

Foundations of U. S. Government Information Dissemination Policy

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1. U.S. Constitution

First Amendment

Congress shall make no law...abridging the freedom of speech, or of the press.

More on the First Amendment

- **Addresses government control and not access to or dissemination of most government records**
- **Political speech is highly protected**
- **Government speech is political speech**

2. FOIA

Freedom of Information Act (1966)

- Any person may request any record
- Bureaucratic accountability
- Nine exemptions
- Cost of retrieval pricing
- Access mechanism
- Affirmative publication of rules, opinions, indexes
- Electronic reading room

What Do these People Have in Common?

- **Leon Trotsky**
- **Elvis Presley**
- **Pablo Picasso**
- **Rudolph Nureyev**
- **Frank Sinatra**
- **George Orwell**

<<http://foia.fbi.gov/foiaindex.htm>>

3. Copyright Act

**Copyright protection under this title
is not available for any work of the
United States Government.**

17 U.S.C. §105

More on Copyright

- **President of the U. S. vs. Queen of England**
- **Bureaucracy vs. openness**
- **Federal government vs. state governments**
- **Copyright vs. FOIA**

4. Paperwork Reduction Act

Federal agencies must:

- (1) ensure that the public has timely and equitable access to the agency's public information, including**
 - (A) encouraging a diversity of public and private sources for information based on government public information;**
 - (B) in cases in which the agency provides information maintained in electronic format, providing timely and equitable access to the underlying data; and**
 - (C) agency dissemination of public information in an efficient, effective, and economical manner;**

More on PRA

- (2) regularly solicit and consider public input on the agency's information dissemination activities;**
- (3) provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products;**

Even More on PRA

- (4) not, except where specifically authorized by statute
- (A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information;
 - (B) restrict or regulate the use, resale, or dissemination of public information by the public;
 - (C) charge fees or royalties for resale or dissemination of public information; or
 - (D) establish user fees for public information that exceed the cost of dissemination.

Other Pressures

- **Database Protection**
- **Privacy**
- **Electronic Records Preservation**
- **FirstGov**
- **Contracting Out Information Activities**
- **State Controls**
- **Terrorism**
- **Quality Controls**

Conclusion

Policy: **Broad access, no government copyright, marginal cost pricing, and unrestricted use and disclosure**

Mechanism: Internet

Result: **Burst of information from federal agencies to webpages and secondary publishers (commercial and other). Tremendous public and political support.**