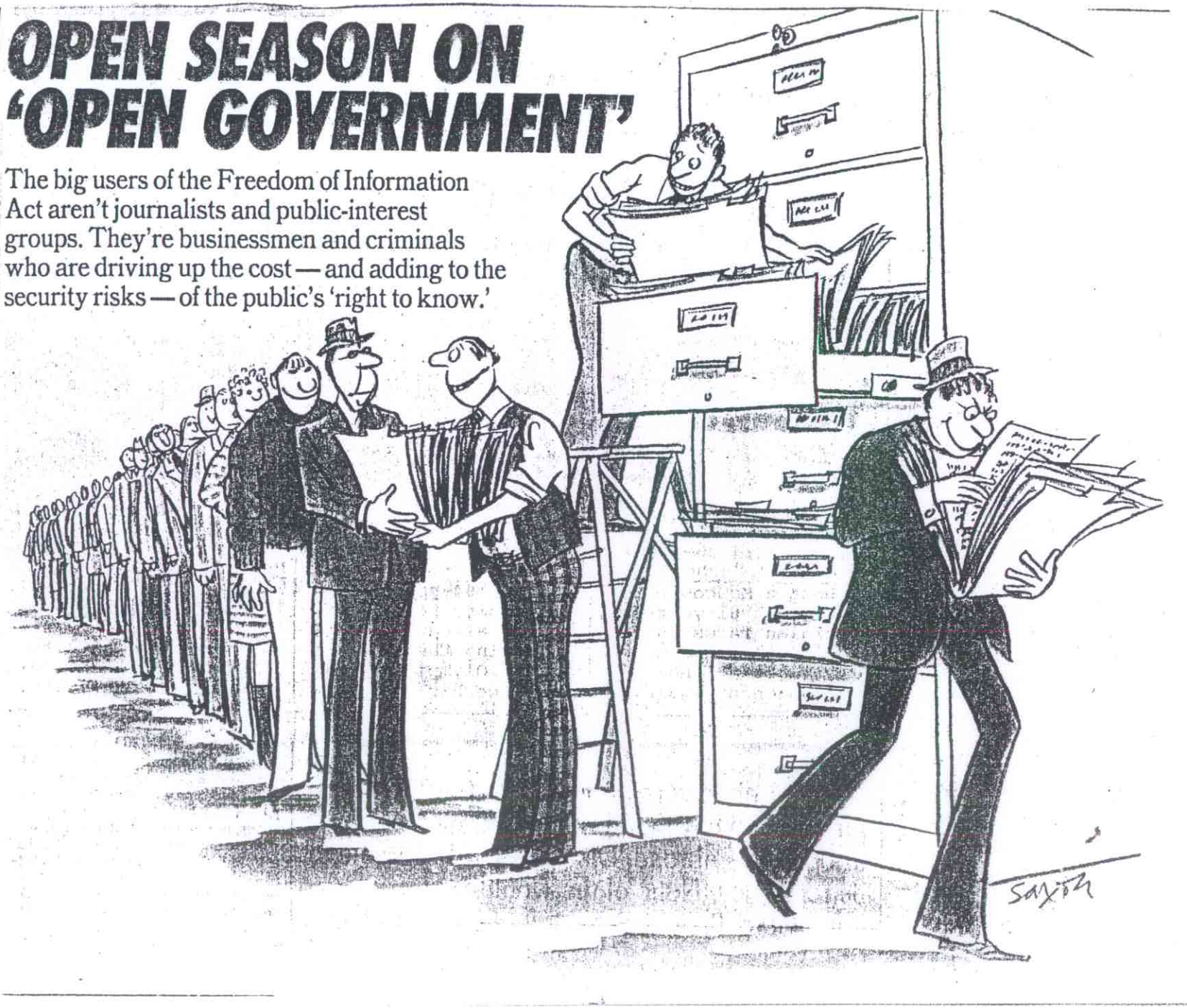
OPEN SEASON ON 'OPEN GOVERNMENT'

The big users of the Freedom of Information Act aren't journalists and public-interest groups. They're businessmen and criminals who are driving up the cost — and adding to the security risks — of the public's 'right to know.'



By Allen Weinstein

Last August, a convicted loan shark and confessed killer involved in organized crime was testifying before the United States Senate's Permanent Subcommittee on Investigations. Questioning turned to the Freedom of Information Act, and the witness boasted that files he had obtained through the F.O.I.A. while he was in prison had enabled him to identify the informant who had been responsible for jailing a friend.

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What, the witness was asked, had become of the fingered informant?

"I don't expect him to be living anymore," he replied.

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During the Watergate scandals, a wave of enthusiasm for "openness in government" swept over Washington, and Congress rushed to erect legislative monuments to the public's interest. None of these was more important than a series of 1974 amendments (and one in 1976) that liberalized the Freedom of Information Act. Not only were agencies and departments in the executive branch now required to respond to F.O.I.A. requests within 10 "working days" and to appeals within 20, but they were mandated to waive fees for search and copying costs if release of the documents seemed in the public interest. If requesters went to court to obtain release of withheld files and won, the court could assess reasonable lawyers' fees and other costs to be paid by the Government. Judges, moreover, were permitted to review documents in camera in order to determine whether they had been properly withheld under the Act's nine exemptions. Finally, three of these exemptions were significantly altered to encourage maximum disclosure of previously restricted data regarding national defense, foreign policy and law-enforcement investigations.

One of the amendments' leading sponsors, Senator Edward M. Kennedy, warned that, without them, the Freedom of Information Act would remain "a toothless tiger" and intelligence agencies and the rest of the executive branch would continue "to delay, resist and obstruct public access to government information." When the House approved the amendments, Representative William S. Moorhead, who had led the drive for an improved F.O.I.A., hailed the vote as "the first major step forward in helping to restore the confidence of the American people in the institutions of government by purging the body politic of the secrecy excesses which marked the sordid Watergate cover-up during the Nixon Administration."

Few if any of the legislators who passed the F.O.I.A. amendments foresaw that, over the next five years, they would create what some critics are now calling "openness excesses." The 1974 amendments met a pressing public need for access to the records of a Government that had betrayed its trust. But the F.O.I.A., like every legislative solution, has given rise to its own set of problems — problems inherent in the day-to-day *(Continued on Page 74)* conflict between the democratic ideal of freely flowing information and the pragmatic realities of running a government.

Today, more than three out of every five F.O.I.A. requests are filed not by the scholars, crusading Congressmen, public-interest advocates and enterprising journalists for whom the act was intended, but, rather, by the business community and the law firms that represent it. Requests from imprisoned felons or people under active criminal investigation now represent 40 percent of the Drug Enforcement Administration's F.O.I.A. caseload, and more than 15 percent of the Federal Bureau of Investigation's. And, since the statute allows anyone in the *world* to request and possibly to receive Government files, the F.B.I. and the Central Intelligence Agency regularly process and occasionally ship documents to requesters from Communist and third world countries.

Nor did many of the lawmakers who approved the F.O.I.A. amendments and a sister statute, the Privacy Act of 1974, anticipate that the cost of complying with them would spiral upward to what an unpublished Justice Department survey reports is more than $42 million annually. In 1978, the F.B.I. alone spent $8.2 million processing F.O.I.A. requests, and by now its unit dealing with such matters, staffed by eight people in 1974, has swollen to 305 full-time employees.

According to Alan McCreight, until recently a director of the F.O.I.A. office of the F.B.I., the requests his unit processed in 1978 included that of an imaginative young man who wanted his father's files to present to him as a Father's Day gift. Alas, the old man didn't have an F.B.I. dossier. Next stop? The C.I.A.

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As used by the press, independent researchers, Congressional committees and public-interest groups, the F.O.I.A. has proved remarkably effective in exposing negligence and abuses, both past and present, on the part of Federal agencies, particularly in the realms of intelligence and law enforcement. The F.B.I.'s continuing release of materials relating to the John F. Kennedy and Martin Luther King Jr. assassinations, for example, has turned up leads that the bureau had failed to pursue adequately. Without the F.O.I.A. requests filed by author John Marks and The New York Times, the details of the C.I.A.'s secret drug experiments on often-unsuspecting Americans might never have been revealed. Without the F.O.I.A. requests filed by The Washington Post, the Government's cover-up of the dangerous effects of nuclear testing in the Western states might never have come to light. The widespread and often illegal monitoring of civil-rights, antiwar and women's-rights organizations by Government intelligence agencies has also become public knowledge largely through F.O.I.A. and Privacy Act requests. The discovery and documentation of such improprieties have resulted in new legislation and more vigilant Congressional oversight in order to discourage their recurrence.

The amended Freedom of Information Act, in short, has proved invaluable as a post-Watergate investigative tool, and few people would argue that it should be repealed or emasculated. Precisely because support for the act in Congress and the country remains strong, its advocates can — and have already begun to — consider ways to correct the abuses to which the F.O.I.A. is currently subject.

My own experience with the F.O.I.A. began in 1972, when I sued the F.B.I. for its files on the Alger Hiss case (a lawsuit later amended to include the Rosenberg case records) for use in connection with books I was writing about internal-security issues during the cold war. The American Civil Liberties Union supported my suit in an effort to extend the applicability of the F.O.I.A. to records of historical importance previously withheld on a claim of national security. At that time the F.O.I.A., unamended since its passage in 1966 during the Johnson Administration, was little used. The act was effectively hamstrung by regulations and exemptions that prevented the disclosure of all but the most innocuous data. But the F.B.I., after losing a series of court decisions in my case and other suits for the Hiss and Rosenberg files, began a massive release of documents that still continues. Since 1972 I have both a litigant and a requester of files under the act.

By any measurement, the past five years have seen a significant improvement in public access to Government files. In the summer of 1977, the F.B.I.'s Freedom of Information unit cut into its backlog of thousands of F.O.I.A. requests by summoning 287 agents from field offices and giving them a crash course in processing such material. The program, called "Operation Onslaught," managed to reduce considerably complaints about delays that had often (as in the case of my own request for Hiss and Rosenberg files) consumed years. "Operation Onslaught" (whose restless field-office agents printed special T-shirts protesting "Free the F.O.I.A. 200 Now") inspired similar programs at the Federal Drug Enforcement Administration and other agencies.

Most observers agree that the best record of compliance among intelligence or national-security agencies has been chalked up at the Pentagon, whose F.O.I.A. unit has drawn praise even from normally critical news people and civil-liberties lawyers. The English writer, William Shawcross, relied heavily on material he obtained through F.O.I.A. requests for his recent book, "Sideshow: Kissinger, Nixon and the Destruction of Cambodia." "I was absolutely astonished," he said, "at the cooperation I received, especially from the Pentagon." In 1978, according to the Department of Defense, its agencies processed over 56,466 requests at a cost of $6 million, and fees collected from F.O.I.A. requesters covered only a small portion of the expense. This "shortfall" affects all Government departments and agencies. In 1977, for example, F.O.I.A. users' fees amounted to $1.36 million, less than 4 percent of the estimated $35 million it cost the Federal Government to comply with the act.

Search fees for F.O.I.A. requests differ widely from agency to agency, so much so that, according to Irene Emsellem, a staff member of Senator Kennedy's Judiciary Committee, "the single most important action needed by Congress is uniformity in fees and fee waivers." Miss Emsellem noted that charges for searches by agency "professionals" vary from $3 an hour at the Department of Health, Education and Welfare to (possibly the stiffest in Government) $12 an hour at the Nuclear Regulatory Commission. Computer search charges range from $6.50 at the Federal Trade Commission to a whopping $188 an hour at the Justice Department.

The problem of spiraling F.O.I.A. expenditures has become critical for many hard-pressed agencies, and adding to the costliness are the legal fees the Government must pay to successful F.O.I.A. litigants. Until recently, the Justice Department proved particularly quarrelsome about paying attorneys' fees. But last July, in what may prove to be a significant — and expensive — break with precedent, Justice agreed to pay $195,802.50 in "interim attorneys' fees" to lawyers in the Meeropol v. Bell case, a lawsuit brought by the sons of Julius and Ethel Rosenberg to obtain release of documents estimated by the Government to number roughly 130,000, and by the Meeropols at over a million. (Since then, however, the Justice Department has resumed foot-dragging in other F.O.I.A. settlements.)

It is not only the unanticipated cost of implementing the F.O.I.A. that has given rise to criticism of the act as it now stands. There is also evidence suggesting that the F.O.I.A. may have been manipulated by foreign-policy makers in order to influence American public opinion and put pressure on foreign allies.

In 1977 and '78, the Defense Department and the C.I.A. approved for release through the F.O.I.A. a series of files that embarrassed the Israeli Government at a time when the Carter Administration was pressuring Israel to assume a more cooperative attitude toward the impending peace talks with Egypt. These files described American financing of an Israeli arms-purchasing mission in New York and identified Israel, for the first time in any official Government report, as a nuclear power, suggesting that the Israelis may have acquired uranium for their bombs "partly by clandestine means," stealing some of it from American power plants. Other documents alleged that during the Six Day War, Moshe Dayan, then the Israeli Defense Minister, had ordered an attack on the U.S.S. Liberty, an American "research" ship cruising off the Israeli coast. (Significantly, the C.I.A. chose *not* to release what one news story called a "staff summary . . . that concludes the Israelis did not learn the Liberty was an American ship until after the attack.") Protests from Israeli officials proved futile, and some of the C.I.A. records were widely publicized by pro-Palestinian groups.

The C.I.A.'s director of public affairs, Herbert E. Hetu, wrote me a denial that the Agency had engaged in any manipulative practices and described one release of classified material concerning Israel as "inadvertent." But the potential for misusing the F.O.I.A. as a tool of foreign policy clearly exists. Rather than risking the disclosure of sources by leaking data, an official can accomplish the same purpose by dropping a hint to a friendly newsman or scholar concerning information that might be requested under the F.O.I.A. Just last month, the State Department declassified and released to a Japanese news agency documents in which the

also requested, with mixed success, classified files from the C.I.A., the State and Justice Departments, Naval Intelligence, the Immigration and Naturalization Service and other Government agencies. Even today, while completing a study for the Twentieth Century Fund of the F.O.I.A.'s impact on intelligence and national-security agencies, I remain

South Korean Foreign Minister confirmed that in 1973, Korean opposition leader Kim Dae Jung had been kidnapped in Tokyo by the South Korean C.I.A. State Department spokesman Hodding Carter 3d called the release of the files through the F.O.I.A. a "mistake." Although such "mistakes" cannot be remedied by legislative means without restricting the public's right to know, calling attention to them may encourage greater caution and self-restraint on the part of Government officials.

Another complaint of F.O.I.A. critics is that disclosures made under the act almost inevitably invade someone's privacy. Although two exemptions in the 1974 amendments deal specifically with the inherent conflicts between privacy rights and access rights, Government practice has often been to override privacy concerns. This has been especially true in cases regarding individuals enmeshed in public controversies such as the Hiss and Rosenberg investigations, and the Warren Commission and King assassination probes.

The harm that can be done to a private person by the undiscriminating release of raw documents was highlighted last year when the Center for National Security Studies released an F.B.I. memo obtained through the F.O.I.A. The memo alleged that Roy Wilkins, the distinguished former head of the N.A.A.C.P., had been a bureau accomplice in a 1964 undercover campaign against Martin Luther King Jr. When confronted by the press, Mr. Wilkins denounced the improbable assertion as "pure fantasy, a damn lie," but he was entirely unprepared and apparently had not even been given a chance to examine the files thoroughly prior to their release. Attorney General Griffin Bell protested strongly: "The Freedom of Information Act almost destroyed Roy Wilkins."

Such episodes raise serious, unsettling questions about the manner in which requesters handle controversial, headline-raising stories contained in F.O.I.A. releases. When the F.B.I. reluctantly handed over to me files that dealt with Whittaker Chambers's 1949 confession of homosexuality to the bureau, I asked that the Justice Department also provide the Chambers family with copies of the material. As a general rule, when privacy considerations have been overridden by agencies in favor of releasing controversial data, some comparable procedure might well be useful for alerting those mentioned in the files.

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The most widespread complaints about the F.O.I.A. within the Government concern its allegedly unfavorable impact on the collection and dissemination of law-enforcement and intelligence data. When a Senate Judiciary subcommittee held hearings in 1977 and early 1978, a procession of Federal, state and private investigative agency officials testified that the F.O.I.A. and the Privacy Act had done extensive damage to their activities. The subcommittee's most active member, Senator Orrin Hatch, summarized the point made by almost every witness: "A serious chill has been placed on the exchange of intelligence between Federal, state and local enforcement agencies — primarily by the Freedom of Information Act and the Privacy Act." (It should be noted, however, that whenever advocates of "openness in government" have threatened to make major gains, their adversaries in officialdom have countered with the "chilling-effect" argument.) According to Senator Hatch, specifically because of the F.O.I.A. "and because of the fact that the names of many informers have already been made public, law-enforcement agencies are finding it extremely difficult today to locate . . . informants."

"I have had field agents threatening me against releasing any information concerning their undercover contacts or informants, and I can't really blame them," a Federal Drug Enforcement Administration official told me. "It's a wonder that I haven't had my head blown off by one of our own people in my line of work."

The Director of the Secret Service, H. Stuart Knight, issued a sobering warning to a Congressional committee when he testified that his agency now receives less than half the intelligence data it obtained five years ago, and that there has been a major decline in the quality of information received. As a result, Mr. Knight said, he had advised President Carter not to visit certain cities because the Secret Service could not guarantee adequate intelligence concerning possible threats to his safety.

According to law-enforcement and intelligence officials, the F.O.I.A. has made it harder for them to obtain information from abroad as well as at home. Their foreign counterparts, they say, are reluctant to share classified information that, thanks to the F.O.I.A., might end up in the newspapers — or even in the possession of a hostile third country. "The chief of a major foreign-intelligence service sat in my office," Deputy Director of Central Intelligence Frank Carlucci told a House Intelligence subcommittee in April, "and flatly stated that he could not fully cooperate as long as the C.I.A. was subject to the act." Last year, D.E.A. head Peter Bensinger told a Senate subcommittee that police authorities in England and France had given him similar warnings about future assistance to D.E.A. investigations.

Most law-enforcement officials concerned with F.O.I.A. matters concede that the drying up of information — while readily observable to agents in the field — is often hard to quantify. Their claims must be regarded, therefore, with a measure of skepticism, and some critics have questioned whether the F.B.I. and other investigative agencies have identified the actual culprit. At a 1978 Federal Bar Association conference on "openness in government," Senate Judiciary Committee staff member Irene Emsellem reminded the audience that the so-called "investigative" exemption in the act allows the bureau and similar agencies considerable scope in protecting vital law-enforcement records from disclosure. If citizens were refusing to volunteer information to the F.B.I., she suggested, the fault might lie not with the F.O.I.A. but with, among other things, the degree to which the bureau "has been so badly discredited by past revelations of impropriety that no one wants to be associated with them." (Of course, disclosures made through F.O.I.A. requests have played a major role in tarnishing the bureau's image.) According to Miss Emsellem, "The F.B.I. and C.I.A. have fallen victim to a self-fulfilling prophecy. Although the *quantity* of informant data is declining, its *quality* may be improving. Yet the F.B.I. has planted the seed of fear on the informant issue and is nurturing it."

Another Government critic at the meeting, Morton Halperin, pointed out that the F.B.I. and C.I.A. files sought by public-interest groups such as his own Center for National Security Studies were not, primarily, legitimate law-enforcement records but, rather,

such dossiers as the illegally collected COINTELPRO files on the "lawful political activities of dissidents."

Law-enforcement and intelligence officials also charge that the F.O.I.A. has enabled prisoners, known criminals and possibly even foreign agents to request and receive materials from their own investigative files. The General Accounting Office's recent audit of the F.O.I.A. reported that, among the 13 Federal agencies engaged in domestic law enforcement or intelligence probes, "the most dominant category of requesters reported by many of the agencies was individuals who have been or are subjects of investigations by the agencies. Some of these requesters were also identified as being criminals." Among the convicted felons who have obtained some material in their personal files from the Secret Service are Charles Manson and Lynette (Squeaky) Fromme. While he was serving time for smuggling hundreds of pounds of heroin, one of the figures in the famous "French Connection" case received from the Customs Service "35 or 40 documents in his investigative file," according to a Customs official.

Last year, Deputy Assistant Attorney General Mary C. Lawton was asked by a Senate Judiciary subcommittee about guidelines for the F.B.I.'s undercover stolen-goods recovery operations (in which agents masquerade as phony "fences" in capers reminiscent of the movie "The Sting"). She replied that "officials won't even put their guidelines down on paper for fear that criminal targets will be able to obtain them under the Freedom of Information Act."

Justified or otherwise, similar fears may have played a role in inhibiting the United States from investigating the goings-on at the Rev. Jim Jones's ill-fated outpost in Guyana. The State Department's May 1979 "white paper" on the tragedy revealed that when the American Ambassador to Guyana, John Burke, sent a cable to the State Department in June 1978 recommending closer scrutiny of the People's Temple settlement, his aides were concerned that Temple members might obtain a copy of the wire through the F.O.I.A. and allege harassment by the United States Government. Later that year, in fact, Jim Jones retained attorney Mark Lane to file such F.O.I.A. requests with the F.B.I. and C.I.A.

The D.E.A. has no satisfactory answer to the question of how to keep prisoners or known criminals from obtaining pamphlets about the manufacture of narcotic substances. This information, surprisingly, is not exempted from release under court interpretations of the act. And substantial portions of F.B.I., C.I.A., D.E.A. and other agency training manuals have also been handed over to imprisoned felons.

While law-enforcement and intelligence agencies have been barraged by F.O.I.A. requests from convicted or suspected criminals — and often have had no alternative but to hand over material to them — other agencies have been beset by requests from businessmen. Corporations and their lawyers have used the F.O.I.A. extensively to seek information on the patents and Government negotiations of competitors, and to gain knowledge of regulatory-agency decisions affecting their industries. To a significant degree, F.O.I.A. requests have supplanted costlier, more time-consuming and less efficient discovery proceedings in lawsuits pertaining to the innumerable Government-connected activities affecting daily business operations in this country.

Some call such use of the F.O.I.A. a form of "industrial espionage." At Congressional hearings held in 1977 by the House Subcommittee on Government Information and Individual Rights, one witness, attorney Burt A. Braverman, complained, "The act has been employed by competitors, analysts, investors, disgruntled employees, potential and existing adverse litigants, self-styled 'public-interest' groups, foreign businesses and governments and a wide variety of others to obtain information concerning private business which, but for the F.O.I.A., would not be available to them. Yet now, for the price of a postage stamp, such persons can generally obtain such data from Federal agencies."

A growing body of court cases under the act has concerned so-called "reverse F.O.I.A." lawsuits in which companies attempt to obtain injunctions barring the release of data they have previously supplied to the Government. In April, one such case — Chrysler Corporation v. Brown — reached the Supreme Court, which ruled that private parties (including corporations) had no right to file lawsuits to block the release of records under the F.O.I.A. Although the case was remanded to a lower court on other grounds, the ruling has been widely interpreted as a major setback to other "reverse F.O.I.A." suits unless Congress revises the act to permit them.

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The unforeseen problems created by the F.O.I.A. and the Privacy Act have given rise to a mounting opposition, primarily among the bureaucrats who administer the statutes and among conservatives and moderates in Congress. If only for tactical reasons, most critics stress their nominal commitment to the idea of reasonable "openness in government" and insist they are not seeking outright repeal of the F.O.I.A., but simply some modifications in the law. Since Watergate, the public's "right to know" has become a doctrinal sacred cow. As one leading lobbyist explained, "You've got to be willing to window-dress. . . . How can you be against 'truth in lending' or 'freedom of information'?"

Quinlan J. Shea Jr. directs the Justice Department's Office of Privacy and Information Appeals, which has been instrumental in compelling the F.B.I., D.E.A. and other components of the Justice Department to disclose material they might otherwise be tempted to exempt. Among Justice officials he is considered a "liberal" on access questions, but even he has proposed a "modest counterrevolution in information policy" and urged "a little less openness . . . in order to make the criminal-justice system work again." Mr. Shea observes, "We have kept our promise to bring the Department of Justice into substantial compliance with both the Freedom of Information and Privacy Acts, but what a price we have paid!"

F.B.I. Director William Webster recently urged a 10-year "moratorium" on releasing any bureau files on closed investigations. And the Justice Department, with an eye toward proposing legislative changes, has completed a Government-wide survey of the "costs" and "benefits" of the F.O.I.A. If only to forestall bureaucratic proposals for a rollback, several legislative committees in both houses, including Senator Kennedy's powerful Judiciary Committee, have been preparing their own scrutinies of F.O.I.A. enforcement. Timothy Ingram, staff director of Representative Richardson Preyer's House Subcommittee on Government Information and Individual Rights, says that it will propose several major adjustments in the act this fall.

The debate over the F.O.I.A. has divided Washington into two broad camps, each of which displays only minimal good will toward the other. The legacy of mistrust from the struggles of the Johnson-Nixon years looms large, opposing even the slightest "counterrevolution" in information policy. Indeed, an energetic constituency of public-interest lawyers, anti-government activists, the press, most scholarly groups and the staffs of more liberal Congressional oversight committees is urging still further liberalization. They argue that bureaucratic delays, excessive search fees and the Justice Department's willingness to defend other agencies against F.O.I.A. lawsuits are still impeding the release of docu-

ments vital to public discussion.

Battle lines have been drawn, and the Carter Administration has been caught in the crossfire. Overall, the handling of the F.O.I.A. by President Carter's appointees has ranged from ambivalent to befuddled. For months, the White House tried to sidetrack legislation that defined, for the first time, all Presidential papers — not just Richard Nixon's — as public property subject to eventual release under the F.O.I.A. Despite safeguards in the draft legislation protecting the privacy of many Presidential communications for years after a change in administrations, Carter aides lobbied strenuously for a bill that would effectively exempt Mr. Carter's Presidential papers from the act. Eventually Congress passed a modified version of the measure that was signed into law by President Carter as the Presidential Records Act of 1978.

The Justice Department has come under fire regularly for the disparity between Attorney General Griffin Bell's avowed commitment to improving access under the F.O.I.A. and the Department's actual behavior. In May 1977 the Attorney General sent a letter to all Federal departments and agencies declaring, "The Government should not withhold documents unless it is important to the public interest to do so, even if there is some arguable legal basis for the withholding. . . . The Justice Department will defend Freedom of Information suits only when disclosure is demonstrably harmful, even if the documents technically fall within the exemptions in the act."

In practice, the "demonstrable" or "actual harm" standard proved so broad that Justice continued to defend all but a handful of its 600 pending F.O.I.A. lawsuits. This contrast between promise and performance has drawn caustic notices from critics of Government secrecy who contend that so far there are few genuine differences between the Carter Administration's record on openness and the practices of Presidents Johnson, Nixon and Ford.

Although several legislative subcommittees have studied specific aspects of the F.O.I.A., only recently has Congress expressed interest in a comprehensive review of the act. But even those alterations urged by practically everyone concerned with the act may be impossible to implement. How, for instance, can a damper be put on whimsical requesters? Catering to such characters, one enterprising company has even peddled a "Freedom of Information Kit" (for $3.99 plus postage and handling) and proclaimed in its ads: "Here's How to Find Out Which 'Enemies List' You're On — Within 10 Working Days!" There may be no way ever to prevent "King Edward the Ninth" of Allentown, Pa., from continuing to request his C.I.A. file. Nor will the person who filed an F.O.I.A. lawsuit for records that would "prove" he had been elected President in 1968 easily surrender his belief. Still, processing a number of such wild inquiries is a small price to pay for protecting the public's right to know about far more serious matters.

In large measure through the amended F.O.I.A., the United States has created a new, quasi-constitutional "right to know." This concept is virtually unknown in other democratic societies, where official secrets acts, informal restraints or a combination of both continue to prevent disclosure of almost all classified data. That an intelligence agency would assign three full-time employees to collecting material for a renegade agent from his personal files — which the C.I.A. is currently doing pursuant to Philip Agee's F.O.I.A. request — would be inconceivable anywhere else in the world. The F.O.I.A.-elicited documentation by the C.I.A., F.B.I. and other covert agencies of their past patterns of misbehavior is also unique to America.

"It's amazing how well the F.O.I.A. has held up," comments Representative Richardson Preyer, "when you consider the burden placed on this one law to set the release policy for each and every one of the millions of pieces of paper held by the Government."

Shortly after taking office, President Carter predicted that the number of F.O.I.A. requests would decline once the public began "trusting" the Government again. His prediction remains utopian. The popularity of the F.O.I.A. reflects as surely as the public opinion polls the continued and possibly still growing distrust of the Federal Government by broad segments of the electorate. In the current climate of suspicion, the act will continue not only to be used but misused until Congress resumes the complex task, begun in 1974, of striking a balance between the public's right to know and the Government's ability to function effectively. ■

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