

## Will FOIAonline have Chilling Effects on Government Information Seekers?

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*This study examines an online pilot program introduced by the US federal government in 2012 to help fulfill mandates of the Freedom of Information Act. The FOIAonline program has not been subject yet to academic scrutiny. The study herein aims to initiate discussion about anticipated and unforeseen legal and political implications of FOIAonline, particularly in regard to user privacy. This preliminary examination serves to encourage further dialogue about the merits of some government online services, and in doing so contributes to a growing body of knowledge about institutional cynicism. The qualitative case study draws on the theoretical lens of threat avoidance to explain why public demands for government transparency can be accompanied by unintended corollaries. FOIAonline is a double-edged sword in which access to information is an essential defense of democracy and at the same time can wield threats to individual rights. The paper illustrates that privacy rights of government information seekers are increasingly compromised by unrestricted access to online FOIA requests and responses. Public scrutiny of individuals and groups who request government files will likely continue to discourage participation in the e-government program. However, FOIAonline can gain added value for agencies and requesters alike by minimizing anxieties of government information seekers. In an effort to further streamline government services, architects of the FOIAonline program hope to increase voluntary participation of US federal agencies; further, the program is being considered as a model for adoption by other country governments. This study has implications for both domestic and international governing bodies by offering practitioners insight into the challenges of refining and expanding the pilot program.*

**Keywords:** Transparency, Privacy, Trust, Freedom of Information, FOIAonline.

### Introduction

Desire for transparency in government is longstanding. As early as fifth century BC, for instance, Athenians cultivated an informed citizenry by chiseling fiscal accounts of their city-state in stone and placing them in public spaces (Irwin, 2013). By the twentieth century, evolution in the storage and delivery of government agency information—massive amounts of it—had evolved to paper, tapes and film and along with it, legislation in many countries authorizing release of those records. Open government initiatives and an “information-savvy public” have now exponentially increased demand for government-held information (Dillow, 2016). As a result, manual processing of requests has weighed heavily on agency costs and capabilities. More recently, some US legislative reforms have broadened the scope of what defines public records to include emails, text messages, online data storage and other digital formats, and correspondingly, the means by which the public can request and receive government information. Access laws are as crucial to fostering government transparency as new technologies. A recent web-based

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US federal pilot program serves to illustrate the next evolutionary step in government transparency. The FOIAonline project has capacity to facilitate requests for information and documents made to more than 100 federal agencies authorized to respond to FOIA requests, with an eye to lowering costs, simplifying the request process, and improving efficiency through optimizing shared services, standardization, and electronic management of data. Yet at the same time, any computer user can find names and personal information about individuals or groups who request government information through this program.

Thus, there persists a tension between democratic ideals of the public-right-to-know and basic rights of individual privacy. The purpose of this case study is to examine one manifestation of that tension and is three-fold. First, it will introduce the reader to a web-based US federal government service initiated as a pilot program in Fall 2012 called FOIAonline. The paper will track its legislative lineage from the Freedom of Information Act (1966), and its subsequent amendments, to a bill currently before Congress called The FOIA Oversight and Implementation Act. The introduction will also include organizational aspects, operational processes, and perceived benefits of the digital service. In addition to requesting information from government agencies, for instance, users can also find information about other individuals or groups requesting government information. This novel feature is one which provides impetus for the paper at hand. Thus, the second purpose of this study is to review and synthesize relevant research about the relationship(s) of e-government services, perceived transparency in government, public trust, and user privacy. Finally, and more importantly, the paper aims to initiate discussion about both the anticipated and unforeseen legal and political implications of FOIAonline, particularly in regard to user privacy.

### Literature Review

Harnessing new technologies to widely publish data is irresistible in an era of open government initiatives. The hope is that by doing so, governments will facilitate democratic goals as well as enhance interagency cooperation, streamline administrative responsibilities and reduce costs, among other things. It seems a foregone conclusion. An overview in this paper of the recent FOIAonline pilot program in the US illustrates an assumption lurking behind that promise. Policymakers believe that by offering a consolidated nationwide portal for requesting and retrieving government records, it will be widely used by both the public and government agencies. But will it? One of the challenges facing meaningful assessment of such projects is lack of consensus on quality measurement frameworks. There are a considerable number of studies about predictors of successful open data initiatives, and they provide mixed findings. For instance, the key may rest with one or more variables such as stakeholder(s) power and interests (Zuiderwijk *et al.*, 2015), political structure and processes (Gulati *et al.*, 2014), technology acceptance (Mardiana *et al.*, 2015), and socio-demographic and economic factors (Chan, 2013; Taipale, 2013). Likewise, barriers to full realization of government open data may hinge on conflicting regulations, liability

of data providers, and privacy and data protection (Attard *et al.*, 2015).

The right to privacy can be at odds with the goals for open government data, and more research is needed on this matter (Attard *et al.*, 2015). Rony (2012) argues that while there is much attention paid to issues of transparency and openness in e-participation initiatives, there is a dearth of studies which focus on policy and legal matters. Privacy issues would appear to be at the forefront of those policy and legal concerns. Thus rethinking the value and risks of FOIAonline is paramount to understanding its usage. There is growing scholarly interest in explaining low utilization of government websites, a phenomenon not anticipated when open data technologies were first introduced. User perspectives such as perceived risks are found to be correlated with usage (Carter and Belanger, 2005; Patel and Jacobson, 2008). Although it does not directly address freedom of information requests, one recent study finds that trust in both the Internet and in the government are determining factors that attract or dissuade users of e-government services (Mpinganjira, 2015). An examination of the effect of The Freedom of Information Act 2000 in the United Kingdom reveals that while the Act enhanced perceptions of government accountability, it did not significantly improve trust in government (Worthy, 2010). Further, it is argued that public trust is low in large part because of negative media reports, not degree of ease in accessing government information. In fact, the general public rarely makes use of FOI rights and that in the UK it “only works if almost no one uses it” (Shepherd, 2015). The explanation offered is that current request levels from activists and professionals alone already test government’s ability to timely respond. To improve FOI services online would require data being integrated from different sources for interconnectedness which then raises concerns about privacy. We can apply that argument to the US FOIAonline which does indeed link agency data and so cannot provide complete anonymity to users.

### Context

This paper hypothesizes that users of FOIAonline will find the benefits of requesting and retrieving government information and documents online compromised by the prospect of having personal information openly available to the public, and thus usage of the program will be stymied. This is consistent with a review of scholarly literature about the relationship between public trust and e-participation. To stimulate informed debate about the concern, background information about the project through summation of government reports and legislation, and an examination of the online program itself is offered. The case study offers qualitative analysis through the theoretical lens of threat avoidance to explain why public demands for government transparency can be accompanied by unintended corollaries. Participation in the pilot program can compromise privacy of government information seekers by freely disclosing user personal information and motives online to the general public, and thus serve as an unwelcomed price for individuals requesting government documents electronically. On the other hand, public disclosure of information about requesters might arguably be

regarded as a public good. Anyone with access to the Internet can learn who requested what, and in some cases why, and can peruse the same records received by the initial requester. Seeking transparency in government appears to require a willingness to accept transparency of the self.

### **US Freedom of Information Act (FOIA)**

In the early years of the new Republic, the fourth president of the United States wrote to a fellow statesman expressing mutual support for public schools and libraries. While James Madison had long been a proponent for developing an informed citizenry in democratic governance his words are frequently misquoted now in context of publicly disclosing information and documents controlled by the government. Madison wrote:

"A popular government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy -- or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors must arm themselves with the power which knowledge gives" (Madison, 1822).

The quote made its way into a 1966 US Senate Judiciary Committee report which advocated passage of the country's original Freedom of Information Act (FOIA). The law went into effect the following year and Madison has since been credited as its philosophical father. In spirit, his words do indeed reinforce basic principles of democracy including government accountability, transparency, control of the abuse of power and citizen participation, all of which require knowledge.

The notion of legislating access to information and documents as a means to facilitate transparency in government and to foster an informed citizenry was not new when the US deliberated upon its FOIA—Sweden passed a rudimentary form of the act in 1766 and Finland enacted an information law in 1951—but the US was the first to throw open the door to a wide array of federal agency materials under the legal presumption of the “right-to-know” principle. A wave of democratic transitions in the latter twentieth century and pressures for open governance has since expanded adoption of FOI laws by about 100 countries to date. The status of FOI laws and their compliance varies around the world considerably in respect to quality and strength but suggest international support for transparency and public right-to-know principles. No statutory right for access to government-held information is absolute, of course. In the US, with fairly standard exceptions regarding issues of sensitivity and personal rights, requests from the public are nevertheless expected to be granted without cost or at minimal cost, and with the burden of proof falling on the government body rather than on the requester. That is, individuals and organizations seeking government-held records generally are not required to explain their reasons for wanting the information or documents, while agencies must provide convincing arguments to withhold disclosure on grounds that they view particular requests as falling under the rubric of one or more permitted exemptions.

Prior to the FOIA, US government agencies were given much latitude as to

what information, if any, they might choose to share with the public. Agencies could respond to government-information seekers with subjective standards that agency administrators conjured for the occasion. There was no enforceable legal right for public inspection. President Lyndon Johnson reversed earlier legislation that had provided minimal oversight of federal agencies regarding the matter by signing the first FOIA bill in 1967. He declared that, “No one should be able to pull the curtains of secrecy around decisions which can be revealed without injury to the public interest” (US Senate, 1974, 1). The Act was almost immediately replaced with another and similar one, and then reflecting changing political climates over the next few decades, was amended multiple times to alternately strengthen transparency or to limit FOIA protections. Numerous reiterations of the law and needed clarification of disclosure exemptions now challenge both requesters and agency administrators (US Senate, 2015, 3). To serve as a resource for government information seekers and agencies, and as an ombudsman in requester-agency FOIA disputes, the Office of Government Information Services (OGIS) was created by Congress in 2007 under the Open Government Act. There are currently nine categories of information that give agencies discretion in determining if the risks of disclosure outweigh right-to-know principles. The Department of Justice lists these statutory exemptions for information that is: (1) classified to protect national security, (2) solely related to agency internal personnel rules and practices, (3) prohibited by another federal law, (4) confidential and privileged commercial or financial information such as trade secrets, (5) privileged inter-agency communications such as attorney-client privileges, (6) invasion of individual personal privacy such as medical files, (7) compiled for law enforcement purposes under certain conditions, (8) related to regulation of financial institutions, and (9) geological information about wells. Refusals to disclose information that do not clearly fall under these exclusions leave the government vulnerable to law suits, with court decisions generally favoring disclosure if there is doubt that the requests are protected under FOIA. This paper is concerned about the impact that recent amendments and a bill currently before Congress has on one of the exemptions—invasion of individual personal privacy. New technologies make it even more difficult to strike a proper balance between transparency in government and reasonable exemptions.

With introduction of the World Wide Web in 1991 and swift development of the Internet, the federal government lost little time in bringing the FOIA into the digital age. Passage of the 1996 Electronic Freedom of Information Act Amendments (E-FOIA) was its first move to expand the scope of government record storage and retrieval processes in electronic format. The subsequent E-Government Act of 2002 fine-tuned management of e-services to increase efficiency and effectiveness in providing access to agency information. One of the most significant requirements of the Act is that all federal agencies must create electronic reading rooms for public access to information and documents generated after 1996 and covered by FOIA. At the same time, agencies receive guidance on developing minimum information security standards, particularly in regard to protecting personally identifiable information, although conformance on policies and procedures varies among agencies (GAO, 2008). Other manifestations of the FOIA took shape in

light of e-government initiatives, most notably a nationwide FOI portal.

### **FOIAonline**

The US was not the first to launch a consolidated government portal, however. A decade earlier, the Mexican government published a website to electronically process information requests at the national and state level that became a model for single-entry portal (SEP) in FOI matters (The Canadian Press, 2012). The US FOIAonline platform was unveiled in 2012. Like many such initiatives to move services online, the SEP was designed to increase efficiency and lower costs in processing public requests for agency information and documents, standardize quality and quantity of those goods, and reduce overlaps between individual agency website reading rooms. Less than a year after FOIAonline was in place, President Obama signed the Open Data Executive Order which made the default for newly generated government records be provided in free and digital format.

The need to move from manual to electronic processing of FOIA requests was critical and as noted above, federal mandates required agencies to make data assessable for public inspection. Agencies complied through their own websites, albeit with varying degree of content and usability. A government summary report provides history on FOIA electronic requests over the past few years. In 2012 when FOIAonline was implemented as a pilot program, the federal government and its approximate 100 agencies subject to FOIA had received a total of about 650,000 public requests for information. The agency with the highest number of requests was, and still is, the Department of Homeland Security. Together with the Departments of Justice, Defense, Health and Human Services, and Veteran Affairs, the five agencies receive nearly 70 percent of all FOIA requests. The average processing time in 2012 for simple requests was just over 20 days, with a fulltime FOIA staff of about 4,300. In 2014 there were nearly 715,000 FOIA requests but about 30,000 fewer processed than the year before. Processing time was only minimally improved. Staffing was at its lowest with about 3,800 fulltime employees, yet at the same time, total estimated costs for 2014 FOIA activities was at its highest at \$462 million dollars. The summary report attributes a slight increase in costs of processing and agency appeals, and to a “multitude of additional challenges...during these tough fiscal times” (US Department of Justice, 2015). Given that FOIAonline had been live for only two years and includes only a handful of agencies, we should not expect to have seen immediate improvements in efficiency and costs. But the report makes clear a mounting public demand for government information, an increase in backlog of agency responses, and therefore impetus to expand the online pilot program.

A bill currently before Congress seeks to clarify some of the language in the recently passed FOIA Improvement Act of 2015. The FOIA Improvement Act reinforces agency rights to maintain their own websites to receive and process requests but speaks to advantages of participating in the consolidated FOIAonline program. It mandates that “proactive” disclosure of public interest be made electronically. Further, it reminds agencies that a “presumption of openness” applies. In support of the Act, President Obama admonished agencies against

withholding records “merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears” (US Senate, 2015).

There are currently a dozen agencies participating in FOIAonline with some having only a certain portion of the agency involved: Department of Commerce, Department of Justice (only its Office of Information Policy), Department of the Navy, Environmental Protection Agency, Federal Communication Commission, Federal Labor Relations Authority, General Services Administration, Merit Systems Protection Board, Pension Benefit Guaranty Corporation, National Archives and Records Administration, Small Business Administration, and US Customs and Border Protection. We can immediately see why efficiency and costs in processing FOIA requests has not yet been mitigated by the SEP—with the exception of one office of the Department of Justice, none of the five agencies which annually draw the most requests are participating in the pilot program. At this time, agencies are not mandated to participate in nationwide program, and those that do may participate for a limited period of time. This was the case of the US Citizenship and Immigration Services agency that used FOIAonline for certain requests and then withdrew from the program within a year. Federal or agency assessments are not available yet, although some nongovernmental organizations have reviewed the program. The driving forces originally behind FOIAonline were the Environmental Protection Agency and the Department of Commerce which fronted most of the \$1.3 million cost to launch the program, and which anticipate a savings of \$200 million to the federal government in the first five years of its implementation if widely adopted. By 2014, more than 170,000 requesters had registered as users and participating agencies had processed more than 200,000 FOIA requests and put about 400,000 records online (Mitchell, 2014).

One of the preeminent features of FOIAonline is that it provides one-stop shopping for government information seekers and so is particularly useful if multiple agency data is required. Instead of sending requests to individual agencies and waiting for agency administrators to respond, the user can submit a request for information or records through the national SEP. Users need not register to file a request, but the simple and free registration offers more features to the public such as tracking and communication capabilities. The program allows users to track progress of their request, communicate directly with agency personnel processing the request and if necessary electronically file appeals with agencies if responses are not forthcoming. The FOIAonline search engine allows anyone with access to the Internet to search requests made by other individuals or groups, including name of requester, mailing address and date and in some cases the reason for requesting the specific request. Users can also access documents already released to FOIA requesters if the agency permits, and can generate reports from stored data. The site provides user training, and information about relevant federal statutes such as The Privacy Act of 1974. There are also benefits to participating agencies. The automation of FOIA processing offers agencies a secure central repository to store requests and post responses. Having requesters go to a single portal, instead of an agency site, reduces agency overlap and cost in processing and responding. The new system offers agencies search features to generate internal

management reports as well as to file required annual reports to the federal government. The open access platform appears attractive on all accounts. However, the concern raised in this paper regards user privacy. To submit a FOIAonline request, at minimum the user name and mailing address must be provided. If the user is seeking information on behalf of a group, the group information is included as well. If the requester adds notes or instructions, that is included verbatim. Once a request is entered, a tracking number is assigned, the name of the agency which is responsible for processing the request is provided, and the disposition of the request is listed, such as if an appeal has been filed. This data is available to anyone accessing the program. The FOIAonline site explains to users that while The Privacy Act of 1974 protects personal information collected and stored by the system to some degree it does not cover all information collected online and may be shared with any government agency, the general public and/or third party websites. Agencies can use Google Analytics to track summary information about site usage through cookies including the user domain name and internet address, type of browser and operating system used, pages viewed and length of time spent on each page, route taken to access the website, and connection speed of the session.

The value of FOIAonline can be properly assessed after the system has been in place a bit longer. In the meanwhile, we can note some drawbacks. The most apparent limitation is the lack of agency participation, particularly from those agencies receiving the most requests for records. With nearly all federal agencies maintaining their own websites for electronic requests and responses, interest in consolidating services appears lackluster. One investigation conducted of federal agency websites to determine compliance with the 1996 Electronic Freedom of Information Act found that even agency online reading rooms suffer. Many links to content are broken or removed, content is not regularly monitored for accuracy, and there is no consistency in the nature and amount of information made available on their sites (Gordon-Murnane, 1999). Replicating that study six years later, other researchers found significant improvement and claim that 88 percent of federal agencies provide “clear and distinct” access to their FOIA pages (Oltmann *et. al.*, 2006). Nevertheless, an increase in agency backlogs in fulfilling requests and a rise in requester-agency disputes, lead some observers to worry about the overuse of FOIA exemptions to withhold records from disclosure. Particular to FOIAonline, data available for user request only goes back to 2012 when the website was introduced, although agencies have been encouraged to download more to the central repository. It may be more practical after all for users to simply go to an agency website where more electronic data might be available. Thus FOIAonline search functionality is limited. A nongovernmental organization called OpenTheGovernment.ORG: Americans for Less Secrecy, More Democracy (ORG) provides a score card on the new program. Praise goes for the ease with which users can make requests online and for a feature which provides users an estimated response date. But low marks are given to the frequency with which agencies do not meet the mandated 20 day working deadline, and the lack of updates to the user about delayed processing time. Further criticism noted continued failure of agencies to file documents to the online repository (ORG,

2013). Most observers would agree that ready access to government records should foster transparency and democratic goals. But as research in e-government reveals, simply offering online services and posting information assumes and cannot assure that more citizens will make greater use of the new technology. Furthermore, requesting FOIA information online entails making user personal information public. Any transparency gained by FOIAonline goes both ways.

### **Discussion**

The literature indicates room to further explore the relationship between e-government services and user trust as it is related to privacy issues. The US model examined here reveals advances and challenges in opening governmental digital databases for public access. Although it has been less than a decade since the FOIAonline project was introduced, lessons learned already during that short period in obtaining legislative guidance, interagency cooperation, technological infrastructure, and providing public awareness have significant implications for transnational organizations and other governments. Democratic governing bodies across the globe that are agreeable to building greater trust among their citizens by cultivating a more transparent and participatory civic environment might look to the US experience to tailor their own information systems. This includes treading carefully where FOIAonline has faltered.

For instance, status reports indicate that to date the FOIAonline pilot project has not performed as well as its architects likely anticipated. This can be explained in part by inadequate agency participation and by relatively low usage by requesters. Explanations for reticent agency participation are not articulated in assessments of the program but we can posit several possible factors based on organizational theories. Agencies required to provide electronic information and documentation have already integrated a request/response reading room and repository of records on their own websites. Beyond statutory requirements, the federal government grants agencies considerable latitude in the administration of FOIA. Thus there is little incentive for them to merge databases and process requests in standard fashion. Silos of information are the norm; agency competition and sense of independence are notoriously averse to interagency coordination. Also to consider is the novelty of FOIAonline. Agencies are notoriously resistant to change—in other words, risk adverse. As for government information seekers, most requests are currently filed with individual agencies rather than through the consolidated online program, surely in large part because there is little agency representation in FOIAonline. It appears to be the classic chicken or the egg causality dilemma.

However, if we imagine a future in which the program successfully integrates all or most agency request-response databases, the dilemma still may not be resolved. Presumably a consolidated program will pull users away from individual agency sites, which by the way, do not have the same tracking or search engines employed by FOIAonline. As a result, users will find their personal information included in a growing database and available for domestic and international public perusal. Seeking government information requires disclosure on both ends. After

all, requests will not be processed without providing and publishing minimal information about the requester. That information will be widely available to any government agency and to anyone in the public sphere with access to the Internet. One can imagine the usefulness of requester data to marketers, employers, neighbors, activists and a host of others including those with nefarious objectives. It is alarming to consider that the ease with which personal information of requesters can be obtained domestically and internationally through this system may threaten the safety, reputation, finances and other measures of well-being to information seekers. Potential misuse of any FOIAonline service is one more phenomenon not easily checked within the border of any country. Thus, greater visibility may increase requester anxiety about privacy issues and erode trust in government transactions. Subsequently we would expect to find citizens less willing to participate in the e-government service.

In regard to trust, here we find room to predict continued low use of FOIAonline by drawing on well-accepted and related behavioral theories. Protection motivation theory, or risk aversion, can explain why some users are especially sensitive to the degree to which online security is provided—or at least their perception of online security. The element of trust is a fundamental component of legislation protecting privacy of individuals. FOIAonline is not the only government e-service program that requires the consumer to divulge personal information but is one which freely opens that collected information to the public, some of which may be of a sensitive nature. A multitude of search terms in the program can be employed to locate data. The case study here draws upon a deliberate or purposive sampling method to collect data that illustrates privacy issues in stake. It searches the first two years that FOIAonline was in operation and selects two records that include similar and different pieces of personal data. Both clearly identify the individuals asking for government information and the nature of their requests. This alone may not be troublesome. However, these two samples also reveal startling revelations directly related to the requesters that may provide fodder for mischievous others browsing the database, or at the very least, reveal matters that the requesters prefer to remain private. Consider some of the information found in these two samples:

A FOIAonline request to the US Department of Commerce was filed by Katie Draphcho on behalf of the Democratic Senatorial Campaign Committee in February 2013 asking for an agency log or report/index i.e., web flow with entries of correspondence. One of the documents released included recorded Aspen, Colorado discussions on an Arctic science agreement.

In another case, a FOIAonline request filed in January 2014 to the Environmental Protection Agency by Kristine Savona stated: We would like to request any information your office has regarding any environmental documents, underground storage tanks (USTs) or hazardous materials for the property listed below. If any records are located, we would like to obtain copies or schedule a file review. If no records are available, please contact me to confirm. Thank you for your assistance. 460 New Mexico 528, Bernalillo, NM 87004.

As noted above, the implications of publishing user requests such as these may

violate privacy laws and potentially cause harm. One can reasonably assume that Ms. Draphcho is a Democrat and looking for political communications about particular and possibly controversial issues that may be useful to her party. This might be helpful information for Republican candidates to have in the race too, but more importantly, the FOIAonline request publicly identifies party affiliation and political activities of an individual. The second case also opens an individual's request for particular government information to public scrutiny. We do not know if Ms. Savona rents or owns the property in question, but we do know she receives mail at that address and has concerns about potential environmental hazards. This information is now available to family members, neighbors, lawyers, activists, marketers, real estate agents, and anyone else with access to the Internet. Portions above from the two sample reports represent critical cases, pointing to significant features frequently found in other requests. The reports are brief and allow ease in categorizing and analyzing profile data that directly address the purpose of this study. The value of deliberate sampling such as this is when critical cases demonstrate that "if it happens there, it will happen anywhere," and that while broad generalizations may not be possible, studying a few instances permits us to make logical generalizations (Patton, 1990, 174-175). Overall, there is usefulness in this single case study about the US FOIAonline program itself. It raises the specter of potential assaults to privacy rights of government information seekers around the world. After all, "if that group is having problems, then we can be sure all the groups are having problems" (Patton, 1990, 175).

Because FOIAonline is new and thus far attracts relatively few requesters, there is still little public awareness about wide accessibility to its database—or even awareness by requesters about the implications of seeking government information in this manner. Speaking about companies that engage in transactions online, one observer notes that "though consumers worry about how their personal data is gathered and used, they're surprisingly ignorant of what data they reveal when they're online, and most companies opt not to enlighten them, and this dynamic erodes trust in firms and customers' willingness to share information" (Morey *et al.*, 2015). We understand similar anxieties can be experienced by consumers of government e-services. The public is savvy enough by now to realize a user may likely lose anonymity to government administrators in exchange for a good. However, benefit and cost calculations assume a different intensity if a user learns that personal information is publicly disclosed. When information under FOI was manually requested and manually processed with documents mailed to their homes, requesters had only to weigh perceived benefits of receiving information against risks of government scrutiny. Today, the mere linking of one's name and mailing address to a request for particular records can produce heightened anxiety for government-information seekers in any country. In addition to gauging the level of trust they have with government, requesters must now weigh how trusting they are of the general public. There are very few empirical studies examining the impact of trust on usage of government services for obtaining information, and none specifically examining the public disclosure feature of FOIAonline. Threat avoidance theory helps to explain why privacy concerns are major challenges for public acceptance of e-government services, and

is frequently discussed in the same breath as cost-and-benefit models to explain low e-government usage (Alqahtani and Lu, 2015; Liang and Xue, 2009). The concept of threat avoidance is also subsumed under an extended social cognitive theory (SCT). Although SCT *per se* has not widely been employed in studies of e-government, several factors are shown to influence usage of computer systems and other new technologies including expectations of outcomes, self-efficacy, behavioral intentions, and anxiety (Rana and Dwivedi, 2015). In short, levels of anxiety heightened by distrust can lead to risk aversion. It is not a far reach to predict that FOIAonline will have a chilling effect on the willingness of citizens to electronically request government records.

### Conclusion

Freedom of information laws promise to contribute to better governance by teaming public officials and citizens in an effort to produce greater transparency and accountability in government decision making. As noted earlier, however, there is a delicate balance between democratic ideals of public-right-to-know and basic rights of individual privacy. This paper invites examination of anticipated and unforeseen legal and political implications of FOIAonline, particularly in regard to user privacy. As open government initiatives snowball, they increasingly draw attention from researchers trying to measure the extent to which FOI statutes have been successful. One major criticism of US FOI laws is that a long list of exemptions and lingering discretion by public officials to release information appears to be a persistent obstacle. This defies adequate assessment of FOI. There are neither national standards embedded in US common law nor international standards (Hughes, 2014). Such lack of international standards especially has significant import for governments planning to provide similar online information services.

This paper proposes that another obstacle rests with the newly introduced FOIAonline program. While open government is widely regarded as a human right, so is right to privacy. The evolution of FOIA reminds us of the political goals and legal developments that the US federal government has steered for the past 50 years, and that other countries aim to emulate. A presumption of openness and principles of right-to-know undergird the project. The pilot program and its outcomes have not been scrutinized carefully, and yet are being considered by other countries such as Brazil and Canada as a possible model for open government reform efforts. This paper suggests that the program will gain added value for both agencies and requesters if anxieties of government information seekers is purposely minimized. This might be accomplished by appropriately educating requesters about potential risks of being included in a publicly available database, and even more effectively, by giving control of personal information, such as name and mailing address, to those requesters desiring anonymity. As is, the FOIAonline program that some US federal agencies have adopted may indeed have chilling effects on government information seekers and thus points to a double-edged sword of transparency.

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