

# Sources are important

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(Other writers' views)

Information from sources is the raw material of evidence needed in a court of law. But when sources are afraid to furnish information, the criminal justice process, our bulwark against anarchy, faces a breakdown.

Time and again informants and potential sources have told us they are afraid to furnish information because their identities might be disclosed under the Freedom of Information Act and this would ruin their reputations, subject them to lawsuits, or endanger their lives.

In one recent case, an elderly victim was kidnapped and beaten, but information about the location of the suspects was withheld by a potential source — because of Freedom of Information Act considerations. A subpoena had to be obtained, and the several hours delay in getting the needed data led to a needless death — one of the suspects shot and killed another person just a few hours before his arrest.

Congress passed the Freedom of Information Act to allow the electorate to be better informed about the workings of its Government. This it is doing, but today the act needs some fine tuning regarding law enforcement information. Congressional committees that oversee FBI operations have invited the submission of possible refinements to the act.

The first change we propose is to divide FBI records into two categories, the first of the most sensitive kind — those pertaining to foreign intelligence, foreign counterintelligence, organized crime, and terrorist activities.

The public's need to know that the FBI is discharging its responsibilities in these areas should be channeled through the Congress, the executive and judicial branches, not to the organized crime group that made a concerted effort to obtain records which, when pieced together, might have identified highly sensitive sources, nor to foreign agents or terrorists who can assure their own security by knowledge that the FBI has no information about their activities in a particular locale — a confirmation we are required to give under the present act.

These most sensitive areas should be exempted from the Freedom of Information Act; as President Johnson said when he signed it into law, "...a democracy works best when the people have all the information that the security of the Nation permits." This would not affect the second category of all other records.

To further protect the confidentiality of sources, the present provision calling

for release of data unless it "... would disclose the identity of a confidential source ..." should be changed to "... would tend to disclose ..."

This adopts comments that courts have made in several cases and conforms to the intent of Congress. This modification, in combination with a proposed 7-year moratorium on investigative records, would serve the public's interest in effective law enforcement and reestablish a free flow of information from the public. The purpose of the proposed moratorium is to frustrate immediate attempts by newly prosecuted persons, most familiar with their cases, to identify confidential sources.

We also propose exempting from the act the mandatory furnishing of data to felons and foreign nations — they are not part of the electorate Congress intended to be informed, but can use the act to further their criminal ends. Lastly, a more realistic time period for furnishing records, based on the volume of work involved, would enable agencies besieged with requests to comply fully with the law without diverting resources from priority investigations.

It is important to recognize that these proposed changes refine the Freedom of Information Act — they don't repeal it. Our proposals would protect legitimate law enforcement concerns while preserving the basic principles of the act. — William H. Webster, FBI Director, from the *FBI Law Enforcement Bulletin*, March 1980.