

美国政府在线： 9-11后怎么保持政务信息公开？

在上海社会科学院信息研究所的演讲
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背景知识：政府信息公开的传统，政府部门之间的关系

- 传统：
 - 政府印刷办公室和政府公文
 - 政府资料档案馆
- 联邦政府的三权分立
 - 权力的分配
 - 对《公开》的不同规定
- 州及州以下的地方政府：**50+**？个信息公开法规

联邦政府信息公开法规

- 行政部门
 - 《信息自由法案》Freedom of Information Act (FOIA-1966);
 - 《电子信息自由法案》E-FOIA (1996)
- 国会
 - “公开”本身就是立法程序的一部分(如THOMAS, 美国审计总署)
 - 非公开：国会研究机构(CRS)
 - 公开但是不容易找得到：委员会听证会

- 法院
 - 关于信息公开的规定至今并不明确
 - 对行政和立法当局有关信息公开的规定进行裁决
 - 1966年以来最高法院裁决了25个FOIA的案例

州和州以下政府

- 州政府的特殊权限
 - 所有有关婚姻，出生和死亡的纪录
 - 所有企业和机构的登记注册
 - 所有公民的证件（如，驾驶执照）
 - 所有与职业技术相关的考试，执照颁发和监管（如行医，法律服务等）
- <阳光法案>
- <公共纪录法案>
- 州级信息自由法案

有关网上信息的公开的问题

- 有性犯罪前科者的姓名和地址
- 行医执照管理委员会对医生采取的惩罚行动的信息
- 个人驾驶执照上纪录的信息
- 房地产所有权信息

例子：麻州剑桥市的房地产数据库

The screenshot shows a web interface for 'FISCAL AFFAIRS' with a search results table and a detailed property view for 'Ware St'. The table lists various properties with columns for 'Sheet #', 'Sheet Name', 'Dist #', and 'Property Type'. The detailed view includes fields for 'Property Information', 'Building Value', 'Land Value', 'Assessed Value', 'Late Fee', 'Book/Pays', 'Late Date', and 'Owner Information'.

保密？三个大问题

- 国家安全
- 个人隐私
 - 或者说维护公司的<知识产权>?
- 信息的准确性和公正性

克林顿政府和小布什政府对网上信息公开的态度不同

- 政府信息公开就成本，技术手段而言不再遥远
- 对机密（或是对安全？）加倍重视
 - 克林顿政府：除了必须保密的信息之外，信息都应该公开
 - 布什政府：除了必须公开的信息之外，信息都可以保密
- “国家安全”概念的扩展
 - 例如：9-11后对网站的“清洗”
- 政府职能的私有化
 - 包产到户？

谁来维护公众的知情权？

- 政府内部
 - 国会议员
 - 行政机构内的官员
 - 法院？
- 新闻记者
- 非政府组织

新闻记者的角色

- 网上政府信息给新闻界的贡献
- 记者援引《信息自由法案》
- 记者对9-11后的限制措施的反应

The screenshot shows a news article with the headline 'Media Vows to Pry Open Closed Doors in Washington'. The sub-headline reads '新闻媒体要打开华盛顿紧闭的门'. The article text mentions 'NEW YORK Press efforts to thwart government secrecy are moving forward on two fronts as Washington bureau chiefs unite to more aggressively cover federal government attempts to hide information and the head of Associated Press offers plans for a new open government lobbying center in Washington, D.C.'

http://www.editorandpublisher.com/eandp/news/article_display.jsp?vnu_content_id=1000523635

非政府组织做些什么？

- 网上政府信息给非政府组织的贡献
- 对信息删除进行监督
- 对行政机构和国会进行游说
- 宣传信息公开，激起公众的参与
- 进行对信息公开问题的诉讼

一些例子: 根据

- 全国性的/地方性的
- 综合性的/专题性的
- 信息/服务/活动的趋向

全国性的, 综合性的, 有关信息公开的: **OMB Watch (ombwatch.org)**

- 什么是国会管理和预算办公室?
 - 总统办公室的一部分
 - 对整个行政部门的政策实施进行监督
 - 负责制定行政部门内有关信息和通信技术使用方面的规定, 并且执行这些规定
- 什么是OMB Watch (OMB 观察)?

«OMB 观察» further: <http://www.ombwatch.org/info>

ombwatch.org

9-11后政府信息的可获取性

知情权

Read this week's OMB Watcher. Articles in this issue include:

- Economy and Jobs Watch: Major Cuts to Domestic Services on the Horizon
- TSA to Expand "Sensitive Security Information"
- Able-Talk Force Calls on DHS to Protect SOI/CSO Groups
- Judge Acquits Greenpeace in Victory for Free Speech
- New Bush Regulatory Report: Bi-Agency Workers Describe Anti-Regulatory Agenda
- Anti-Regulatory Anti-Worker Bill Passes House
- Bill to Extend Patriot Act Quietly Introduced
- Questionable Contracts Are Up, and Information About Contracts Is Down

全国性的, 综合性的, 服务型的: 信息自由中心 (密苏里大学)

FREEDOM OF INFORMATION CENTER

Read THE FOI ADVOCATE

Quick Reference Links

LIBERAL MEDIA? I'm shocked! June 1, 2004, #27

One Year On, Was Media Here Willing To Center Up Than Change June 4, 2004, #266

The End of Medical Privacy June 3, 2004, Medical Privacy Destroyed

“信息自由中心”

About The FOI Center
ACCESS (Local Records)
Annual U.S. FOIA Reports
J-440 Controls of Information
First Amendment
FOIA Guides
FOI Advocate Newsletter
Subscribe to The A
FOI Audits/Surveys
FOI Updates
Index-Historical Files
International FOI Laws
International FOI News
Links
Media Law Research
Mission Statement
Sample Letters
Search the FOI Page
State FOI Laws
State FOI News
Whistleblowing Info

国家级的

国际的

州级的

<http://foi.missouri.edu/>

地方性的, 综合性的, 服务型的 (公民信息获取项目)

Marion Brechner Citizen Access Project

您的州政府允许您知道多少?

How much does your state government let you know?

One State All Laws

Two States One Law

All States One Law

搜索 数据库

Resources

Link to state audits, contact information, reference materials, and direct links to state laws. In addition, you can find complete legal capsules and ratings for the following categories. More data is loaded regularly.

About Us

The Marion Brechner CAP is a project of the College of Journalism and

搜索数据库

CAP ranking scale.

How you have four options for searching the CAP Database:

- Select the information you would like to view**
 - See ratings for access law categories in one state
 - Examine summaries, known as capsules, of individual provisions of access laws for each state
 - Compare ratings and summaries, or capsules, of individual provisions of access laws of two states
 - See comparative ratings for one access law category across the 50 states
- Select the Item(s) below**

Select a category from our alphabetical list

Computerized Records Access Protection (Public Records)

Go

Can't find what you are looking for?

搜索数据库

Database Search - 1

Pick a Category:

- Actual Cost (Public Records)
- Agency Denial Requirements (Public Records)
- Agency Response (Public Records)
- Agency Responsibilities (Public Records)
- Attorneys' Fees (Public Records)
- Attorneys' Fees (Government (Public Records))
- Attorneys' Fees (Government (Public Records))
- Action (Public Records)
- Computer Documents as Public Records (Public Records)
- Computer Purchasing Requirements (Public Records)
- Computer Records (Public Records)
- Computer Records Content Regulation (Public Records)
- Computer Records, Indexing (Public Records)
- Computerized Records Access Protection (Public Records)
- Computerized Records and Communication (Public Records)
- Constitution (Public Meetings) (Public Meetings)
- Constitution, County Government (Public Meetings)
- Constitution, County Government (Public Records)
- Constitution, Definitions (Public Meetings)
- Constitution, Definitions (Public Records)
- Constitution, Elections (Public Records)
- Constitution, Executive Branch (Public Meetings)
- Constitution, Executive Branch (Public Records)
- Constitution, Financial Records (Public Records)
- Constitution, Government Employees (Public Records)
- Constitution, Independent Entities (Public Records)
- Constitution, Legislature (Public Meetings)
- Constitution, Legislature (Public Records)
- Constitution, Local Government (Public Meetings)

Can't find what you are looking for?

电子记录的运载技术 (Public Records)

Ratings	Meaning	States	Example of Capsule
7	Sunny - Completely open		
6	Mostly Sunny - Mostly open	Iowa (5.06) North Carolina (5.52)	Iowa Iowa Code § 22.3A(2) (2001) states that an agency "shall not acquire any electronic data processing system" that would "impair the government body's ability to permit the examination of a More details "
5	Sunny with clouds - Somewhat open	Virginia (5.44) Montana (5.36) New Jersey (5.36) West Virginia (5.36) Texas (5.19) Nebbraska (5.10) Newada (5.10) Arkansas (4.76) Georgia (4.76) California (4.59)	Virginia Virginia Code § 2.2-3704(g) (2001) states that public bodies must produce public records that are maintained in an electronic database in any medium requested if that medium is used by More details

全国性的，综合性的，有信息/行动导向的 (民主和技术中心) cdt.org

Center for Democracy & Technology

Our Mission / Get Involved / Free Speech / Links / Search CDT / Jobs / Contact / June 10, 2004

ACTION

- Free Speech
- Data Privacy
- Gov't Surveillance
- Copyright
- Domain Names
- International
- Take Action
- Legislation

Hot Topics

- Access
- Banking Privacy
- China's Internet
- Copyright
- ISMS
- Other Technology Issues
- Privacy
- Security
- Surveillance
- Take Action
- Available to Each Information

Groups Call for Access to Congressional Reports

The American Library Association, CDT and over 100 other groups called on Representative Chris Shays (R-CT) and Mark Green (D-VT) to continue their fight for public access to all Congressional Research Service (CRS) Reports on the Web. CDT and Green were allowing access to the documents through their Web sites on a trial basis. Negotiations with CRS, but the trial period has ended and CRS has no plans to continue it. CDT and Green (R-CT) and Patrick Leahy (D-VT) have introduced a resolution to make the documents available through the Senate Web site. November 4, 2003

GAO Finds Ashcroft FOIA Policy Has Impact on Fewer Agencies than Expected

The General Accounting Office released a report indicating that only 31% of federal agencies have decreased their releases of information since the issuance of Attorney General Ashcroft's October 2001 memo to agencies requiring a change in threshold of information standards. The agencies indicated that they are aware of current guidance. GAO did not indicate as to why most agencies have not changed their policies. September 16, 2003

Public Session on Privacy in Government Systems

CDT and the Council for Open Government invited a public event on proposed new federal government privacy rules that are expected to be issued in May as part of the Bush Administration's Government Access Act implementation. The new Chief Privacy Officer for the Department of Homeland Security and representatives from the Office of Management and Budget previewed the rules at this public event. April 1, 2004

民主和技术中心 cdt.org

http://www.cdt.org/righttoknow/10mostwanted/

10 MOST WANTED GOVERNMENT DOCUMENTS

We asked the public to identify categories of data that should be on the Web. Hundreds of citizens responded. From that list we narrowed it down to the Ten Most Wanted.

- Congressional Research Service (CRS) reports (Congress)** -- CRS uses taxpayer dollars to produce reports on public policy issues ranging from foreign affairs to agriculture to health care. All of the reports are posted online, but access is available only to congressional offices through an intranet system. Citizens can order paper copies of the reports from their Member of Congress, but only by mail. Moreover, the general public cannot search through past reports, and a comprehensive list of the reports is not available online. (CRAE Members have passed some CRS reports online.) In the CDT/OMB survey, the CRS reports were the category of documents most frequently listed sought after by researchers, students, librarians, government employees, and citizens alike.
- Supreme Court's Web site (including opinions and briefs) (Judiciary)** -- The Supreme Court of Mongolia has its own official Web site, but the U.S. Supreme Court doesn't. Instead, the Court refers people to one or more of 10 different unofficial Web sites, which publish various versions of opinions, updated with varying frequency. While Court officials have said that they are exploring the possibility of creating a Web site, there is no official source of information from the highest court in the land. In addition to opinions, the Court should post briefs, at least in cases accepted for oral argument.
- State Department's Daily Briefing Book (State)** -- Nearly every day, the State Department prepares for its press secretary a book of answers to every question that might be asked during the daily press conference. These briefing books represent considerable effort on the part of Department officials and constitute the best overview of American foreign policy positions on breaking issues at any given time. All the material is cleared for public consumption, yet if a reporter doesn't ask a question on a particular topic, the information doesn't get released.
- Pesticide Safety Database (EPA)** -- Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the EPA is required to maintain an extensive

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American Civil Liberties Union

BEYOND THE BILL OF RIGHTS

Become a world-changing member of the ACLU... click here to join

ACLU Urges Congress to Probe Ashcroft's Civil Liberties Record in Terror Fight

Ashcroft on his new appearance at a Senate oversight hearing on the Department of Justice will become clear, the ACLU says. "Mr. Ashcroft has pursued a widespread policy of ending civil liberties in the name of national security," says ACLU Executive Director Anthony Romero. "Congress has the responsibility and the unique opportunity to ask Ashcroft the tough questions about his actions and policies that undermine the fundamental values of our democracy."

ACLU Files Lawsuit on Behalf of Muslim Woman Banned from Public Pool

The American Civil Liberties Union of Nebraska filed a federal civil rights lawsuit against the city of Omaha on behalf of a Muslim woman who was told she must remove her religious garb to accompany her children at a municipal swimming pool. ACLU Nebraska is the only ACLU chapter in Nebraska.

地方性的，针对特别议题的，有行动趋向的：
社区知情权工作组 www.crtk.org



社区知情权工作组的信息资源

来源 (环保局) →

好处 →

缺点 →

信息资源

Industrial Toxics

- **TRI EXPLORER - www.epa.gov/triexplorer.**
Source: Environmental Protection Agency
Purpose: To provide a search tool for the Toxic Release Inventory, a facility-specific database of industrial toxic releases to air, land, and water.
Features: Find well-organized information on industrial toxic waste and pollution by area, chemical, industry, and specific facility.
Limitations: TRI excludes small firms, many chemicals, and some industries, and lacks accounting for chemicals in products; TRI Explorer also lacks company-wide search capability that could be easily included.
May 5, 2003

Environmental Compliance

- **ENVIRONMENTAL COMPLIANCE HISTORY ONLINE (ECHO) - www.epa.gov/echo**
Source: Environmental Protection Agency
Purpose: To compile for ready public access environmental compliance and enforcement information.
Features: Find inspection, violation, enforcement, and penalty information on over 800,000 facilities that have environmental permits.
Limitations: Compliance history information starts in the year 2000; user friendliness is not yet fully developed.
May 27, 2003

其他

- 政府问责项目 (Government Accountability Project - whistleblower.org)
- 电子隐私信息中心 (Electronic Privacy Information Center - epic.org)
- 美国科学家联合会 (Federation of American Scientists - fas.org)
- 共同事业 (Common Cause - commoncause.org)
- 全国信息自由联盟 (National Freedom of Information Coalition - nfoic.org)

为什么这么重视信息公开？

- 知情的公民的应尽职责
- 信息获取对相对权力的影响
- 政府信息对当地发展，投资决策的重要性
- 政府信息对生活质量的重要性
- 政府信息对正确决策的重要性

有决定性意义的原则

- 哪些政府信息应该公开？
- 哪些应该保密？



