

1/31/74

FREEDOM of INFORMATION ACT

This Act, which became effective on July 4, 1967, was enacted to ensure public access to government information. Technically, it is an amendment to Section 3 of the Administrative Procedures Act of 1946.

As a "disclosure" rather than "withholding" statute, the new law makes the following changes in previous laws concerning the public's "right to know" what goes on inside our government.

1. It spells out workable standards for what records should or should not be open to public inspection. Rather than the use of general language which, in the past, tended to discourage public access to government information, the Act limits and specifies the type of information that may be withheld from public inspection.
2. The Act also eliminates the "tests" of who shall have the right to different information. Instead, it assumes that the public as a whole has a right to know. However, the law recognizes the need for privileged or confidential status for certain types of information, but this is on a limited, specific basis.
3. The Act also provides to any "aggrieved" person a remedy in court.

In short, the Freedom of Information Act is an "about face" in government thinking about public access to information. Under the new law, the burden of proof for the right to withhold information is now on the government and its agency rather than on the person seeking the information as in the past.

Under the new statute, the government's right to withhold information can only be justified if the records or data involved fall within nine categories of exemption. These are: (1) matters pertaining to national defense; (2) internal agency procedures; (3) information protected specifically by other statutes; (4) trade secrets and information given the agency in confidence; (5) inter- or intra-agency communications; (6) invasion of privacy of personnel; (7) investigation materials; (8) data concerning financial institutions, and (9) information concerning "wells."

Details of these exemptions and concerning the Act are discussed in the Attorney General's Memorandum on the Public Information Section of the Administrative Act, issued in June, 1967 by the Department of Justice.

Significantly, the Act requires that each agency adopt "published rules" applicable to disclosure of its records in accordance with the Congressional mandate. Since there are necessary variances in these rules among agencies, reference should be made to the rules of the agency in question.