

WHOSE FREEDOM OF INFORMATION?
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Prepared for
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column

Last year, the Central Intelligence Agency received 4,172 requests for information under FOIA, the general rubric for the Freedom of Information Act, the Privacy Act and Executive Order 12065 on National Security Information. That was relatively few compared to the Departments of Defense or Health, Education and Welfare, but considering CIA's smaller size and special security requirements, it represents a significant administrative and financial burden. Unlike other departments, CIA's files are not centralized. This is because there is so much information of life and death sensitivity. Therefore each new request required a hand search of as many as 30 separate filing systems, some going back to OSS days in the early 1940's. By the end of the year, 3,617 of those requests were answered at a cost of nearly \$3,000,000 for 116 man-years of effort. That amounts to about \$820 each. All but \$9,216.78 was borne by the taxpayer.

Still, that cost in people and time is probably justified if, as a result, our society can be made more open, government more responsive to the public, and our nation stronger. That was certainly the intent of these Acts. Unfortunately, in the case of intelligence agencies, it has not quite worked that way.

Rather than opening our society, the Freedom of Information Act, when applied to intelligence information, often leaves the citizen frustrated at the time it takes to service a request, and disappointed at the results. Despite our most sincere efforts to live up to the

spirit as well as the letter of the law, we simply are unable to satisfy most requests for information. This is not at all an unwillingness to do so, but the need to comply with other laws which mandate us to protect national secrets. The most important of those secrets concerns how we gain access to intelligence information and from whom--what we call our sources and our methods. Clearly, if through FOIA we released data on collection techniques, either technical or human, those techniques would soon be compromised and thereafter useless. Journalists understand this. Witness the number who have been willing to go to jail rather than reveal their sources.

Neither does FOIA improve the responsiveness of intelligence agencies to the public. Thousands of hours which could be spent on intelligence work are consumed examining files from which only minute quantities of information can ultimately be released. Intelligence and secrecy are inseparable. Not only must sources and methods be protected, but once information is obtained, its value to our foreign policy makers often depends on no one else suspecting that we have it. Consequently, it is neither desirable nor really possible to make intelligence agencies responsive to the people as a whole if at the same time they are expected to do their job effectively.

Instead, intelligence agencies should continue to be responsive to the people through their elected and appointed government officials. Tremendous progress has been made in the past few years in establishing new oversight mechanisms which guarantee to the public that intelligence agencies are under control and are being held accountable for what they

do. In the Congress, the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence are kept fully informed on intelligence activities. They review them, often in great detail; pass judgment on them; and ensure they are consonant with the nation's expressed foreign policy. In the glare of this examination, there is no likelihood that intelligence agencies would undertake activities which would not meet general public approval. In the Executive Branch an independent Intelligence Oversight Board appointed by the President investigates any allegations of illegality or impropriety which anyone may bring to it.

Finally, does FOIA make our nation stronger? Unfortunately, FOIA has encouraged the erroneous perception that intelligence agencies cannot withhold national security information from the public. As noted above, this is not the case since we must by law protect sensitive security data. Still, as long as this perception persists, we are likely to lose sources of information. This perception has been created largely by the distortions in the press where FOIA obtained fragments of documents have been embellished with conjecture to produce sensational but misleading or fallacious stories. Foreign persons and agencies become understandably reluctant to share information which might damage their own efforts if publicized, if they perceive that we may be forced to release such information through FOIA. Potential intelligence sources question our ability to protect their identity. Sources not found and developed today will impact on U.S. intelligence efforts 15 or more years from now. No one can judge the effect that may have.

Under these Acts, U.S. citizens and permanent resident aliens may cast a wide net to obtain information about themselves and may request the declassification and release of any classified information. In addition, anyone, of any nationality, may request any Executive Branch document which he can reasonably describe. The requests we receive are often very broad, sometimes vague, and occasionally capricious. They range from a request for all records on underground newspapers--over 500 titles were given; to the lady who asked for any records on her dog; to one from an insurance salesman asking for the names of all CIA employees so that they could be contacted to sell them policies; to one for personal records on an individual, ostensibly from that individual, but found to be from a would-be blackmailer; to a request from a high school civics teacher who wrote to warn us that he was requiring all of his students to make an FOIA request just to show them how the system works. I seriously question whether taxpayers' money should be spent on any of these kinds of searches. Then there are requests from people like Philip Agee who has vowed to try to destroy the Central Intelligence Agency, an established arm of the government authorized by the Congress and supported by the people. Yet, the people have had to pay for 5-1/2 man-years of effort so far to help Agee try to undo a duly constituted organ of our government. FOIA encourages fishing expeditions into this country's most sensitive national secrets at a great waste of tax money. But, intelligence agencies have no choice but to investigate every request to determine what can and cannot be released. No other country in the world is so obliging. It is no wonder so few others understand our compulsion to risk hurting ourselves.

I fully support the concept of freedom of information. The public has a right to know in general terms what their intelligence agencies are doing. But, the scope of these Acts should be narrowed so that the taxpayer does not have to pay so much for so little in return, and so that our security is not threatened, as it inevitably is, when it is perceived by some that we are powerless to keep national secrets. Such a narrowing would not lessen the accountability of intelligence agencies, nor loosen the restraints under which they now operate, nor reduce the quantity of meaningful information flowing directly to the public. In all events, the CIA will continue to publish as much of the results of its work as it possibly can. Last year alone over 150 analytic studies and documents were made public under this openness program. We want to share with the public as much as we can, but we prefer not to have to respond to a lot of fishing expeditions. Let's leave fishing to the fishermen, and keep our nation's secrets just that--secret.