Introduction

The ability of individuals to obtain information about their government is central to democracy. Only a well-informed public can sensibly carry out its obligation to shape policy and political institutions. When government operates in secret, these goals are undermined. As Justice Louis D. Brandeis of the United States Supreme Court wrote: "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman."

In modern democracies, public access to government information is assured in two ways. First, limits are placed on the ability of the government to censor those who would report on its activities. Second, legal measures are available to enable individuals to obtain government records of various types. In neither case is the individual's freedom absolute. But in both there is a strong presumption that government action should not be shielded from public view. This paper examines each of these methods of assuring public access to government information as well as the countervailing forces that may limit rights to access.

Limiting Censorship

In the United States the public's desire to gain honest information about its government was a central motivation behind the creation of the First Amendment to the Constitution. This provides that "Congress shall make no law...abridging the freedom of speech, or of the press...." During the colonial period in American history, two
techniques—prior restraints and seditious libel—hampered public ability to learn about and criticize the actions of the British government. Modern American law sharply limits both techniques in order to assure that the press can provide the public with access to government information.

**Prior Restraints**

In the early colonial period, authors had to obtain licenses from the Crown prior to publication. This system of prior restraint, administered in the colonies by a postmaster who censored in the name of the king, had a real impact on the public's access to government information. The press, after all, is a major source of such information, and if the government can control what is said, then the public's access is greatly reduced.

The British licensing system ended in 1694, but it is clear that the Framers of the Constitution were intent on preventing its reinstitution in the new United States. They were aware of British jurist Sir William Blackstone's 1765 statement in his *Commentaries*: "The liberty of the press is indeed essential to the nature of a free state; but this consists in laying no previous restraint upon publications...."

Twentieth-century law demonstrates a strong adherence to this approach. In its pivotal 1931 decision in *Near v. Minnesota*, the U.S. Supreme Court invalidated a statute under which public authorities could suppress publication of "scandalous and defamatory matter," which included "charges against public officers of official dereliction," unless the publisher could satisfy a judge that the charges were true and were published "with good motives and for justifiable ends." This, in the view of the Court, was "the essence of censorship."

The Supreme Court in *Near* also commented on the limits of the public's ability to gain information about the government. "No one would question," the Court said, that the government could lawfully prevent "publication of the sailing dates of transports or the number and location of troops." And indeed, it is widely understood that the public does not have a right of access to all information in the hands of the government. The need for informed self-government and the desire to prevent corruption are important values, but they are not the only values, and they are not importantly advanced by every disclosure. The public, for example, derives little if any valid benefit from learning the precise deployment of a nation's defense systems, and the threat to national security from disclosing such information may be real.

There will always be difficulties, of course, in separating legitimate from illegitimate claims by the government that secrecy is necessary. In the 1971 "Pentagon Papers" case, the Supreme Court had to adjudicate the validity of a controversial claim concerning public access to government information.

The case arose when the government sought to prevent the *Washington Post* and the *New York Times* newspapers from publishing a classified study of United States policy-making in Vietnam. The newspapers had obtained the study through an unauthorized disclosure by a former government employee. The Supreme Court allowed the newspapers to publish the so-called Pentagon Papers. The justices did not agree on a single rationale; indeed, some dissented. But a majority felt that the government had not made a sufficient showing that national security would be endangered by the materials in question. There was, in short, nothing analogous to the "sailing dates of transports" the Court had mentioned in the *Near* case. Under the circumstances, the strong American tradition of resisting prior restraints carried the day.

But it is clear from the justices' reasoning in the Pentagon Papers case that there are circumstances, however rare, in which the public's right of access to government information through a vigorous, free press would have to give way. In 1979, for example, a federal trial court granted the government's request that a magazine be

prevented from publishing an article that revealed how to build a hydrogen bomb, the most powerful type of nuclear weapon. The government persuaded the court that this article would reveal previously secret information that could endanger national interests. While the case never reached the Supreme Court, it likely represents a consensus view that the presumption in favor of the public's right of access to government information can be overcome in extreme cases.

In the United Kingdom an energetic press also informs the public on government activities, thus enriching public debate and fighting corruption. A different balance, however, has been struck in resolving conflicts between national interests and the public's right to know. Under the Official Secrets Act of 1911, as amended in 1989, criminal prosecutions may be brought for publications that damage British interests in a variety of fields including national security, intelligence services, and criminal investigations. Moreover, a group of government officials will review sensitive material and issue "Private and Confidential Notices," known as "D-notices," which can recommend that stories not be published. Although the "D-notice" process has no official standing, it has been influential. On balance, media in the United Kingdom are less likely than their counterparts in the United States to publish information about sensitive government policy.

**Seditious Libel**

During the colonial period, the publication of statements critical of the king or his agents constituted seditious libel. Even truth was not a defense; the king was simply considered to be above criticism. When this doctrine was applied in 1735 to John Peter Zenger, a landmark controversy ensued.

Zenger was a New York printer who had published articles critical of the governor general of New York. At trial, Zenger's attorney argued to the jury that truth ought to be recognized as a defense. Although the judge rejected this argument, the jury ignored the law and acquitted Zenger.

When the First Amendment to the Constitution was adopted the impact of the Zenger case was unclear. While the amendment was meant to hinder prior restraints, it was uncertain whether libel suits after publication were still possible, and, if so, what the test for libel should be. In 1798 the Federalist Party was in power, and it enacted the Sedition Act, which prohibited the publication of "false, scandalous, and malicious...writings against the government of the United States...." To some extent, this statute reflected the lessons of the Zenger case since truth was recognized as a defense. But in practice the act proved to be a formidable force against newspapers that sought to give the public access to information reflecting negatively on the government. Ten convictions were obtained, and there were no acquittals.

The Supreme Court never passed on the constitutionality of the Sedition Act. The country did, however, react against this restriction on its access to information supplied by the press. The act was a factor in the defeat of the Federalists in the election of 1800, and it expired of its own force in 1801. Fines levied under the act were repaid by act of Congress, and President Thomas Jefferson pardoned those who had been convicted.

It was not until the mid-20th century, however, that the fate of the Sedition Act was sealed and the relationship of libel suits to freedom of the press was clarified. The vehicle for these developments was the 1964 Supreme Court decision in New York Times v. Sullivan.

The Sullivan case arose when a citizens' group published an advertisement in the New York Times which described the civil rights movement in the South and appealed for money. The advertisement criticized the behavior of the Montgomery, Alabama, police in breaking up a demonstration. L. B. Sullivan, a commissioner of
the city of Montgomery, brought suit maintaining that the advertisement contained inaccurate information and that, even though he was not mentioned by name, the criticisms of the city government would be taken as criticisms of him. The jury found that there were false statements and they awarded Sullivan $500,000.

The Supreme Court reversed, holding that libel actions, even with a defense of truth, could lead to undue self-censorship and hinder the robust debate vital in a vibrant political community. Honest and accurate criticism of government would be deterred because of doubt whether it could be proved at trial and because of the expense of doing so. Justice William Brennan wrote: "Although the Sedition Act was never tested in this Court, the attack upon its validity has carried the day in the court of history." He concluded that libel actions brought by public officials could only be allowed if they proved that a statement was made with knowledge that it was false or with reckless disregard of whether it was false.

The New York Times v. Sullivan test has remained in force and has enabled the press to provide the public with aggressive coverage of government activities. On the other hand, its sharp limitation on libel actions has, in the view of some, tilted the scale quite a bit in terms of the ability of government officials to function without baseless charges being leveled against them.

In the United Kingdom, here as with prior restraints, a somewhat different balance has been struck. British libel law is far more favorable to public officials who bring suit. No special rules distinguish public from private plaintiffs who claim they have been libeled. There is no New York Times standard; indeed, the defendant has the burden of proving the truth of the published statement. The result is many more verdicts against the media and more self-censorship in close cases. Several publications with political themes have come out in different editions--one for distribution in the United Kingdom, another for distribution in the United States--because of these variations in libel law.

The net effect of America's firm rejection of prior restraints and seditious libel has been widespread media coverage of government activities. Not only public events, like trials and legislative hearings, but private meetings later reported secretly to the press are ubiquitous features in daily newspaper, radio, and television accounts.

But the First Amendment only allows the press to report on what it can see or uncover. The amendment does not, by its own force, require the government to disclose information. The ability of citizens to obtain government records at their own request has required important statutory measures.

Statutory Access to Government Information

The public's "right to know" is a popular slogan, but it is only in the second half of the 20th century that it has been given effective legal status in most Western democracies. Prior to that time, governments could simply refuse to disclose their enormous files. Absent those instances in which enterprising reporters or others uncovered documents or plans, the public lacked access to information in the hands of the government.

The leading exception is Sweden, where the right to government information is a constitutional principle over 200 years old. The Freedom of the Press Act of 1766 provided access to documentary material in government files. This approach remains a central part of Swedish law and is now enshrined in the Swedish Constitution. Various exceptions are also provided by law.

Elsewhere, however, this basic approach took a long time coming. The central breakthrough came in the United States with the passage in 1966 of the Freedom of Information Act. This statute, which governs federal agencies,
has been followed by the passage of similar laws in virtually every American state and in numerous countries including Canada, France, Australia, and New Zealand. Since 1966, the Freedom of Information Act has been amended several times and subjected to numerous judicial interpretations. The act as it now stands is worthy of careful attention. It provides a detailed road map of how citizens can gain access to government information and to precisely those instances in which access can be denied.

The Freedom of Information Act

When President Lyndon B. Johnson signed the Freedom of Information Act in 1966, he expressed clearly the importance of the law to democratic government: "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. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest...." Under the act the government must publish rules, final decisions in contested matters, policy statements, and other sources of law. This is a vital protection against the creation of "secret law," but it is not the most revolutionary aspect of the statute. That title should be reserved for the act's requirement that government agencies produce any record on the request of any person, unless the agency can show a specific statutory exemption.

The agencies subject to the act are the Cabinet departments, independent commissions, and other bureaus located in the executive branch of the government. The act does not apply to the judiciary or the Congress. Those branches do, of course, publish their opinions and statutes, and they hold public proceedings, but their inner workings are not subject to public scrutiny. Similarly those officials whose sole function is to give advice to the president are not subject to the act. The president's ability to receive confidential advice was found by the Supreme Court to have a constitutional basis in the 1974 case of United States v. Nixon. In that case the president's need for confidentiality had to give way to the needs of the criminal justice system for specific information, but no general right of access to the president's papers was found. In any event, the act does not apply to those who only advise the president. Nonetheless, the act's coverage is vast since the covered agencies, such as the Department of Defense, the Department of Justice, and the Federal Trade Commission, employ hundreds of thousands of people and hold literally millions of documents.

An agency must disclose information located in a "record." Typically these are written documents which can be copied and supplied to the individual making the request. Reasonable fees can be charged for the copying. The term "record" includes computer files, but it does not include physical items, such as a rifle, which could not readily be copied.

One of the most important features of the act is that the individual seeking the record need not disclose why he wants it. There is no special requirement of need. Once a request has been made, the agency must supply the record unless it can invoke a specific statutory exemption. If a document contains some material that is exempt and some that is not, the agency must edit the document and provide the non-exempt portion.

If an agency declines to provide a record on the ground that it is exempt, the individual making the request can go to federal court. In the subsequent judicial proceeding, the burden is on the agency to sustain its action in withholding the record. The court can examine the record in secret to see if, in fact, the agency's exemption claim is valid.

Given this statutory structure, debates about the scope of the act almost inevitably become debates about the scope of the exemptions. It is useful to look at the most important of these exemptions to understand when the
public's right of access to government information is outweighed by other values.

The first exemption is for records that are properly classified by an executive order designed to keep secret those materials relating to national defense or foreign policy. The protection of national security at times requires that the government not disclose its military plans or its negotiating posture. The executive cannot simply stamp a document "classified" under the act since the court can look beneath the stamp to see if the document is in fact within the standards set forth by executive order. In practice, however, courts have been disinclined to second-guess presidential judgments in these areas. Moreover, there are separate statutory exemptions relating to files of the Central Intelligence Agency.

On the domestic front, the act contains an exemption for trade secrets. This is necessary because the government, in performing its regulatory functions, often calls on businesses to provide proprietary information. Thus the Food and Drug Administration, for example, requires detailed research information before it will license a company's new pharmaceutical drug. Clearly this would be an unworkable system if a rival drug company could obtain this information simply by filing a Freedom of Information Act request.

Another exemption allows agencies to keep secret information that would be privileged in ordinary civil litigation. For example, the attorney-client privilege means that agencies do not have to reveal documents in which their lawyers have given them advice on pending lawsuits. A broader feature of this exemption is that it protects from disclosure predecisional memoranda in which agency officials give advice on policy matters. Once a decision has been reached, that decision has to be published. But the drafters of the act believed that the give and take of policy debate would be chilled, or discouraged, if participants knew that their predecisional advice would later be made public. They might be afraid to defend controversial positions or to give candid views. The courts have held that this exemption does not apply to purely factual documents that are generated in the predecisional period. A set of statistics, for example, does not represent the kind of policy advice that is subject to the exemption.

The next major exemption to the Freedom of Information Act concerns perhaps the most difficult balance in the entire statute. By law, a document can be withheld if its disclosure "would constitute a clearly unwarranted invasion of personal privacy." The values on both sides here are powerful: on the one hand, invading an individual's privacy not only causes embarrassment; it takes something away that is impossible to replace. On the other hand, government officials can avoid legitimate scrutiny if they can invoke privacy to cover up abuse of the public trust.

The act leaves the matter open to balancing in the individual case. It does tilt toward openness a bit with its reference to "clearly unwarranted" invasions of privacy, suggesting that other invasions will have to be borne to serve the broader goals of the statute. The courts have reduced the tension somewhat by developing a technique of editing that allows public knowledge of the underlying issues while protecting individual identities.

The pivotal case in this development was Department of the Air Force v. Rose. Students doing an article for a law school publication were engaged in research concerning disciplinary systems at military academies. They sought files from the Air Force Academy including summaries of cases of honors violations, such as cheating on exams by cadets. The Department of the Air Force, arguing on behalf of the academy as well as the cadets named in the files, sought to prevent disclosure on the grounds of privacy. The Supreme Court concluded that the files should be edited to delete not only the names of individuals, but identifying characteristics, such as the cadet's hometown. Editing in this fashion, the Court reasoned, is simply an application of the act's general provision for separating out exempt material from a document before releasing the rest. After editing, the
documents would be released, and they would be of value to the researchers since they would still provide general information on how the Air Force Academy handles honor violations, since they would include information on the number and types of violations, and the like.

The last major exemption to the act concerns records compiled for law enforcement purposes. The primary goal here is to prevent disclosures that would hamper law enforcement personnel in their efforts to fight crime. The act, for example, specifies that this exemption applies to records that would "disclose investigatory techniques" or "reasonably be expected to endanger the life or physical safety of law enforcement personnel."

All of the exemptions to the Freedom of Information Act are designed to balance the goal of open government against competing societal values. Performing the balancing in each case is a difficult and important task. But it should not obscure the basic result of the act--an unprecedented release to the public of information in the hands of the government. After an initial period of grumbling and some foot dragging, every major American agency now responds to thousands of Freedom of Information Act requests a year. This is not a source of strife or scandal; it is a routine part of the agency's work. Over 90 percent of all Freedom of Information Act requests are granted, providing businesses, journalists, and ordinary citizens with a wealth of information about how government works. Of those that are denied, some end up in court and at times the court rules that the document or part of it must be released. But the central legacy of the Freedom of Information Act is not one of litigation, it is one of open government.

**Other Statutory Routes to Government Information**

Building on the success of the Freedom of Information Act, the United States has enacted several other statutes to broaden the public's access to government information.

In 1976, Congress enacted the Government in the Sunshine Act, which opened the meetings of multi-member federal agencies to the public. Meetings, which must be announced in advance, are defined as those situations where the heads of an agency get together for "the joint conduct of agency business." The structure of the Government in the Sunshine Act is modeled on that of the Freedom of Information Act. Meetings must be open to the public unless a statutory exemption is available. When meetings are closed pursuant to such an exemption, a transcript of the meeting is kept. As a result, an individual who believes the meeting was improperly closed can go to court. If the court agrees that the meeting should have been held in the open, the transcript will be released.

The statutory exemptions to the Government in the Sunshine Act are similar to those in the Freedom of Information Act. There are, for example, exemptions for classified information relating to national defense, for trade secrets, and for matters relating to law enforcement.

There is one major area, however, where the Government in the Sunshine Act provides even broader access to governmental processes than the Freedom of Information Act. The latter statute exempts predecisional policy discussions. As noted above, the thinking was that advisers might be less than candid if they knew that their views would be made public. They might, for example, be afraid to take highly controversial positions. But the Government in the Sunshine Act contains no such exemption. The drafters of the statute wanted to let the public in on policy discussions. As a result, the public can and does walk in on meetings of agencies such as the Federal Communications Commission and the Nuclear Regulatory Commission as they debate matters of policy. Because the Sunshine Act applies only to multi-member agencies, it does not entitle the public to sit in when the secretary of transportation, for example, discusses highway funding. With agencies headed by a single individual, the definition of "meeting" would be quite difficult. But for the typical five- or seven-member regulatory
commission, the Sunshine Act has meant an unprecedented opening of policy debate.

The Sunshine Act has been popular with the public, and similar statutes have been enacted in all 50 states. But its opening up of policy discussion has been less than completely successful. The availability of an exemption for predecisional debate under the Freedom of Information Act has persuaded some agencies to conduct business on paper. Other discussions are held, at least in a preliminary way, by low-level staff who are not subject to the Sunshine Act and whose predecisional memoranda are exempt under the Freedom of Information Act. Finally, agency heads at times engage in "notational voting" in which a memo circulates on which they vote without holding a meeting. In the end, the open meetings that are held often result in policy discussions that are perhaps more scripted and less frank than they would be if they were held in secret.

The immediate cause of these difficulties is the lack of uniformity between the Sunshine Act and the Freedom of Information Act. More broadly, it reflects a continued uncertainty about whether policy debate does or does not suffer in quality when it is conducted entirely in public. But the problems associated with this point should not obscure the broader impact of the Sunshine Act. Many more meetings are held in public now than before the act's passage, and the public is accordingly aware of far more of the workings of the government than ever before. Every day in Washington citizens sit in the audience as agency heads hear and discuss reports on matters of undoubted public interest.

In another statutory development, the principles of open government have been extended beyond full-time agency employees with passage of the Federal Advisory Committee Act. By law, many private groups advise government agencies. When those groups are formed and controlled by the government, they are subject to the act, which was passed in 1972 and amended in 1976. Advisory committees covered by the act must open their meetings to the extent required by the Government in the Sunshine law and disclose their records as required by the Freedom of Information Act.

The most recent major addition to the public's right of access to government information is the 1978 Ethics in Government Act. Here the purpose is rather more specific than what we have seen so far; while the general virtues of open government played a role in the passage of this statute, the more specific problem of conflicts of interest was far more important. This act requires the filing of detailed financial statements by federal government officials. Its coverage is greater than the other open government statutes, because it applies not only to executive agency employees but to legislative and judicial personnel.

The financial statements must be filed with an Office of Government Ethics, which reviews them to see if there is a conflict between an individual's public job and his private holdings. The statements are made available to the public as well. Finally, the act goes beyond disclosure requirements in imposing restrictions on the jobs that former government officials can accept.

When the statutes requiring the government to release information are taken together with the First Amendment law that prevents the government from censoring the media, the result is government that takes place to a considerable extent in the light of day. Of course, there are secret meetings and private deals in which the public trust is abused. And there is legitimate and continuing debate on the need for secrecy in certain areas to further the common good. But there is in the end a consensus that democracy works best when the people can see clearly what their government is doing. As James Madison, the "father of the Constitution," and later, the fourth president of the United States, wrote: "Knowledge will forever govern ignorance. And a people who mean to be their own governors must arm themselves with the power knowledge gives."
THE FEDERAL PRIVACY ACT OF 1974

With statutory law strongly favoring disclosure of government information, the protection of personal privacy takes on a particular urgency in the federal government of the United States. While the 1966 Freedom of Information Act permits the government to withhold information when disclosure "would constitute a clearly unwarranted invasion of personal privacy," the public came to believe that this did not fully protect an individual's desire to control information about himself. The difficulty was figuring out how to safeguard this desire without undercutting the public's general right of access to information about the government. The solution embodied in the Federal Privacy Act of 1974 is to empower individuals to require that government records about themselves are accurate and are not being misused.

The act applies to agency records that are organized by a person's name or by some type of individual identification, such as a Social Security number. Records kept on computers are included. The central provision of the act gives an individual access to records about himself. The individual can read those records and can then request that they be amended to correct errors. An individual, after all, is likely to be much better informed about his own situation than is any government agency. Errors that have crept in, whether through oversight or malice, will quickly be spotted. The agency may, of course, decline to make corrections on the ground that the individual is providing inaccurate information, but the act provides procedures, including judicial review, to enable an individual to protest an agency's refusal to correct a record.

The Privacy Act also restricts the government's ability to disseminate information about an individual to others without a valid basis. Penalties are to be assessed against the government if it discloses information without legal grounds for doing so. While legal grounds can be found under a number of statutory provisions, including the Freedom of Information Act, there are situations in which the act restricts the government. For example, in the 1987 case of Tijerina v. Walters, a federal court found it improper that an official of the Veterans Administration wrote an unsolicited letter to a state bar examiner referring to administration files allegedly showing that an individual had falsified information on a government loan application. The court said that the "Privacy Act was intended to build constraints around the disclosure of information in government files irrespective of the worthiness of the cause for such disclosure."

The tension between open government and individual privacy is unlikely ever to be fully eliminated. The goal of the Privacy Act is to reduce the tension by assuring that government records about individuals are accurate and that their dissemination is limited to legally valid channels.

ACCESS TO GOVERNMENT DOCUMENTS IN THE UNITED KINGDOM

Unlike the United States, Canada, Australia, New Zealand, and many European countries, there is no general freedom of information statute in the United Kingdom. There is instead a series of statutes that grant public access to government records in specific areas. The result is a shift in presumptions. In those countries with typical freedom of information acts, the government must release a document unless it can show that a specific exemption exists. In the United Kingdom, the citizen must show that the requested document falls within an area in which release is allowed.

Even this somewhat limited form of access to government information began rather late in Britain. The starting point was the Data Protection Act of 1984, which gave people the right to see computerized records concerning
themselves. This statute, like the American Privacy Act of 1974, focused on an individual's own reputation rather than on learning about the workings of government generally. The Data Protection Act has been extended to enable people to obtain non-computerized records about themselves with passage of statutes covering medical, school, social work, and housing records. A somewhat broader freedom of information idea is embodied in the Environment and Safety Information Act of 1988, which requires publication of enforcement actions against companies which break environmental or safety laws.

There are, of course, a variety of ways, including explanatory leaflets published by local authorities, in which the government in the United Kingdom informs citizens about its programs. But in terms of wide public access to government information, there is in practice somewhat less access than in those countries with broad freedom of information statutes.

TELEVISIONED JUDICIAL PROCEEDINGS IN THE UNITED STATES

In the United States, trials have generally been open to the public, including reporters from newspapers. The Supreme Court has rejected efforts by some states to close trials when the judge believes that publicity would be prejudicial. The Court has found that the public has a right of access grounded in the First Amendment.

But what about putting trials on television? Here the Court's early skepticism has given way to acceptance. In the 1965 case of Estes v. Texas, the Court found the presence of television cameras over the defendant's objections to be so intrusive that due process of law had been denied. But in 1981, the Court found that conditions had changed. It ruled in Chandler v. Florida that because new technology made television equipment much less distracting the state could allow broadcasts over the defendant's objection. The state had carefully controlled the placement of cameras and the like, and no showing of real prejudice had been made. Of course, the increasing ubiquity of television throughout American society may have played a role in the Court's reaction as well.

Today, 47 states permit television coverage of at least some court proceedings. While most access is to civil cases, criminal cases are often broadcast as well. A few federal courts have experimented with television, although the U.S. Supreme Court has so far remained off the air. Public concerns that lawyers might play to the cameras or that television might somehow influence witnesses seem to be fading. Indeed, televised trials have become routine fare---one private cable TV network broadcasts trials 24 hours a day. It may no longer be dramatic, but televised courtroom proceedings now give millions of American citizens a more direct sense of their nation's judicial system than ever before.

THE CANADIAN ACCESS TO INFORMATION ACT

The Canadian Access to Information Act of 1983 is set up similarly to the American Freedom of Information Act, but it makes use of several additional features to aid citizens in their quest for government documents.

The Canadian Act provides that any Canadian citizen or permanent resident can gain access to government records. Policy discussions by the Cabinet are entirely excluded from the act for 20 years, and there is a list of exemptions for other types of material. The exemption list is somewhat longer than that in the American act, including in addition to matters like trade secrets such topics as information that could injure federal-provisional relations and information that could injure the financial interests of the government of Canada.
The unique features of the Canadian act involve the methods available to a citizen who seeks access to government records. In order to facilitate such access, the act requires the publication of an "Access to Information Register." The register is organized into chapters corresponding to major government institutions, and each chapter describes all records under the control of that institution in enough detail to enable people to request specific items. Copies of the register are available in hundreds of libraries and thousands of post offices across Canada.

The act also creates an information commissioner to deal with complaints. The commissioner is an ombudsman who investigates--at no charge--claims by citizens that they have wrongly been denied access to government documents. The ombudsman--who reports to Parliament--can act without legal formalities and is often able to resolve complaints on that basis. The first commissioner said that her role was "to cause a fair investigation into all complaints; to interpret the act in favor of release and to argue for a narrow interpretation of any clause that seeks to prevent disclosure." While judicial proceedings are available, they are less frequently employed than under the American Freedom of Information Act.

The Canadian Access to Information Act has opened up government files to a considerable extent and has created a framework through which Canadians can learn a good deal about the operation of their government.

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CONTACTS

Freedom of Information Clearinghouse
P.O. Box 19367
Washington, D.C. 20036
About the Author: Steven Goldberg is a professor of law at the Georgetown University Law Center in Washington, D.C. He received his A.B. from Harvard University and his J.D. from Yale University. He has served as a law clerk to Justice William J. Brennan, Jr., of the United States Supreme Court and as an attorney with the United States Nuclear Regulatory Commission.

Project management and editing by John Russell Deane III, president of the Center for International Management Education (CIME). CIME is engaged in providing assistance to emerging democracies in the development of market economy legal systems. CIME is currently assisting Estonia in the adoption of its civil code and in the creation of the National Law Center, which will provide education to the legal community, especially the judiciary.

Freedom Papers Series:
Editor: Howard Cincotta
Associate Editors: Jeanne Holden, Deborah M.S. Brown
Design: Sherry Hayman

September 1994

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