# Transparency

# Discussion Questions

1. Which types of government information should be released to the public and which types should be kept secret?  Why?
2. Who should decide and why?

# Administrative Law Framework for Open Government

- There are five approaches to regulating transparency in government (Rosenbloom 2015):
  - Freedom of information
  - Public reporting
  - Protection against invasions of privacy
  - Open meetings
  - Whistleblower protection

# Administrative Law Framework for Open Government (2)

- The framework for open government seeks to balance several competing concerns (Rosenbloom 2015, 149):
  - Openness
  - Security
  - Administrative effectiveness and efficiency
  - Access
  - Privacy
  - Confidentiality
  - Democracy

- This presents a difficult balancing act.

# Freedom of Information

- The Freedom of Information Act (FOIA) is a “disclosure statute” (Rosenbloom 2015, 129).

# Freedom of Information (3)

- Exceptions (Rosenbloom 2015):
  - Classified information relating to national defense or foreign policy
  - personnel rules practices
  - Information deemed private by a statute or regulation
  - Trade secrets
  - Interagency memos
  - Personnel files
  - Some law enforcement records
  - Information re: regulation of financial institutions
  - Geological information

# Freedom of Information (4)

Discuss:

- Who bears the burden of proving whether the information requested is an “agency record”?
- Are telephone message slips, daily agendas, and appointment calendars public records?

# Public Reporting

- The Administrative Procedures Act requires all “covered agencies” to public certain information in the Federal Register (Rosenbloom 2015, 126).
- Other information must be made available for public inspection.
- What about the role of the press?

# Protections Against Invasions of Privacy

- “The Privacy Act is primarily concerned with regulating the collection, management, and release of information regarding individual citizens and permanent residents” (Rosenbloom 2015, 140).
  - What are the three main features of this act?

# Protections Against Invasions of Privacy (2)

- The Privacy Act and FOIA sometimes conflict with each other. The Court applies the following test (Rosenbloom 2015, 141):
  - What is the “public interest in the disclosure?”
  - Would disclosure “serve FOIA’s core purpose of contributing significantly to public understanding of the Government’s operations or activities?”
  - “Whether the invasion of privacy is warranted cannot turn on the purposes for which the information request is made.”

# Open Meetings

- What is the purpose of open meeting laws?
- Why are they criticized?

# Whistleblower Protections

- “Public whistle-blower protection regulations are intended to prevent reprisals against public employees, contractors, and others who expose wrongdoing observed in their relationships with government employees” (Rosenbloom 2015, 145).

# Whistleblower Protections

- When are federal employees or contractors not protected?

# Debate: Transparency or Secrecy

- “Many contend that public administrators operate in a fishbowl; many others say government has a strong penchant for secrecy.  For some the water in the fishbowl is too clear; for others, it is too murky” (Rosenbloom 2015, 149).
- Debate: Does government prioritize transparency or secrecy?  Why?

# Module 10 Quiz

- Quiz will cover both assigned readings and court cases.

# Sources

- Rosenbloom (2015)