

The impetus for this legislation is litigation involving Dr. Rachel Ehrenfeld, a U.S. citizen and Director of the American Center for Democracy. Dr. Ehrenfeld's 2003 book, *Funding Evil: How Terrorism is Financed and How to Stop It*, which was published solely in the United States by a U. S. publisher, alleged that a Saudi Arabian subject and his family financially supported Al Qaeda in the years preceding the attacks of September 11. He sued Ehrenfeld for libel in England, although only 23 books were sold there.

The United Kingdom has become a popular venue for defamation plaintiffs from around the world, because under English law it is not necessary for a libel plaintiff to prove falsity or actual malice as is required in the United States. The U.S. journalists or publications who are named as defendants in these suits must deal with the expense, inconvenience and

distress of being sued in foreign courts, even though their conduct is protected by the First Amendment in the United States.

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