When it got time to sentence the defendant, the prosecutor asked the court to enhance the sentence because of the rape. Mind you, there was no dispute that the defendant had, in fact, raped the victim.

The trial judge agreed with the prosecutor, and gave the defendant the statutory 25 years maximum, finding that the rape constituted ''serious bodily injury.''

But when the case went up to the first circuit, that court said ''no''—rape is not serious bodily injury. To support its ruling, and I'm now quoting the opinion, the court said that ''There was no evidence of any cuts or bruises in her vaginal area.''

That, in my view, is absolutely outrageous—and Senator HATCH and I proposed this bill to set matters straight.

Under the code, ''serious bodily injury'' has several definitions. It includes: a substantial risk of death; protracted and obvious disfigurement; protracted loss or impairment of a bodily part or mental faculty; and it also includes extreme physical pain.

It takes no great leap of logic to see that a rape involves extreme physical pain. and I would go so far as to say that only a panel of male judges could fail to make that leap and even think—let alone rule—that rape does not involve extreme pain.

Rape is one of the most brutal and serious crimes any woman can experience. It is a violation of the first order, but it has all too often been treated like a second class crime. According to a report I issued a few years ago, a robber is 30 percent more likely to be convicted than a rapist; a rape prosecution is more than twice as likely as a murder prosecution to be dismissed; a convicted rapist is 50 percent more likely to receive probation than a convicted robber.

No crime carries a perfect record of arrest, prosecution, and incarceration—but the record for rape is especially wanting.

And this first circuit decision helps explain why: too often, our criminal justice system just doesn't get it.

If the first circuit decision were allowed to stand, it would mean that a criminal would spend more time behind bars for breaking a man's arm than for raping a woman.

For 5 long years, I worked to pass a piece of legislation that I have cared about like no other: The Violence Against Women Act. The act does a great many practical things:

It funds more police and prosecutors specially trained and devoted to combating rape and family violence;

It trains police, prosecutors, and judges in the ways of rape and family violence—so they can better understand and respond to the problem;

It provides shelters for more than 60,000 battered women and their children;

It provides extra lighting and emergency phones in subways, bus stops, and parks;

It provides for more rape crises centers;

It set up a national hotline that battered women can call around the clock—to get advice and counseling when they are in the throes of a crisis;

And we're getting rape education efforts going with our young people—so we can break the cycle of violence before it gets started.

But the Violence Against Women Act also meant to do something else, beyond these concrete measures: it also sent a clarion call across our land that crimes against women will no longer be treated as second class crimes.

For too long, the victims of these crimes have been seen not as innocent targets of brutality, but as participants who somehow bear shame or even some responsibility for the violence.

This is especially true when it comes to victims who know their assailants. For too long, we have been quick to call theirs a private misfortune rather than a public disgrace. We have viewed the crime as less than criminal, the abuser less than culpable, and the victim less than worthy of justice.

We must remain ever vigilant in our efforts to make our streets and our neighborhoods and our homes safe for women.

And we need to make sure—right now—that no judge ever misreads the carjacking statute again. With this bill, we are telling them that we intend, that we always intended, for those words ''serious bodily injury'' to mean rape—no if's, and's or but's.

I thank my colleagues for their support.

The bill (S. 2007) was ordered to be engrossed for a third reading, was read the third time, and passed; as follows:

S. 2007

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Carjacking Correction Act of 1996''.

**SEC. 2. CLARIFICATION OF INTENT OF CONGRESS WITH RESPECT TO THE FEDERAL CARJACKING PROHIBITION.**

Section 2119(2) of title 18, United States Code, is amended by inserting '', including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title'' after ''(as defined in section 1365 of this title)''.

## ELECTRONIC FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of H.R. 3802, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3802) to amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide public access to information in an electronic format, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am delighted that we have today reached final passage of important amendments to the Freedom of Information Act that will bring the FOIA into the electronic age. Sending these amendments to the President for enactment is a tremendous way to mark the 30th anniversary of the Freedom of Information Act.

The FOIA has served the country well in maintaining the right of Americans to know what their government is doing—or not doing. As President Johnson said in 1966, when he signed the Freedom of Information Act into law:

> This legislation springs from one of our most essential principles: A democracy works best when the people have all the information that the security of the Nation permits.

Just over the past few months, records released under the FOIA have revealed FAA actions against Valujet before the May 11 crash in the Everglades, the government's treatment of South Vietnamese commandos who fought in a CIA-sponsored army in the early 1960's, the high salaries paid to independent counsels, the unsafe lead content of D.C. tap water, and the types of tax cases that the IRS recommends for criminal prosecution.

In the 30 years since the Freedom of Information Act became law, technology has dramatically altered the way government handles and stores information. Gone are the days when agency records were solely on paper stuffed into file cabinets. Instead, agencies depend on personal computers, computer databases and electronic storage media, such as CD—ROM's, to carry out their mission.

The time is long overdue to update this law to address new issues related to the increased use of computers by Federal agencies. Computers are just as ubiquitous in Federal agency offices as in the private sector. We need to make clear that the FOIA is not just a right to know what's on paper law, but that it applies equally to electronic records.

That is why Senator BROWN, Senator KERRY and I, with the strong support of many library, press, civil liberties, consumer and research groups, have pushed for passage of the Electronic FOIA bill. The Senate recognized the need to update the FOIA in the last Congress by passing an earlier version of this bill.

This legislation takes steps so that agencies use technology to make government more accessible and accountable to its citizens. Storing government information on computers should actually make it easier to provide public access to information in more meaningful formats. For example, people with sight or hearing impairments can use special computer programs to translate electronic information into braille or large print or synthetic speech output.

Electronic records also make it possible to provide dial-up access to any citizen who can use computer networks, such as the Internet. Those Americans living in the remotest rural area in Vermont, or in a distant State far from Federal agencies' public reading rooms here in Washington, DC, should be able to use computer networks to get direct access to the warehouse of unclassified information stored in government computer banks. The explosion of the Internet adds enormously to the need for clarification of the status of electronic government records under the FOIA and the significance of this legislation for citizen access. These amendments to the FOIA will encourage Federal agencies to use the Internet to increase access to Government records for all Americans.

Ensuring public access to electronic government records is not just important for broader citizen access. Information is a valuable commodity and the Federal Government is probably the largest single producer and repository of accurate information. This Government information is a national resource that commercial companies pay for under the FOIA, add value to, and then sell—creating jobs and generating revenue in the process. It is important for our economy and for American competitiveness that fast, easy access to that resource in electronic form be available. The electronic FOIA bill would contribute to our information economy.

I would like to highlight some of what this bill would accomplish. First, it would require agencies to provide records in a requested format whenever possible. Second, the bill would encourage agencies to increase on-line access to government records that agencies currently put in their public reading rooms. These records would include copies of records that are the subject of repeated FOIA requests.

Finally, the bill would address the biggest single complaint of people making FOIA requests: delays in getting a response. I understand that at the FBI, the delays can stretch to over 4 years. Because of these delays, writers, students and teachers and others working under time deadlines, have been frustrated in using FOIA to meet their research needs. Long delays in access can mean no access at all.

The current time limits in the FOIA are a joke. Few agencies actually respond to FOIA requests within the 10-day limit required in the law. Such routine failure to comply with the statutory time limits is bad for morale in the agencies and breeds contempt by citizens who expect government officials to abide by, not routinely break, the law.

I appreciate the budget and resource constraints under which agencies are operating. We have made every effort in this bill to make sure it works for both agencies and requestors. Some agencies, particularly those with huge backlogs of FOIA requests resulting in delays of up to four years for an agency response, are concerned that the bill removes backlogs as an automatic excuse to ignore the time limits. But we should not give agencies an incentive to create backlogs. Agencies will have to show that they are taking steps to reduce their backlogs before they qualify for additional time to respond to a FOIA request.

While increased computer access to government records may necessitate an initial outlay of money and effort, as more information is made available on-line, the labor intensive task of physically searching and producing documents should be reduced. The net result should be increased efficiency in satisfying agency FOIA obligations, reduced paperwork burdens, reduced errors and better service to the public.

The Electronic FOIA bill should help agencies comply with the law's time limits by doubling the ten-day time limit to give agencies a more realistic time period for responding to FOIA requests, making more information available on-line, requiring the use of better record management techniques, such as multi-track processing, and providing expedited access to requestors who demonstrate a compelling need for a speedy response.

All these steps, and others in the bill, may not provide a total cure but should help reduce the endemic delay problems.

This legislation has had a lengthy germination. Senator BROWN and I first introduced the bill in the 102d Congress, when I chaired extensive hearings on the bill. We introduced the legislation again in the 103d Congress, and saw the bill pass through the Judiciary Commitee and then the Senate only to falter in the House of Representatives. In this Congress, the Senate Judiciary Committee again considered this legislation, reported it favorably, and the Senate has passed it for the second time, bringing us to final passage of the legislation.

I commend members of the House Government Reform and Oversight Subcommittee on Government Management, Information and Technology, and, in particular, Chairman Horn, Ranking Member Maloney, and Representatives Tate and Peterson, for taking up the challenge and moving this legislation this year. They saw this bill for what it is: a good government issue, not a partisan one.

We have worked diligently to sort out any differences in the House and Senate bills, and we can all be proud of the final product reflected in the final legislation passed today. I want to specially thank Chairman HATCH and Chairman SPECTER for their cooperation in moving this bill through Committee and the staffs from the House and Senate. In particular, Mark Uncafer, Janie Kong and David McMillan from the House, and David Miller, Richard Hertling, Manus Cooney, and Elizabeth Kessler from the Senate, as well as my own Judiciary Committee staff, should be applauded for their hard work on this legislation and making sure the process worked.

I also want to commend the following organizations because without their support over the years, it would have been much more difficult to pass this legislation: the American Society of Newspaper Editors, the Newspaper Association of America, the National Newspaper Association, the Association of American Publishers, Radio and TV News Directors Association, the Society of Professional Journalists, the National Association of Broadcasters, Public Citizen, OMB Watch, American Library Association, the National Security Archive, the Federation of American Scientists, the ACLU, the Fund for Constitutional Government, the Lawyers Committee for Human Rights, the Electronic Frontier Foundation, the Electronic Privacy Information Center, the Center for Democracy and Technology, and Americans for Tax Reform.

Finally, I want to thank Sally Katzen, the Administrator of the Office of Information and Regulatory Affairs at OMB, for the time and effort she committed to working through the many concerns of Federal agencies who institutionally resist change in this area.

Even as we have worked on this legislation, new issues about the coverage of the FOIA have surfaced. I refer specifically to the recent D.C. Court of Appeals case that decided that the National Security Council is not an ''agency'' subject to the FOIA, despite the fact that the NSC has complied with the FOIA for years under both Republican and Democratic Presidents. Litigation on this matter continues and the case may now go to the U.S. Supreme Court. Clarification of the offices within the White House that are subject to the FOIA may be a matter requiring congressional attention in the next Congress.

As the Federal government increasingly maintains its records in electronic form, we need to make sure that this information is available to citizens on the same basis as information in paper files. Enactment of the Electronic Freedom of Information amendments of 1996 will fulfill the promise first made thirty years ago in the FOIA that citizens have a right to know and a right to see the records the government collects with their tax dollars.

Mr. STEVENS. I ask unanimous consent the bill be deemed read for a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3802) was deemed read for a third time and passed.