

Will FOIAonline have Chilling Effects on Government Information Seekers?

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 those 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 offers practitioners insight into the challenges of refining and expanding the pilot program.

Keywords: freedom of information, FOIAonline, privacy, transparency, trust

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 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 & Belanger, 2005; Patel & 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

1 requested what, and in some cases why, and can peruse the same records received
2 by the initial requester. Seeking transparency in government appears to require a
3 willingness to accept transparency of the self.

4 5 **US Freedom of Information Act (FOIA)**

6
7 In the early years of the new Republic, the fourth president of the United
8 States wrote to a fellow statesman expressing mutual support for public schools
9 and libraries. While James Madison had long been a proponent for developing an
10 informed citizenry in democratic governance his words are frequently misquoted
11 now in context of publically disclosing information and documents controlled by
12 the government. Madison wrote:

13
14 "A popular government, without popular information, or the means of acquiring it, is
15 but a Prologue to a Farce or a Tragedy - or perhaps both. Knowledge will forever
16 govern ignorance and a people who mean to be their own Governors must arm
17 themselves with the power which knowledge gives" (Madison, 1822).

18
19 The quote made its way into a 1966 US Senate Judiciary Committee report
20 which advocated passage of the country's original Freedom of Information Act
21 (FOIA). The law went into effect the following year and Madison has since been
22 credited as its philosophical father. In spirit, his words do indeed reinforce basic
23 principles of democracy including government accountability, transparency,
24 control of the abuse of power and citizen participation, all of which require
25 knowledge.

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

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

35 With introduction of the World Wide Web in 1991 and swift development of
36 the Internet, the federal government lost little time in bringing the FOIA into the
37 digital age. Passage of the 1996 Electronic Freedom of Information Act
38 Amendments (E-FOIA) was its first move to expand the scope of government
39 record storage and retrieval processes in electronic format. The subsequent E-
40 Government Act of 2002 fine-tuned management of e-services to increase
41 efficiency and effectiveness in providing access to agency information. One of the
42 most significant requirements of the Act is that all federal agencies must create
43 electronic reading rooms for public access to information and documents
44 generated after 1996 and covered by FOIA. At the same time, agencies receive
45 guidance on developing minimum information security standards, particularly in

1 regard to protecting personally identifiable information, although conformance on
2 policies and procedures varies among agencies (GAO, 2008). Other manifestations
3 of the FOIA took shape in light of e-government initiatives, most notably a
4 nationwide FOI portal.

5 6 **FOIAonline**

7
8 The US was not the first to launch a consolidated government portal,
9 however. A decade earlier, the Mexican government published a website to
10 electronically process information requests at the national and state level that
11 became a model for single-entry portal (SEP) in FOI matters (The Canadian Press,
12 2012). The US FOIAonline platform was unveiled in 2012. Like many such
13 initiatives to move services online, the SEP was designed to increase efficiency
14 and lower costs in processing public requests for agency information and
15 documents, standardize quality and quantity of those goods, and reduce overlaps
16 between individual agency website reading rooms. Less than a year after
17 FOIAonline was in place, President Obama signed the Open Data Executive Order
18 which made the default for newly generated government records be provided in
19 free and digital format.

20 The need to move from manual to electronic processing of FOIA requests was
21 critical and as noted above, federal mandates required agencies to make data
22 assessable for public inspection. Agencies complied through their own websites,
23 albeit with varying degree of content and usability. A government summary report
24 provides history on FOIA electronic requests over the past few years. In 2012
25 when FOIAonline was implemented as a pilot program, the federal government
26 and its approximate 100 agencies subject to FOIA had received a total of about
27 650,000 public requests for information. The agency with the highest number of
28 requests was, and still is, the Department of Homeland Security. Together with the
29 Departments of Justice, Defense, Health and Human Services, and Veteran
30 Affairs, the five agencies receive nearly 70 percent of all FOIA requests. The
31 average processing time in 2012 for simple requests was just over 20 days, with a
32 fulltime FOIA staff of about 4,300. In 2014 there were nearly 715,000 FOIA
33 requests but about 30,000 fewer processed than the year before. Processing time
34 was only minimally improved. Staffing was at its lowest with about 3,800 fulltime
35 employees, yet at the same time, total estimated costs for 2014 FOIA activities
36 was at its highest at \$462 million dollars. The summary report attributes a slight
37 increase in costs of processing and agency appeals, and to a "multitude of
38 additional challenges...during these tough fiscal times" (US Department of
39 Justice, 2015). Given that FOIAonline had been live for only two years and
40 includes only a handful of agencies, we should not expect to have seen immediate
41 improvements in efficiency and costs. But the report makes clear a mounting
42 public demand for government information, an increase in backlog of agency
43 responses, and therefore impetus to expand the online pilot program.

44 A bill currently before Congress seeks to clarify some of the language in the
45 recently passed FOIA Improvement Act of 2015. The FOIA Improvement Act

1 reinforces agency rights to maintain their own websites to receive and process
2 requests but speaks to advantages of participating in the consolidated FOIAonline
3 program. It mandates that "proactive" disclosure of public interest be made
4 electronically. Further, it reminds agencies that a "presumption of openness"
5 applies. In support of the Act, President Obama admonishes agencies against
6 withholding records "merely because public officials might be embarrassed by
7 disclosure, because errors and failures might be revealed, or because of speculative
8 or abstract fears" (US Senate, 2015).

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

32 One of the preeminent features of FOIAonline is that it provides one-stop
33 shopping for government information seekers and so is particularly useful if
34 multiple agency data is required. Instead of sending requests to individual agencies
35 and waiting for agency administrators to respond, the user can submit a request for
36 information or records through the national SEP. Users need not register to file a
37 request, but the simple and free registration offers more features to the public such
38 as tracking and communication capabilities. The program allows users to track
39 progress of their request, communicate directly with agency personnel processing
40 the request and if necessary electronically file appeals with agencies if responses
41 are not forthcoming. The FOIAonline search engine allows anyone with access to
42 the Internet to search requests made by other individuals or groups, including
43 name of requester, mailing address and date and in some cases the reason for
44 requesting the specific request. Users can also access documents already released
45 to FOIA requesters if the agency permits, and can generate reports from stored

1 data. The site provides user training, and information about relevant federal
2 statutes such as The Privacy Act of 1974. There are also benefits to participating
3 agencies. The automation of FOIA processing offers agencies a secure central
4 repository to store requests and post responses. Having requesters go to a single
5 portal, instead of an agency site, reduces agency overlap and cost in processing
6 and responding. The new system offers agencies search features to generate
7 internal management reports as well as to file required annual reports to the federal
8 government. The open access platform appears attractive on all accounts.
9 However, the concern raised in this paper regards user privacy. To submit a
10 FOIAonline request, at minimum the user name and mailing address must be
11 provided. If the user is seeking information on behalf of a group, the group
12 information is included as well. If the requester adds notes or instructions, that is
13 included verbatim. Once a request is entered, a tracking number is assigned, the
14 name of the agency which is responsible for processing the request is provided,
15 and the disposition of the request is listed, such as if an appeal has been filed. This
16 data is available to anyone accessing the program. The FOIAonline site explains to
17 users that while The Privacy Act of 1974 protects personal information collected
18 and stored by the system to some degree it does not cover all information collected
19 online and may be shared with any government agency, the general public and/or
20 third party websites. Agencies can use Google Analytics to track summary
21 information about site usage through cookies including the user domain name and
22 internet address, type of browser and operating system used, pages viewed and
23 length of time spent on each page, route taken to access the website, and
24 connection speed of the session.

25 The value of FOIAonline can be properly assessed after the system has been
26 in place a bit longer. In the meanwhile, we can note some drawbacks. The most
27 apparent limitation is the lack of agency participation, particularly from those
28 agencies receiving the most requests for records. With nearly all federal agencies
29 maintaining their own websites for electronic requests and responses, interest in
30 consolidating services appears lackluster. One investigation conducted of federal
31 agency websites to determine compliance with the 1996 Electronic Freedom of
32 Information Act found that even agency online reading rooms suffer. Many links
33 to content are broken or removed, content is not regularly monitored for accuracy,
34 and there is no consistency in the nature and amount of information made
35 available on their sites (Gordon-Murnane, 1999). Replicating that study six years
36 later, other researchers found significant improvement and claim that 88 percent of
37 federal agencies provide "clear and distinct" access to their FOIA pages (Oltmann
38 et. al., 2006). Nevertheless, an increase in agency backlogs in fulfilling requests
39 and a rise in requester-agency disputes, lead some observers to worry about the
40 overuse of FOIA exemptions to withhold records from disclosure. Particular to
41 FOIAonline, data available for user request only goes back to 2012 when the
42 website was introduced, although agencies have been encouraged to download
43 more to the central repository. It may be more practical after all for users to simply
44 go to an agency website where more electronic data might be available. Thus
45 FOIAonline search functionality is limited. A nongovernmental organization

1 called OpenTheGovernment.ORG: Americans for Less Secrecy, More Democracy
2 (ORG) provides a score card on the new program. Praise goes for the ease with
3 which users can make requests online and for a feature which provides users an
4 estimated response date. But low marks are given to the frequency with which
5 agencies do not meet the mandated 20 day working deadline, and the lack of
6 updates to the user about delayed processing time. Further criticism noted
7 continued failure of agencies to file documents to the online repository (ORG,
8 2013). Most observers would agree that ready access to government records
9 should foster transparency and democratic goals. But as research in e-government
10 reveals, simply offering online services and posting information assumes and
11 cannot assure that more citizens will make greater use of the new technology.
12 Furthermore, requesting FOIA information online entails making user personal
13 information public. Any transparency gained by FOIAonline goes both ways.

14 15 16 Discussion

17
18 The literature indicates room to further explore the relationship between e-
19 government services and user trust as it is related to privacy issues. Status reports
20 indicate that to date the FOIAonline pilot project has not performed as well as its
21 architects likely anticipated. This can be explained in part by inadequate agency
22 participation and by relatively low usage by requesters. Explanations for reticent
23 agency participation are not articulated in assessments of the program but we can
24 posit several possible factors based on organizational theories. Agencies required
25 to provide electronic information and documentation have already integrated a
26 request/response reading room and repository of records on their own websites.
27 Beyond statutory requirements, the federal government grants agencies
28 considerable latitude in the administration of FOIA. Thus there is little incentive
29 for them to merge databases and process requests in standard fashion. Silos of
30 information are the norm; agency competition and sense of independence are
31 notoriously averse to interagency coordination. Also to consider is the novelty of
32 FOIAonline. Agencies are notoriously resistant to change—in other words, risk
33 adverse. As for government information seekers, most requests are currently filed
34 with individual agencies rather than through the consolidated online program,
35 surely in large part because there is little agency representation in FOIAonline. It
36 appears to be the classic chicken or the egg causality dilemma.

37 However, if we imagine a future in which the program successfully integrates
38 all or most agency request-response databases, the dilemma still may not be
39 resolved. Presumably a consolidated program will pull users away from individual
40 agency sites, which by the way, do not have the same tracking or search engines
41 employed by FOIAonline. As a result, users will find their personal information
42 included in a growing database and available for public perusal. Seeking
43 government information requires disclosure on both ends. After all, requests will
44 not be processed without providing and publishing minimal information about the
45 requester. That information will be widely available to any government agency

1 and to anyone in the public sphere with access to the Internet. One can imagine the
2 usefulness, and potential misuse, of requester data to marketers, employers,
3 neighbors, activists and a host of others. Greater visibility may increase requester
4 anxiety about privacy issues and erode trust in government transactions.
5 Subsequently we would expect to find citizens less willing to participate in the e-
6 government service.

7 In regard to trust, here we find room to predict continued low use of
8 FOIAonline by drawing on well-accepted and related behavioral theories.
9 Protection motivation theory, or risk aversion, can explain why some users are
10 especially sensitive to the degree to which online security is provided—or at least
11 their perception of online security. The element of trust is a fundamental
12 component of legislation protecting privacy of individuals. FOIAonline is not the
13 only government e-service that requires the consumer to divulge personal
14 information but is one which freely opens that collected information to the public,
15 some of which may be of a sensitive nature. A multitude of search terms can be
16 employed to locate data. Consider some of the information found in these two
17 random samples of requests:

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

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

30 The implications of publishing user requests such as these may violate privacy
31 laws and potentially cause harm. One can reasonably assume that Ms. Draphcho is
32 a Democrat and looking for political communications about particular and
33 possibly controversial issues that may be useful to her party. This might be helpful
34 information for Republican candidates to have in the race too, but more
35 importantly, the FOIAonline request publically identifies party affiliation and
36 political activities of an individual. The second case also opens an individual's
37 request for particular government information to public scrutiny. We do not know
38 if Ms. Savona rents or owns the property in question, but we do know she receives
39 mail at that address and has concerns about potential environmental hazards. This
40 information is now available to family members, neighbors, lawyers, activists,
41 marketers, real estate agents, and anyone else with access to the Internet.

42 Because FOIAonline is new and thus far attracts relatively few requesters,
43 there is still little public awareness about wide accessibility to its database—or
44 even awareness by requesters about the implications of seeking government
45 information in this manner. Speaking about companies that engage in transactions

1 online, one observer notes that "though consumers worry about how their personal
 2 data is gathered and used, they're surprisingly ignorant of what data they reveal
 3 when they're online, and most companies opt not to enlighten them, and this
 4 dynamic erodes trust in firms and customers' willingness to share information"
 5 (Morey et al., 2015). We understand similar anxieties can be experienced by
 6 consumers of government e-services. The public is savvy enough by now to
 7 realize a user may likely lose anonymity to government administrators in exchange
 8 for a good. However, benefit and cost calculations assume a different intensity if a
 9 user learns that personal information is publically disclosed. When information
 10 under FOI was manually requested and manually processed with documents
 11 mailed to their homes, requesters had only to weigh perceived benefits of
 12 receiving information against risks of government scrutiny. Today, the mere
 13 linking of one's name and mailing address to a request for particular records can
 14 produce heightened anxiety for government-information seekers—in addition to
 15 gauging the level of trust they have with government, requesters must now weigh
 16 how trusting they are of the general public. There are very few empirical studies
 17 examining the impact of trust on usage of government services for obtaining
 18 information, and none specifically examining the public disclosure feature of
 19 FOIAonline. Threat avoidance theory helps to explain why privacy concerns are
 20 major challenges for public acceptance of e-government services, and is frequently
 21 discussed in the same breath as cost-and-benefit models to explain low e-
 22 government usage (Alqahtani and Lu, 2015; Liang & Xue, 2009). The concept of
 23 threat avoidance is also subsumed under an extended social cognitive theory
 24 (SCT). Although SCT *per se* has not widely been employed in studies of e-
 25 government, several factors are shown to influence usage of computer systems and
 26 other new technologies including expectations of outcomes, self-efficacy,
 27 behavioral intentions, and anxiety (Rana & Dwivedi, 2015). In short, levels of
 28 anxiety heightened by distrust can lead to risk aversion. It is not a far reach to
 29 predict that FOIAonline will have a chilling effect on the willingness of citizens to
 30 electronically request government records.

31 32 33 **Conclusion**

34
 35 Freedom of information laws promise to contribute to better governance by
 36 teaming public officials and citizens in an effort to produce greater transparency
 37 and accountability in government decision making. As noted earlier, however,
 38 there is a delicate balance between democratic ideals of public-right-to-know and
 39 basic rights of individual privacy. This paper invites examination of anticipated
 40 and unforeseen legal and political implications of FOIAonline, particularly in
 41 regard to user privacy. As open government initiatives snowball, they increasingly
 42 draw attention from researchers trying to measure the extent to which FOI statutes
 43 have been successful. One major criticism of US FOI laws is that a long list of
 44 exemptions and lingering discretion by public officials to release information
 45 appears to be a persistent obstacle. This defies adequate assessment of FOI. There

are no international standards, or even national standards embedded in US common law (Hughes, 2014). 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 federal government has steered for the past 50 years. 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 publically 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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