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À PROPOS DE NOUS

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ABOUT US

The **International Journal of Open Governments / Revue Internationale des Gouvernements ouverts (RIGO)** is an academic journal created and edited by Irène Bouhadana and William Gilles at IMODEV, the Institut du monde et du développement pour la bonne gouvernance publique.

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ACADEMIC FREEDOM, THE PRESUMPTION OF OPENNESS, AND PRIVACY

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There is, at least in large principle, freedom of information in the United States, a presumption that government and its functions will be and should be open to the public. This means that many government documents ranging from budgets to extraterrestrial life investigations to arrestees' mugshots are available to anyone who makes a request for them. The idea is that robust openness gives citizens the ability to learn exactly what government players are doing and, as the documents may sometimes reveal, why.

There are groups with interests that compete with such openness, however, including those professors and researchers whose salaries are paid by the government. These scholars work in public colleges and universities; they are, therefore, public employees and subject to freedom-of-information laws.

This essay focuses on public information within the academy – and the effect that such openness has on academics' First Amendment-based academic freedom. Academic freedom gives many of them rights within reasonable limits to research what they want, to learn what they want, and to teach as they choose. In that way, these government players have a constitutional layer of privacy-related protection for their educational interests that seemingly competes with a presumption of openness.

Given the strongly ideological interests behind many requests for academic information, and given the tempering effect on academic expression excessively open access could have, the essay focuses on the threat to academia when states or government or courts are too willing to expose certain academic information. It argues that information privacy law and related Supreme Court concerns about thought investigation could well help shift judicial perception back toward the importance of academic freedom.

INTRODUCTION

In 2014, a group that once called itself the American Traditions Institute made a public records request of two professors at the University of Arizona. ATI, now known as the Energy & Environmental Legal Institute, wanted certain emails that existed or once existed in the inboxes and outboxes of these two professors. These emails, of course, necessarily included those sent by and to other researchers at other universities. In all, e-mails to and from twelve individual scholars were reported to be at issue. ATI describes itself as an organization that “holds accountable those who seek excessive and destructive government regulation based on agenda-driven policy making, junk science, and hysteria.”¹

¹ http://eelegal.org/?page_id=1657 (last visited March 2015).

It appears particularly interested in climate change; *Scientific American* described the organization as one “known for its attempts to discredit climate science.”²

E & E Legal itself suggests that it furthers its work by making public record requests of public universities and other institutions that do scientific research. State open records laws, the organization has written, were “intended to give the public access to records created by public servants, including those working for universities.”³

Those “public servants,” at least in the organization’s mind, include public university professors, and extends to the professors’ emails. A 2014 E & E Legal freedom-of-information request, for example, asked for various documents from University of Illinois professor Donald Weubbles, a chaired atmospheric scientist. That request included his email communication:

Please provide us copies of *any correspondence*, including attachments, *sent to or from Dr. Weubbles*, including as To, From, cc:, and/or bcc:, that are *on a University of Illinois system or system used by the University*, which

(A) is to or from (including as To, From, cc:, and/or bcc:) anyone with Union of Concerned Scientists,

(B) mentions Union of Concerned Scientists, and/or

(C) cite or pertain to the Intergovernmental Panel on Climate Change (IPCC), and/or its parent organizations UNFCCC and/or the “World Meteorological Association”; these records include but are not limited to those citing not the IPCC expressly but its product “AR5” or 5th (or Fifth) Assessment Report.

[D]ocuments responsive to this request will have been created, dated, sent or received by Dr. Wuebbles between April 1, 2009 and the date the University performs the relevant, respective search(es) in response to this request, inclusive.⁴

In early 2015, both the Arizona and the Illinois requests remained at least in part unresolved as universities struggled with their professors’ right to academic freedom and that right’s apparent conflict with open records laws. The University of Illinois responded in part that the E & E request was too burdensome, a legitimate response under most FOIA laws, but also one decidedly not protective of the information more generally.

Meantime, E & E Legal promised a continuing effort to demand similar materials from professors across the United States. By one count, six other schools had received similar requests for information. In 2015, E & E Legal’s website suggested that it

² Stephanie Paige Ogburn, “How to Cope When Activists Ask for Climate Scientists’ Personal E-Mails,” *Scientific American*, January 21, 2014.

³ <http://eelegal.org/?p=3221> (last visited March 2015).

⁴ http://eelegal.org/?page_id=1493 (last visited March 2015).

would “keep peppering universities around the country with similar requests under state open records laws.”⁵

E & E Legal, with its particular interest in climate change research, is not alone in public document requests from professors and researchers. In 2014, a gay rights advocacy group requested emails from a University of Virginia law professor; the group wished to investigate any connections he had with anti-gay groups.⁶ Also in 2014, a professor who had been promised a job at the University of Illinois (withdrawn after his inflammatory anti-Israel tweets became public) made a freedom-of-information request from the university for certain emails regarding his appointment; the appointment was a contentious one that involved faculty members and administrators from multiple departments.⁷ And in Kansas in 2015, public records requests were made of a lecturer at the University of Kansas who was said to have received some funding from the Koch brothers, billionaire conservatives.⁸

In response to such requests, the University of California at Los Angeles, for one, enacted campus policies to protect what it called the academic freedom of its researchers. “[F]aculty scholarly communications must be protected from [freedom-of-information] requests,” the policy at UCLA reads, “to guard the principle of academic freedom, the integrity of the research process and peer review, and the broader teaching and research mission of the university.”⁹

What such language does best, however, is highlight the tension between open records acts and the academic freedom that many within higher education believe should protect them and give them the right to research and discuss their research with others without outside interests potentially weighing every word.

This essay highlights the conflict between openness and academic freedom. It proceeds in three main parts: first, it explores freedom-of-information statutes and the presumption of openness in government in the United States; second, it examines the concept of academic freedom and the First Amendment-based ideal that scholars must have the freedom to explore ideas and research lest the search for truth be impeded; finally, it explores the clash between the competing interests and argues that academic freedom interests should trump public records and openness-in-government interests when the scholarly work of professors is at issue. It does so by referring to privacy law and the Supreme Court’s increasing recognition of privacy’s relationship to freedom of expression.

⁵ E & E website (last visited March 2015).

⁶ Colleen Flaherty, “Transparency versus Censorship,” *Inside Higher Ed*, May 29, 2014.

⁷ Julie Wurth, “Judge rejects UI’s attempt to dismiss Salaita FOIA suit,” *News-Gazette*, February 13, 2015.

⁸ Kaitlin Mulhere, “Open records and academic freedom come to a head in Kansas,” *Inside Higher Ed*, January 14, 2015.

⁹ Colleen Flaherty, “Protecting Faculty Records,” *Inside Higher Ed*, January 14, 2014.

§ 1 – FREEDOM-OF-INFORMATION STATUTES

The federal government and all states in the United States have statutes that mandate that government records be open to citizens who seek them. The goal of these statutes is to keep government open and honest. As one of many examples, the State of Illinois Freedom of Information Act captures nicely the prevailing ideal of utter openness. It suggests that public documents, including the work of individual government actors, are open to ensure that public work is being done in the public interest. Consider the impact of the following language on scholars who work for public universities:

Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act. Such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest.

The General Assembly hereby declares that it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government. It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act.¹⁰

Under the Illinois Act, therefore, “[a]ll records in the custody or possession of a public body [including a public university] are presumed to be open to inspection or copying.”¹¹ The information that is available to members of the public if they ask is defined expansively: “all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.”¹² Consider how relevant such a definition is to scholars: records, reports, letters, memoranda, books, papers, and electronic communications are all open to the public.

¹⁰ 5 ILCS 140/1 (2010).

¹¹ 5 ILCS 140/1.2 (2010).

¹² 5 ILCS 140/2 (2010).

Other states have similarly expansive language or, at the very least, similarly expansive procedures regarding public documents. The federal government also opens its records with the exception of nine fairly discrete (and admittedly subject-to-interpretation areas), including those records that would impact national security, certain law enforcement records, and records containing trade secrets.¹³ Privacy by name is mentioned only in the context of medical and personnel files in the federal FOIA statute. Those, and “similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy” are exempt under the Act.¹⁴ There is no explicit exception for emails or similar communications sent by federal employees.

Given the ideal of openness, and the expansive definition of the term “records,” the American Association of University Professors has warned that public records requests could extend far beyond email in some states, and could include the “titles of books [that professors] request from the library, peer-review comments they offer and solicit, and tentative ideas they share with colleagues.”¹⁵ Though not yet clear, even communication with students or about students may be subject to disclosure despite seemingly protective educational privacy laws for those who study at colleges and universities in the United States.¹⁶

Some state-affiliated academics have started to use Gmail and other non-university-based email accounts in order to try to avoid record requests; some forward their state emails to a non-state-sponsored email account automatically, for example. But that practice too has come under scrutiny, as presumed U.S. presidential candidate and former U.S. Secretary of State Hilary Clinton found out in early 2015 when Congress announced an investigation into her alleged policy of using a private account for government business. Moreover, there is some push to change open-records laws to reflect such a practice, including the specific addition to FOIA language that business done on personal devices must be made available.¹⁷ One related statutory change was sparked by a request for messages “sent from a private Gmail account using the person’s own smart phone or other electronic device.”¹⁸

As the Reporters Committee for Freedom of the Press, an organization strongly supportive of openness in government, has suggested, “[a]s with all public employees, records of public university professors are generally subject to disclosure.”¹⁹ One

¹³ 5 U.S.C. § 552 (2009).

¹⁴ *Id.*

¹⁵ American Association of University Professors, “Academic Freedom and Electronic Communications,” November 2013.

¹⁶ Doug Lederman, “Federal Judge Limits Use of FERPA,” *Inside Higher Ed*, March 10, 2011.

¹⁷ “Council Policy on 0-33 On Public Records and Communications to Council on Non-City Devices,” City of San Jose Memorandum dated November 26, 2012.

¹⁸ *City of San Jose v. Superior Court of Santa Clara County*, 2014 WL 1254821 (Cal. Ct. App. 2014).

¹⁹ You-Jin Han, “Academic Freedom and the Public’s Right to Know,” *The News Media and the Law*, Reporters Committee for Freedom of the Press, Fall 2011.

journalism dean at a public university maintains that this type of scrutiny necessarily comes with any political work in controversial areas like climate change and labor law, and contends that professors who research in those areas and others like them should be aware that their work will be made accessible to the public in a very real way.²⁰

§ 2 – ACADEMIC FREEDOM

It is necessary to evaluate openness and freedom of information against the principle of academic freedom, a First Amendment-based right first accepted by the United States Supreme Court more than sixty years ago.

In 1954, an avowed Marxist refused to reveal to state investigators what he had said to a class of college students at the University of New Hampshire. The investigators, worried about the spread of Marxism and Communism ideologies within public institutions, wished to find out what the state's young people had been taught. Those investigators initially won when a state court found the lecturer in contempt for refusing to reveal exactly what he had said to the students.

The lecturer's claimed right to keep quiet eventually reached the United States Supreme Court and the resulting opinion included the Court's first use of the phrase "academic freedom." In language poetically supportive of what goes on inside a college or university, a plurality of the Justices endorsed academic scholarship and "the essentiality of freedom in the community of American universities":

No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation ... Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.²¹

Ten years later, when New York state employees including public university instructors were forced to assure the state that they were not communists, the Justices grounded academic freedom more firmly in the First Amendment. Once again, they wrote strongly about the importance of academic freedom to all of society:

Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the

²⁰ *Id.*

²¹ *Sweezy v. New Hampshire*, 354 U.S. 234 (1957).

classroom ... The classroom is peculiarly the “marketplace of ideas.” The Nation’s future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth “out of a multitude of tongues, [rather] than through any kind of authoritative selection.”²²

As firmly supportive of academic freedom as that language may be, it has not, however, protected academics when outsiders have sought information regarding academic research and academic thought. Early cases that involved a clash between freedom of information and academic freedom arose in the highest courts of Ohio and New York. In both, the courts sided with openness in government.

In Ohio in 1994, the court ordered Ohio State University to release the names and work addresses of its animal research scientists.²³ The state’s open records law was “construed liberally in favor of broad access,” the court reasoned, and “any doubt must be resolved in favor of disclosure of public records.” It saw a parallel in a case in which university tenure reviewers’ names were released to a requester over protests from the institution. Likewise, the court reasoned, the names and work addresses of researchers simply “serve[d] to document the organization, functions, and operations of [the university’s] animal research activities” even though the court recognized that the lives of the researchers would be put in danger upon release of the information.

As for academic freedom concerns, the court was unimpressed, discounting worries that research might be stifled if scientists, worried about their personal safety, would hesitate to do certain types of research. The judges compared the dangers of the release of names in a tenure file with that of the release of animal researchers’ identities, noting that there was some concern that reviewers would temper their reviews just as there was some concern that animal research scientists would temper their research. The judges suggested that, despite those concerns, presumed openness of public access, in effect, trumped academic freedom.

New York’s highest court was similarly unswayed in a case involving professors and what was taught within a classroom. There, the justices ordered that a class’s film and filmstrips be open to public scrutiny through the state’s freedom-of-information law. The college course at issue focused on family life and sexuality, and the court rejected the idea that such information was similar to the deliberative process materials that were protected from disclosure under the statute. Because the people have a “right to know the process of government decision-making and to review the documents and statistics leading up to it” without “the cloak of secrecy or confidentiality,” the court decided that they also had a

²² *Keyishian v. Board of Regents of the University of the State of New York*, 385 U.S. 589 (1967).

²³ *Thomas v. Ohio State University*, 643 N.E.2d 126 (Ohio 1994).

right to know about educational materials that instructors had used in a college classroom.

Given those outcomes regarding research and classroom records, it is not surprising that a more generalized scholar's privilege – one in which a professor is not called upon to testify in court and/or is not forced to reveal documents despite requests by the state or by a party to a lawsuit – has not been generally embraced by courts. Therefore, as a part of the discovery process, scholars at both public and private schools have been forced to turn over field notes and raw data on rollover accidents, smoking, sociology-related trends in restaurants, and more – despite having no involvement whatsoever in the underlying claim as plaintiff or defendant.²⁴

§ 3 – THE CLASH BETWEEN OPENNESS AND ACADEMIC FREEDOM TODAY

In January 2014, *Scientific American*, one of the leading science publications in the United States, published an article titled “How to Cope When Activists Ask for Climate Scientists’ Personal E-Mails.”²⁵ The article reported that a legal defense fund had been created to offer guidance to professors and others at public universities who had received freedom-of-information requests for emails or other research-related materials. It quoted a senior fellow at E & E Legal who suggested that such public record requests were appropriate. The records sought, he explained, involved individuals who are paid with public money and yet who have practiced what he called advocacy.

Meantime, the American Constitution Society for Law and Policy, a liberal legal organization, published its own Issue Brief as guidance for scholars, and referred back to key Supreme Court academic freedom cases in warning that FOIA could be misused to chill research: “[M]aking every scholarly exchange vulnerable to a FOIA request in the name of public disclosure,” it wrote, “could ... foster an ‘atmosphere of suspicion and distrust’ and stifle the ‘marketplace of ideas’ that enables public universities to make invaluable contributions to the development of knowledge and to society.”²⁶

The Issue Brief suggested four different reasons why courts might decide to protect scholars against public records requests. First, it suggested that statutory exemptions might exist that would carve out safe havens for academics. New Jersey has both “scholarly records” and “intellectual property records” exemptions, for example, and the Issue Brief suggested that other states might be lobbied to adopt similar exemptions. Second, it suggested that a

²⁴ Amy Gajda, *The First Amendment Bubble* (Cambridge: Harvard University Press 2009), pp. 145-155.

²⁵ Stephanie Paige Ogburn, “How to Cope When Activists Ask for Climate Scientists’ Personal E-Mails,” *Scientific American*, January 21, 2014.

²⁶ Rachel Levinson-Waldman, “Academic Freedom and the Public’s Right to Know: How to Counter the Chilling Effect of FOIA on Scholarship,” American Constitution Society, September 2011.

balancing test should be used in making disclosure decisions that would require parties to demonstrate great need for public records, and deny access to parties who were merely interested in a particular subject. Third, it suggested that a scholar's privilege might be enacted in order to ensure protection for professors and others. Finally, it suggested that academics should be exempt from the purview of freedom-of-information statutes because of the statutes' seeming laser-sharp focus on government agency records, documents that are seemingly quite different from scholarship by individual academics.

Despite recent information requests by E & E Legal for scholars' records, two recent decisions show that some modern courts are tipping slightly in favor of at least some level of protection for scholars even though they are doing so in a way that fails to embrace academic freedom more generally.

In New Jersey in 2012, in a case springing from the development of a shopping mall, the state supreme court decided that a law school environmental law clinic would not be subject to the state's open records law. Law school clinics, the court decided, were in the business of teaching law students how to practice law and, therefore, did not conduct any official government business as defined by the statute. Moreover, the court decided, forced public disclosure would impact the way that students learn about the law, thereby impacting how the citizens of New Jersey are represented by public clinics. All that, to the court's mind, seemed contrary to public policy. Nonetheless, the court viewed its decision was a narrow one; the protection offered for clinic records did not extend to those within the university or the law school, both of which, it suggested, were public agencies and, therefore, subject to open records laws.

Second, in 2014, the Virginia Supreme Court decided that the state's freedom-of-information law – one that excluded from the law higher education-related records of a "proprietary" nature – did not apply to certain public university records. There, the court focused on the legislature's insistence that public universities not be put at a competitive disadvantage with private universities; it decided that such worry included more than simple financial disadvantage. "In the context of higher education efforts," the court wrote, "damage to faculty recruitment and retention, undermining of faculty expectations of privacy and confidentiality, and impairment of free thought and expression" all contributed to putting public universities at a disadvantage with private institutions should public institutions be forced to reveal certain information through public records laws. There too, however, the court's focus was decidedly on an exemption unique to the statute itself, rather than on more sweeping interests in academic freedom. Although both the New Jersey and the Virginia cases focused narrowly on the facts at hand, they suggest in a small way that courts may be more amenable to recognizing academic freedom more broadly today, specifically in privacy-related contexts. The

New Jersey case uses language that suggests that there is a difference between a university’s “government action” and a professor’s more limited interaction within that scholarly community,²⁷ and the Virginia case literally uses the word privacy to decide that public universities would be disadvantaged by a sweeping interpretation of the public records statute.

Today, then, it seems that the privacy implications of any public records statute could well help bolster any of the four arguments put forth by the American Constitution Society and others who wish to carve out exceptions from FOIA for academics. If interactions between those within a scholarly community should be protected because of the uniqueness of teaching and learning, as in the New Jersey case, and if outsiders’ inquiries might well quash full scholarly inquiry, as in the Virginia case, freedom of thought and self-fulfillment – and, therefore, privacy concerns – seem quite relevant to any public records request to an academic.

Relatedly and importantly, outside of the academic context, privacy law scholars have made the connection between thought and privacy, and have recognized the dangers of revelation of educational inquiry. This is true especially with regard to electronic interactions between persons, key to any public records request for email communications or other proof of what scholars may be thinking as they work on research. “[C]onsider surveillance of people when they are thinking, reading, and communicating with others in order to make up their minds about political and social issues,” Neil Richards wrote in the *Harvard Law Review* in 2013.²⁸ Intellectual privacy, he argued, protects an individual’s intellectual freedom to think.

Julie Cohen too has suggested outside of the higher education context that privacy is necessary for fuller thought and, therefore, self-determination:

Privacy is shorthand for breathing room to engage in the processes of boundary management that enable and constitute self-development... In a world characterized by pervasive social shaping of subjectivity, privacy fosters (partial) self-determination. It enables individuals both to maintain relational ties and to develop critical perspectives on the world around them.²⁹

Consider, then, the material that would necessarily be revealed should a scholar be forced to purge documents, including internet communication and searches, through a public records request – and how such forced revelation would impact future thought and inquiry at that school and others.

Within the context of police investigations, United States Supreme Court Justices, too, have written about the importance of privacy and freedom of thought, and have criticized technology that tracks

²⁷ “[N]ot even the University ... controls the manner in which clinical professors ... practice law.” *Id.* at 547.

²⁸ Neil M. Richards, “The Dangers of Surveillance,” 126 *Harv. L. Rev.* 1934 (2013).

²⁹ Julie Cohen, “What Privacy Is for,” 126 *Harv. L. Rev.* 1904 (2013).

and records such exploration. Justice Sotomayor, for example, writing in concurrence in a case involving GPS tracking, suggested that such surveillance had broader implications. Though she was concerned specifically about government surveillance, the same could well be said about outside eyes peering in on scholarly inquiry:

Awareness that the Government may be watching chills associational and expressive freedoms... The net result is that GPS monitoring – by making available at a relatively low cost such a substantial quantum of intimate information about any person whom the Government, in its unfettered discretion, chooses to track – may “alter the relationship between citizen and government in a way that is inimical to democratic society.”³⁰

A year later, the entire Supreme Court agreed that police need a warrant before examining the content of cell phones – and did so in a way that suggested that there were interests beyond those that would be involved in a typical physical police search: “With all [that cell phones] contain and all they may reveal, they hold ... ‘the privacies of life.’” “The fact that technology now allows an individual to carry such information in his hand does not make the information any less worthy of the protection for which the Founders fought.”³¹ The Justices appeared particularly concerned with the protection of computer-based information and the connection between thought and intellectual exploration: “[C]ertain types of data are also qualitatively different,” including Internet searches and browsing history that “could reveal an individual’s private interests or concerns.” They quoted Justice Sotomayor’s language of concurrence in the GPS case, that such monitoring “generates a precise, comprehensive record of a person’s public movements that reflects a wealth of detail about her familial, political, professional, religious, and sexual associations.”

Judges then, even at the nation’s highest court, have lauded the importance of privacy in intellectual pursuits in a way that parallels academic interests. Key here is that they suggest that such exploration should be protected for constitutional reasons, including freedom of association and expression. Such language, of course, is highly reflective of the Court’s jurisprudence regarding academic freedom and the First Amendment.

At a time, then, when there are promises for an increasing number of public records requests made to academics, a focus on the importance of privacy and its protective relation to freedom of thought provides a strong response. Many earlier cases that rejected such protection came at a pre-internet time when intellectual privacy did not seem as pressing a need as it does in

³⁰ *United States v. Jones*, 132 S. Ct. 945 (2012).

³¹ *Riley v. California*, 134 S. Ct. 2473 (2014).

today's decidedly more technologically-driven, easy-to-track-inquiry world.

CONCLUSION

In 2010, the Texas legislature passed a law that forces faculty members at public institutions to publish certain information on the internet, including class syllabi and their curricula vitae. Officials maintained that such revelations were important for consumer protection. Professors argued in response that such forced publication impacted their academic freedom; outsiders would now scrutinize classroom teaching and particular professors' research interests, potentially quashing some scholarly inquiry.

The American Association of University Professors suggested that the law is a hybrid of "seemingly good intentions and bad ones," noting the conflict between public records laws and academic pursuits. The latter should not be quashed in pursuit of the former, it argued.

This clash between openness in government and academic freedom interests exists today each time a FOIA request is made for a professor's emails or other research-related records. A more explicit focus on privacy and its important connection to intellectual thought could well help prevent further erosion of academic freedom. Such a focus seems very much in line with concerns that have been expressed at the nation's highest court for more than half a century, from the time it first recognized the importance of academic freedom through its privacy-related concerns about intellectual freedom more generally today.