



# Theorizing freedom of information: The live archive, obfuscation, and actor-network theory



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## ABSTRACT

Freedom of information (FOI) is typically analyzed as a law and legal discourse. In sociology, criminology, and socio-legal studies, FOI is also increasingly used as a method to generate disclosures about inside government practices. Absent from this growing literature regarding FOI are reflections on how to theorize FOI processes and their relation to state power and information. Drawing from information and archival studies, sociologies of secrecy and deception, and actor-network theory, we advance three frameworks to make this contribution. First, we conceive of FOI as a crucial component in the live archive. Second, we conceive of FOI as a mechanism for obfuscation, state secrecy, and legitimacy. Third, we conceive of FOI as an actor-network. In conclusion, we reflect on what these three theoretical approaches and tools add to literature on information, power, research methods, and government.

## 1. Introduction

Freedom of information (FOI) law now exists in over a hundred countries across the globe (Bishop, 2012; Feinberg, 2004), from South Africa (Arko-Cobbah, 2008) to Scotland (Spence & Dinan, 2011) to China (Xiao, 2010) to various post-communist countries (Byrne, 2003). The spread of FOI law has been said to constitute a growing social movement (Beyer, 2014). FOI legislation affords citizens a right to request information from their government (Worthy, 2017; Roberts, 2006, 2005). In some ways, FOI can be construed as an open government initiative (Veljković, Bogdanović-Dinić, & Stoimenov, 2014; Wang & Lo, 2016), though the initial development of FOI laws predates the emergence of “open government” discourse. When FOI intersects with automated online systems and interfaces, FOI is also a matter of interest to e-government scholars and advocates (Porumbescu, 2016). In countries such as Canada and the United States, the jurisdictions with which we are most familiar, FOI laws exist at the federal and state/provincial levels. An FOI request involves a written query for records, a submission fee (depending on the country and law), and correspondence with an FOI coordinator working for the public agency in question. Once an FOI request has been processed, information is subsequently released, and the disclosure package is comprised of government files that become a part of the public record. FOI legislation spells out rules of exemption, redaction, and withholding of files enforced by the FOI coordinator. In official terms and on paper, FOI is

conveyed as a straightforward process of citizens formally asking and receiving a disclosure package from their government (Fig. 1). In practice, the mundane and bureaucratic workings of FOI are more multi-faceted and less linear. Contrary to official discourse, FOI is rarely as simple as sending a request with a cheque and being granted unmitigated access to government records. The practical complexities of FOI are more akin to a Pandora's box insofar as FOI involves creatively handling unexpected barriers and setbacks. It is the disjuncture between FOI in official discourse (the official account) and in practice that justifies the need to theorize FOI. In this article, we advance three diverging yet complementary frameworks to make sense of FOI processes and guide social researchers as they navigate FOI's wild and unpredictable terrain.

Many FOI users are investigative journalists (Cribb, Jobb, McKie, & Vallance-Jones, 2015) but more and more scholars study FOI or use it for research purposes. Existing literature on FOI focuses on rates of compliance and variation in FOI regimes and legal amendments (Wasike, 2016; Worthy, 2013; Worthy & Bourke, 2011; Hazell & Worthy, 2010; Holsen, 2007; Banisar, 2006). There is also literature on FOI as a research tool for qualitative and quantitative researchers (Walby & Luscombe, forthcoming; Savage & Hyde, 2014; Jiwani & Krawchenko, 2014; Lee, 2005; Keen, 1992). Together, we have published empirical findings based on FOI requests in literatures on policing and security (Luscombe & Walby, 2015). We have also published on the methodological challenges of using FOI in

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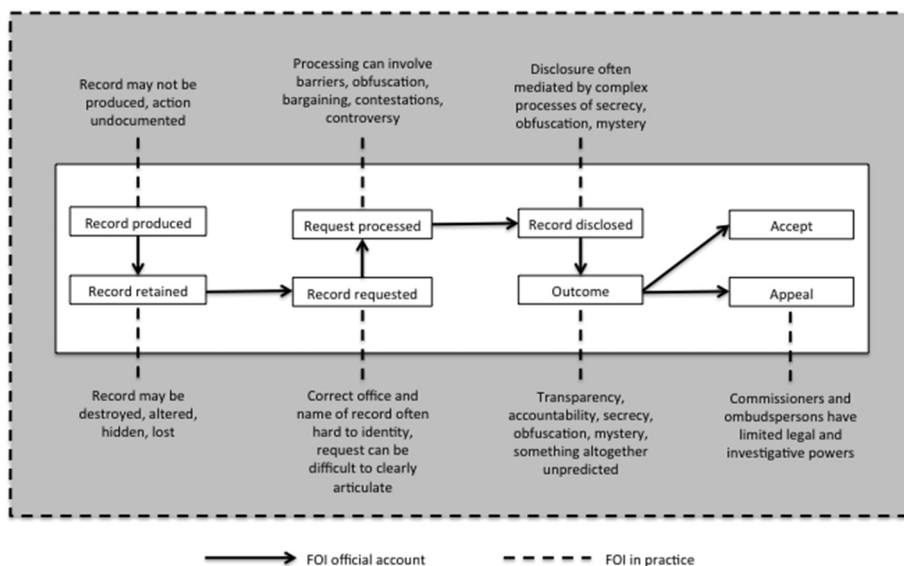


Fig. 1. FOI official account versus in practice.

comparative perspective (Luscombe, Walby, & Lippert, forthcoming).

What is missing from the growing literature on FOI is a conceptual intervention into how to theorize its workings in practice and relation to themes of state power and information. Worthy (2017) uses the idea of symbolic power to show how politicians tout FOI law as a reward to citizens as a way of winning over voters, however the complexity of FOI itself remains inadequately theorized. Roberts (2006) uses literature on secrecy and security to conceptualize some aspects of FOI processes, yet only in small doses. His focus is broader than on FOI law alone. Relly and Schwalbe (2016) explain how business lobby networks shaped the establishment of FOI in the USA, but again the complexity of FOI in action is not the focus. Michener and Worthy (2015) theorize why people gather information using FOI, suggesting that rationales ‘frequently tend toward politicization’ (pg. 1), however our goal is to theorize how FOI unfolds in practice. Drawing from organizational and archival studies, sociologies of secrecy and deception, and actor-network theory, we provide three frameworks to make this contribution.

First, we conceive of FOI as part of the live archive. The live archive framework draws from organizational and archival studies to examine the role of texts in FOI processes in government. Theorizing FOI as live archive encourages people writing on FOI to draw from the larger existing literature in archive studies theorizing the archive and memory, and vice versa. From the perspective of the live archive, both FOI and the public archive are viewed as helping produce accountability and social justice. Second, we conceive of FOI as mechanism for obfuscation and state secrecy. This approach conceives of FOI as upholding a veil that obfuscates and conceals real political power by offering only a modicum of “transparency” to citizens. Drawing from sociologies of secrecy and deception (Luscombe, forthcoming; Bail, 2015; Schilling & Mellor, 2015; Gibson, 2014), this second approach emphasizes the limited outcomes and diversionary mechanisms of FOI and in this way provides a useful counter-balance to the live archive’s more optimistic emphasis on institutional memory and public accountability. Third, bracketing debates about the transparency, accountability, and obfuscatory effects of FOI, we use actor-network theory to document and conceptualize the FOI process. From this perspective, analyses are agnostic about the grand normative ends (e.g. secrecy, accountability) and instead focus on the detailed empirical description of micro-processes of FOI law in action and in the making.

We have selected these three theoretical perspectives because each conceives of information and state power from unique angles using different core concepts (Table 1). The importance of theorizing FOI in these distinct yet complementary ways is three-fold. First, each

framework and the attendant concepts we introduce offer different emphases for inquiry, which helps illuminate different facets and technologies of information management and state practices in the context of FOI. It is not simply about advancing one of these frameworks. Each approach has its usefulness (Gerring, 1999) and place in literature on FOI and the fields of information, organization studies, and socio-legal studies. Second, our theoretical analysis and discussion extends social scientific understandings of FOI beyond policy-oriented studies, and beyond doctrinal, black letter law approaches, both of which tend to be a-theoretical and lack conceptual nuance found in theoretically-oriented fields of study. Third, our focus on FOI provides an opportunity to apply existing theoretical frameworks to a new empirical topic, enriching the areas of study from which the frameworks were derived.

In the first section, we begin by advancing the idea of the live archive, followed by the obfuscation and actor-network perspectives. In conclusion, we reflect on how these three perspectives diverge and complement one another, and what they add to literature on FOI and conceptualizations of information and state power.

## 2. FOI as live archive

Drawing from organizational and archival studies, our first framework conceives of FOI as a *live archive*. The live archive approach conceives of government record production and retention as an archive that FOI users as well as archivists seek to access, manage, and preserve. The whole of government records, from the ‘live’ records FOI users want to access to those that end up in the custody of archivists, is the focus. The goal is to promote record production and retention to ensure all users of government records can access them through paper and e-channels. The life of records begins with government workers whose actions play out in the context of a network of reports, files, emails, and other “little tools of knowledge” (Becker & Clark, 2001), a reality that is also the central starting point of the actor-network perspective (see below). Both archivists and FOI users and advocates share an interest in government workers producing and storing those records for secondary use and analysis. Public memory and accountability starts with the creation of these records (Schwartz & Cook, 2002), but can only be achieved when they are released to a public archive or disclosed through FOI. This approach does not locate the archive in a set time and place. Abstracted from its concrete architectures, the emphasis is instead on the act of archiving, viewed as an instrumental means to an end: archival scientists, FOI users and advocates, and records managers

**Table 1**  
Summary of core differences by conceptualization of FOI, unit of analysis, key concepts, and normative ends.

Framework	Freedom of information	Unit of analysis	Key concepts	Normative ends
Live archive	Dynamic system of record production and retention	Bureaucratic decision-making, record production and retention practices and protocols, politics of government openness and accountability	Live archive, active texts, network, archive, memory, accountability, transparency	Accountability, transparency, open government, institutional memory
Obfuscation	Veil of legitimacy for an illegitimate political system	Obfuscation work, structures and mechanisms enabling state secrecy, practices of information control, strategies of impression management	Secrecy, deception, obfuscation, deflection, impression management, mystery	State power and legitimacy, maintenance of status quo, manufacturing consent
Actor-network	Contingent and continuously enacted network of actors and actants	Flattened relations of cooperation and contestation between people and (im)material things	Network, actor/actant, black box, translation, enrollment, obligatory passage point	Agnostic, ends unpredictable

together need to promote the act of archiving as a way of “holding political and social leaders accountable for their actions” and “redressing social injustices” (Jimerson, 2007, p. 256; Caswell, 2010).

From the live archive perspective, both archives and FOI play a key role in creating accountability in liberal democracies (Calland & Bentley, 2013). Compliance with the letter of FOI law is thus crucial (Cordis & Warren, 2014). Government work and archival work are synonymous to the extent that both should involve meticulous record production and management, with the added claim that these government texts and records are not simply important for internal purposes but also for FOI users and professional archivists. Government record production, retention, and conveyance is an ongoing process (Gil-Garcia, Chun, & Janssen, 2009), one that can produce access and accountability, but which is also subject to barriers. FOI users and archivists have a shared interest in the live archive because the “same general process of communication creates records and archives” (Nesmith, 1999, p. 144). By examining the work done with bureaucratic texts, outsiders can begin to grasp the minutiae of everyday state practices. The way that government records are managed and categorized thus matters for their future preservation, and for whether or not they can be used to hold public bodies and their officials accountable.

This tumultuous process of text production and conveyance in government is what we refer to as the live archive: mounds of text detailing how government agencies and civil servants at federal, state/provincial, and municipal levels carry out their daily work. As researchers we use FOI to procure those records in the name of social science, while archivists preserve those records in the name of a collective documentary heritage. These are related and complementary goals. The idea of the live archive highlights the dynamic systems of textual production and communication continually expanding in government agencies. Elsewhere (Walby & Larsen, 2011) we break down the live archive into texts, work, and organizations. Similar to the actor-network perspective discussed below, texts are not passive but active, an insight we draw from Dorothy Smith’s (2001) “institutional ethnography.” For Smith, texts are “active” in the sense that so much of people’s work in an organizational setting is oriented toward producing, disseminating, and interpreting texts, work that connects them to others in different organizations across the state.

The live archive is dynamic; it changes subject to what Bak (2012) calls continuous classification and reclassification (also see Trace, 2002, p. 152). Some of this reclassification occurs when governments, opposition parties, Ministers, and policies are changed. All of these facets of producing and preserving texts became even trickier with the onset of digitization and e-government. In the “age of algorithms,” archiving is fraught with new and unforeseen challenges in terms of production, dissemination, use, and management (Rossaak, 2015).

From this perspective, accountability is a means and an end. As an end, archival and FOI records can be catalysts for inquiries and tribunals, even for prosecution of elites. It follows that if we need rich and accessible archives for accountability, then as a means we must also hold to account those whose job it is to produce and retain those

records in the first place. Accountability for adequate records creation and retention and compliance with FOI must be instilled in every government worker. Accountability through and for records: the live archive requires both. This reasoning is echoed in related literature on open government (Veljković et al., 2014; Wang & Lo, 2016).

FOI is fraught with numerous setbacks and barriers (Cavoukian, 2013), which the live archive perspective conceptualizes as surmountable barriers and “hurdles” to be overcome in the pursuit of accountability. Monaghan (2015) identifies four challenges in the live archive. The first is political control of information. In Canada, there are sections of legislation that prevent access to cabinet (called cabinet confidences) and ministerial material or documents. The second is time delays and fees. In most countries, public bodies rarely process an FOI request in the legislated timeframe. Charging the user an inordinate amount in fees is also commonplace. The third is lack of depth of disclosure and poor document retrieval, amplified by poor resource allocation for FOI coordinators (Roberts, 2000). The fourth is redactions: FOI coordinators remove portions of documents that they claim must be legally withheld. We would add that the limited scope of FOI laws is also a challenge, particularly in the era of public-private partnerships. Today there are many private organizations that use or give public money to public bodies (e.g., police foundations), that collaborate with public bodies in the form of public-private partnerships or otherwise, but that are not placed under the schedule of any given FOI law and therefore not subject to requests (Bunker & Davis, 1998; Roberts, 2001).

Another serious threat to the live archive is lack of (accurate) record production and retention. As qualitative researchers who primarily study the criminal justice system, when we reflect on this issue we often imagine a police officer or intelligence analyst who has a decision to make: Do I produce a record? Do I destroy it? Do I muddle its contents, making it difficult to interpret? Or do I file it properly, knowing it may be subject to FOI and one day released to public archives, in compliance with law and the duty of public officials? In countries with FOI laws and public archives, this apparently minor and localized moment of decision is happening hundreds of times every minute. These seemingly fragmented moments of decision are connected, networked, linked by the texts (or electronic files) that offices and their government workers produce and convey to one another. This moment of decision is an overlooked time and place where the possibility of public accountability is raised into being: is the record produced, is it accurate, and can custody of the document be obtained by a group whose vocation it is to protect and manage those paper and electronic records into the future?

Overall, the standards for document production and retention are low even in so-called advanced democratic countries like Canada (Walby & Larsen, 2012). If documents are not produced or retained in the live archive, researchers will not be able to use FOI to access them, and they will never occupy the shelves of public archivists. Record production and retention is never straightforward (Nesmith, 2002) and records ruination seems bound to forever upend the collective goals of FOI users and archivists. One way forward would be to enforce stricter document production and retention protocols in government and hold

clear instances of malicious obstruction and failure to account. If records are destroyed, public bodies should keep a record of how, when, why, who did it, and exactly what has been purged from documentation (Shepherd, Stevenson, & Flinn, 2011, p. 120).

There are also structural or institutional accountability deficits plaguing the live archive in most countries. What Paul Thomas (2006) has called the accountability apparatus is limited in the live archive. One deficit is ineffective oversight and a lack of legal disciplinary and order making power for commissioners, ombudspersons, and international equivalents. FOI Commissioners and Ombudspersons in Canada and the United States are notoriously understaffed, and lack necessary investigative powers to resolve a complaint or otherwise hold a public body accountable, even when there is clear evidence of misconduct. Commissioners and ombudspersons generally lack powers to order government bodies to produce, retain, or release records. Another problem is organizations that act like they should be exempt from public scrutiny, despite occupying positions of public authority (Luscombe & Walby, 2015). Police unions and their lawyers, for example, regularly put pressure on their governments to be absolved from the requirements of administrative laws that require police officers and office staff to retain and release records to the public.

The live archive is a vibrant and dynamic network; in our view its endpoint ought to be the archivist's future work table and shelving unit, and between record creation and preservation, FOI users can and should be able to access public records. Unfortunately, routine barriers to access (e.g. time delays and fees), poor record production and retention practices, and institutional accountability deficits are threatening that process, eroding the values of public memory, accountability, and social justice. With respect to the disjunction between the FOI official account and FOI in practice (Fig. 1), the live archive approach views the former as a more or less accurate (and ideal) depiction, but remains critical to the extent that FOI could achieve this model of operation better. The place for advocacy by archival scientists, the FOI community, and records managers cannot be limited to requests for more resources. An equally valuable path to overcoming access challenges and accountability deficits will be for FOI users *and* archives staff to work together with an activist mentality, communicating to those in the live archive that they can, should, and *ought* to produce and retain records for the good of democracy.

### 3. FOI as obfuscation

Recent discussions of organizational secrecy and deception call attention to the limits of transparency and the ways that FOI can provide a veil of legitimacy for an illegitimate political system. Through ministerial secrecy provisions enshrined in law and extra-legal (or illegal) strategies of information management and disclosure, FOI provides a cover for ministerial and institutional abuses under liberal democracy. Strategies of organizational secrecy and deception (Luscombe, forthcoming; Bail, 2015; Schilling & Mellor, 2015; Gibson, 2014; Numerato, 2016) may be enacted to hide forms of corruption or other practices that would bring the idea of justice and the political system into disrepute. Tactics of secrecy and deception vary by political system and regime type (Caidi & Ross, 2005; Walters & Luscombe, 2016). In the liberal democracies of the United Kingdom and Canada, “there is an omnipotent link between the convention of ministerial responsibility and power in the modern state” (Flinders, 2000, p. 434). Ministerial secrecy in Canada, enabled by provisions in law that exclude “cabinet confidences” from public disclosure, is just one form of official secrecy. Barriers to knowing and to accessing are at the core of liberal democracy and statecraft (Abrams, 1988), and FOI provides a manageable cover and diversion from real political questions and mobilizations. While the live archive approach views FOI as related to transparency and accountability, from the obfuscation perspective FOI will not easily change the political system we have or produce more justice in the world; it may simply result in information mirages that placate the

citizenry and manufacture consent for existing rule.

Contributions in sociology, cultural studies, and human geography have called into question our assumptions about the relationship between secrecy and publicity (Birchall, 2011; Horn, 2011; Paglen, 2010; Bratich, 2006). The work of these scholars challenges our default zero-sum assumption that secrecy/concealment is the opposite of publicity or disclosure. Bratich (2006), for example, examines how the Abu Ghraib torture photographs, despite being circulated as unauthorized leaks exposing the cruel torture practices of the United States government, also had a curious “publicity” to them:

“While the photos circulate as ‘evidence’ of US cruelty, it is obvious that they were not originally created as documentary exposure. The striking use of photography indicates that, unlike the Kurtz compound, Abu Ghraib wanted to be known, to be displayed, even to be *appreciated*. The prisoners were degraded in this precise manner in order to make the ritual visible, to put it in circulation, to make it communicate. These photos have a profound *publicity* about them.” (Bratich, 2006, p. 497; emphasis in original).

Bratich (2006) points to other examples such as the decision of the US Defense Intelligence Agency (DIA) to declassify its founding documents in 2003. Rather than assume this as a shift to greater transparency being initiated by the agency in question, Bratich suggests: “It is almost as though by revealing its origins the DIA is grabbing a new spotlight for *military* intelligence, as if it was stepping out of the shadow of Big Brother CIA and reclaiming its rightful place among the secret services” (p. 496; emphasis in original). In both cases leak and disclosure does not end the practices or agencies in question, but can actually increase their “mystery” (Bratich, 2006, p. 497). In this way FOI is not so much a tactic of challenging government power but instead becomes a government strategy. FOI serves as a means of *governing through*.

One could challenge the examples Bratich (2006) uses to illustrate his argument, but his theoretical point warrants deeper consideration by any scholar grappling with information disclosure, declassification, leak, or other assumed means of enhancing state openness. Disclosure through legal mechanisms like FOI *can* but *does not by default* result in greater openness and transparency in government, nor does it necessarily put an end to the hidden narratives or practices it seeks to expose. As Bratich argues, disclosure and revelation are not only strategies to be levelled against the secrecy of government, but can also “compose a strategy of public perception management” working in the favour of government itself (p. 498; see also Van Veeren, 2011). If nothing else, one should be wary in light of Bratich's argument of assuming an immediate publicity effect to FOI disclosures and should also be aware of the ways that FOI may serve rather than undermine the obfuscating powers of government. Sociologies of secrecy and deception call our attention to two more or less intentional ways that FOI requests maintain government secrecy, and result in greater secrecy and obfuscation.

First, FOI requests may result not only in disclosures of information that government had wished to keep concealed, but may as a result of this exposure serve as impetus for changes in government information management, classification, and concealment practices. Government is a reactive but also an adaptive institutional network. An FOI disclosure could reveal the existence of a previously unknown term or entire unit within an agency. The government may follow up on this disclosure by secretly retiring and renaming the term or unit. A follow-up FOI request by the user may then result in no information being found, but not because the covert practice has ended, but because it has been renamed and/or reorganized. Government agencies may go even further than renaming their practices in response to an FOI request. They may stop producing a document type entirely, choosing to discuss matters in meetings or over the phone as an alternative. Another possibility would be for the government agency in question to reclassify the “sensitivity” of a particular document or unit's activities, an increasingly common

practice as documented by Galison (2004), thereby making it harder to access by the FOI user the next time around. Frequent users of FOI will know that these are not “conspiracy theories” or “hypotheticals,” but practices that one does encounter evidence for. In our own work on policing and security agencies in Canada and the US (Luscombe & Walby, 2015; Luscombe & Walby, 2014), we have encountered evidence for this kind of “obfuscation work” in response to our FOI requests on plenty of occasions.<sup>1</sup>

The second way that FOI may serve an obfuscating mechanism for government results not from the act of making the request, as does the first, but in the form and content of the disclosure. Disclosures can be highly limited in terms of what they reveal (Lessig, 2009). Through the overbroad use of redactions by state officials, many FOI requests come in the form of broken and decontextualized sentences, disjointed words and headings, and can be difficult to read and understand, particularly in the absence of corroborating evidence. Many government texts, as “ongoing internal exchanges between individuals,” are “laden with mutual expectations (e.g. about literalness), taken-for-granted understandings, varying levels of trust, organizational idioms and unspoken presumptions” and the FOI analyst does not necessarily have access to any of this (Rappert, 2012, p. 47). A heavily redacted, fragmented government text does not necessarily illuminate issues and can raise more questions than answers. Under such circumstances, the act of disclosure may actually serve to increase rather than challenge the “mystery” (Bratich, 2006; Taussig, 1999) of a government agency or program.

The format in which a government office releases its texts also matters immensely and has for us been a regular source of disagreement with FOI offices. Although it is not technically legal in many jurisdictions, some government offices will choose to print entire government records rather than provide the electronic copy, even when it was asked for and required under law. We have both had agencies mail us massive government records, sometimes 1000s or 10,000s of pages, and then refuse to email us the electronic copy (e.g. an Excel sheet). Government agencies in Canada frequently take extra steps to render electronic records unsearchable. The same tactic can be used by a government agency when interpreting the wording of a request. A government may choose to interpret a request wording in a limited way to minimize the size of disclosure. This strategy can also go the opposite way: a government office may choose to interpret a request “broadly,” even when exactly what you are looking for is understood, in order to disclose an unworkable amount of records, most of which are uninteresting and benign, and in this way conceal something that is legally dubious, problematic, or controversial (a known tactic in the world of fraud auditing). In this way, it is not simply the act of disclosure that ensures greater transparency, but our ability as researchers on the receiving end to filter through it, interpret it, and communicate the findings to publics in accurate and meaningful ways (Lessig, 2009). In Birchall’s (2011, p. 145) terms, disclosure does not make something transparent, but can just as easily make it “un-secret”: poorly analyzed and ill-communicated revelations through FOI “may be un-secret, but they remain opaque” (Birchall, 2011, p. 145) in the same way that a published but un-read book in the library is just that: an un-read, albeit potentially readable, book, but certainly not shared or common knowledge by any means.

By disclosing incomplete and heavily redacted information in highly unworkable formats, governments can continue to claim the “legitimizing” benefits of having an FOI regime and processing numerous

requests despite pre-emptively blocking the “transparency effects” of many of its disclosures through unlawful and ill-intentioned information management and FOI disclosure practices. FOI becomes a formal institutional myth and ceremony, providing the state with legitimacy (Meyer & Rowan, 1977), but failing to achieve its articulated promises of enhanced accountability and transparency in government. As an “early warning system,” FOI may in some cases give governments more control over the political impact of a particular revelation than other kinds of disclosure like unauthorized leaks (on leaking, see Ku, 1998). Unauthorized leaks have the benefit of catching government actors off guard, being unaltered or at least less redacted overall, and do not provide governments with the same opportunities for stalling and delaying the disclosure that they obtain through FOI.

From the obfuscation perspective, our Westminster form of representative democracy was not in its origins and has not been since designed to produce the goals associated with FOI or archives: transparency, accountability, memory (Thomas, 1973). It and other political systems were designed to *control* information while maintaining a semblance of openness and transparency. Despite passing and touting progressive FOI laws, our governments regularly produce opacity and secrecy through such means as invoking ministerial privilege and the importance of cabinet confidences (Neocleous, 2002). Though there is variation by level of government (and in principle the introduction of public archives and FOI is meant to readjust the balance of power within the state), the real challenge from the perspective of the obfuscation framework is to create forms of governing that are truly democratic and participatory.

#### 4. FOI as actor-network

From the perspective of actor-network theory (ANT), FOI is a contingent and continuously enacted process composed of interconnected actors and actants, with no set political endpoint. The ANT perspective radically differs from the live archive and obfuscation frameworks because of its commitment to normative and conceptual agnosticism. Yet it is also this core difference that makes the ANT perspective a complementary addition to the FOI researcher’s theoretical toolkit. The foundational position of ANT is that we study science in action and in the making, not ready made science and technology (Latour, 1987). Applied to organization studies, it is not ‘science’ per se but the work of constructing ‘facts’ that becomes the object of analysis. Relevant facts include everything from the production of records, to the interactions between FOI user and coordinator, to the production of an entire logic and language of FOI enshrined in law. While the ANT paradigm shares much in common with other approaches in the social sciences, it is the insistence on treating nonhuman things as “actors” that renders it truly unique.

ANT is both a theory and a method (Mol, 2010). There are no grand motifs (e.g. secrecy, transparency, accountability) that can be used to explain FOI practices and processes. There are no limits placed on who or what can play a role in effecting social relations, or in this case generating an FOI outcome. In ANT, “objects, persons, things, facts, theories, instruments and so on can all be enacted” (Woolgar & Lezaun, 2013, p. 325) and have the capacity to shape outcomes. The outcome of a given FOI request has no objective reality outside the particular “actor-network” in which it is located. The aim of actor-network theory is to systematically trace, empirically reconstitute, and describe “the enactment of materially and discursively heterogeneous relations that produce and reshuffle all kinds of actors including objects, subjects, human beings, machines, animals, ‘nature,’ ideas, organizations inequalities, scale and sizes, and geographical arrangements” (Law, 2009, p. 141). It is the “seemingly mundane nature” (Woolgar & Lezaun, 2013, p. 323) of these relations that produces law and policy. The approach originated out of social studies of science, but has since been used to study everything from museum artefacts (Star & Griesemer, 1989), to military aircraft (Law & Callon, 1988), to disease (Mol, 2002),

<sup>1</sup> In more extreme cases, such as those involving concealment of unlawful practices, major injustices, or political lying, it is conceivable that systematic FOI requests by researchers could induce something analogous to the kind of “downward spiral of deception and disclosure” documented by Bail (2015, p. 116). An unwillingness in government to admit a particular failure or use of a controversial rationale or practice disclosed through FOI could result in that government boosting its secrecy or adopting a new albeit incoherent policy stance to conceal its denial.

to the mundane and everyday workings of French administrative law (Latour, 2010). One of the most famous articles on ANT was Callon's (1984) work on the "domestication" of scallops in St. Brieuc Bay, treated as actants with a capacity to shape network outcomes.

The contributions of actor-network theory are diverse and numerous, but as John Law (2009, p. 146) points out, there are at least six major features that most ANT research seeks to uphold. First, an ANT approach asks questions of *how* rather than *why*. In the context of FOI, this means asking questions about how decisions are made, and how users and coordinators in negotiation and dispute generate outcomes. Second, ANT is a *relational* approach, emphasising the interconnectedness of actors and actants as they coalesce to form a network. Third, actor-networks are *heterogeneous*, comprised of diverse types of actors, both human and nonhuman. FOI users and coordinators, internal government texts, requester and government agent sensibilities, and the other material and non-material actors involved in a given FOI request uniquely enact FOI outcomes as a matter of interaction and interrelation with one another. Fourth, ANT stresses the importance of *process*, of things in motion, but also *precariousness*, in that each element in an actor-network must necessarily play its part for it to be maintained. Fifth, when tracing an actor-network, ANT scholars are particularly attentive to concepts of *space* and *scale*, or how an actor-network extends over time and recruits or "translates" news actors and actants into its fold. Sixth, rather than conceptualize the nature of *power* a priori, ANT scholars view power as an effect of a successfully assembled actor-network. Obfuscation, transparency, accountability, and other possible outcomes are effects of FOI processes and cannot be used by the researcher to explain or theorize FOI beforehand. Such concepts are only relevant to the extent that they emerge as actors in the network. ANT forces scholars to rethink the world according to localized moments of translation and enactment, rather than the grander motifs (e.g. secrecy, transparency, accountability) that underpin the live archive and obfuscation perspectives.

Theorizing FOI through ANT expands our intellectual horizon, focusing our attention on FOI contingent *processes*, rather than just outcomes or established laws, and on the important but often mundane and overlooked roles played by human and nonhuman actors in shaping an outcome and making it possible. Texts, for example, are integral to any FOI request. An ANT view would conceptualize texts not only as "receptacles of content," but also "active agents in networks of action" (Prior, 2008, p. 822). Texts are what we use to initiate an FOI request (in the form of a letter, envelope, stamp, email, standardized form) with an agency. All of these texts do something, they all have a capacity to impact the set of relations they are a part of (de Laet & Mol, 2000). Particularly in the case of standardized forms, which some agencies in Canada require the user fill out before a request can be processed, the user is not simply using the form to ask for data; the form is also *acting* on this user by forcing them to organize and frame their request in a particular way. Often the FOI coordinator will then communicate with the user by mail and email, introducing (or "enrolling") more textual actors to the network. These written communications and negotiations, which are all "on the record," become central actors in justifying an interpretation of a request and are the central actors that the FOI user must later re-translate if and when they try to make a case for appeal with an information and privacy commissioner (or regional equivalent). If there is a fee estimate, this is usually calculated by FOI coordinators using standardized forms and metrics for estimating cost (cost of searching for records, cost of severing records, cost of copying records, etc.). In this case the texts used by FOI coordinators to estimate a fee are not merely open and passive receptacles, taking down information from the coordinator, but are also actors in the network, acting on the FOI coordinators and later the FOI users when they receive a copy. If the user is required to appeal a decision, file a fee waiver request, or take the agency to court, an even greater number of actors (and actants) will be "interested" and "enrolled" into the network as allies (Callon, 1999). Working with the FOI coordinator is akin to moving through the

"obligatory passage points" (Callon, 1999) in ANT that determine success or failure of translation. Finally, it is ultimately texts that we are after in an FOI request. These texts are again not simply containers of information, but should also be conceptualized as agents in the network. The end result is that these texts, in combination with law (a whole other and equally important actant) will act with or against the government through the act of disclosure (potentially but always unpredictably resulting in obfuscation or greater transparency and accountability). They will also act on the FOI user in some way, in the context of their research endeavours, for example.

The role of disputes, contestations, and negotiations in FOI processes, often overlooked and undocumented in research using FOI, can also be usefully traced and theorized using ANT. Focusing on process, precariousness, and controversy (Barry, 2001; Callon, Lascoumes, & Barthe, 2009), ANT scholars are interested in empirically documenting the messy, unpredictable ways that actor-networks are formed. From this perspective, the often lengthy work that FOI users go through to get access to records take centre stage, which researchers must dutifully document in extensive and detailed fieldnotes. Even the most seemingly mundane disputes between FOI users and coordinators over things like the format of a record (e.g. whether it will be released as an Excel sheet or converted into some other form before being released) are important from the perspective of ANT. In these small moments of translation, human and nonhuman actors (FOI user, coordinator, the record, the possible formats, law, the mode of communication between user and coordinator, etc.) converge to achieve a particular end. And things (computer glitches, sticky pages) matter, since they are active in these processes (Callon & Law, 1997). FOI from this perspective is not to be seen as solely involving set procedures, steps, predefined rules, but rather is a precarious and unpredictable network of heterogeneous agents relating to one another in sometimes expected, but other times totally novel ways. FOI regimes are such that users and coordinators are capable of using numerous creative strategies in their efforts to get the upper-hand in a dispute. FOI users, for example, can bluff by proposing to sue an agency if they do not release data. Under these circumstances, new actors are enrolled into the FOI actor-network and unforeseen possibilities emerge.

The role of the FOI user then is to treat the records as well as the process of disclosing them as what ANT scholars refer to as a black box. Knowledge workers such as government bureaucrats are always burying traces of their actions and practices (Law, 2004). The process of filing an FOI request creates additional paperwork, additional actions and practices, but also a method to unpack the localized moments of translation and enactment that resulted in the records being created and then located for disclosure. Following ANT, researchers must arrive before these records are black-boxed or attempt to reopen them (Latour, 1987, p. 258) using FOI and other research methods (see also Best & Walters, 2013).

## 5. Discussion and conclusion

As an object of social scientific study, as a research practice, and an expression of the movement toward truly open government, FOI is multi-faceted (Saez-Martin, Caba-Perez, & Lopez-Hernandez, 2017; Worthy, 2017; Sheaff, 2016; Arnold, 2014; McClean, 2010; Halstuk & Chamberlin, 2006). From the creation of the request, to negotiating with the FOI coordinator, to the complaints process, to analyzing the disclosures as data, there is nothing straightforward about FOI as a law or social research method. Utilizing these theoretical perspectives helps to illuminate these different facets of FOI, which can help FOI users navigate the process and assist social scientists better understand how FOI relates to state practices. Drawing from prominent conceptual approaches in the social sciences, we have conceived of FOI in three distinct ways: as part of a live archive; as obfuscation; and as a fluid, precarious actor-network. The frameworks diverge in five major ways making them unique, but also complementary to one another

**Table 2**  
Summary of core differences by conceptualization of citizen/state, compliance, user/coordinator, records, and power.

Framework	Citizen/state	Compliance	User and coordinator	Records	Power
Live archive	Means for citizens to control state abuses and corruption, and uphold democratic values/institutions	Compliance ensures proper text production/retention, feeding accountability	User is active and informed citizen, coordinator is publicly accountable official with a duty to assist the user and comply with law	Keys to producing accountability and social justice	FOI empowers the user, enshrining in law a citizens "right to know"
Obfuscation	Mechanism of the state to control and monitor the citizenry while maintaining legitimacy of existing arrangements	Compliance as ultimate form of consent, diversion from more radical forms of dissent	User is liberal dupe or tolerable irritant to the state, coordinator is arbitrator of state interests	Vetted for their limited capacity to threaten or undermine the status quo	Power is exercised by state bureaucrats who hold in check the transformative potential of FOI
Actor-Network	Citizen/state relation contingent outcome of disputes and contestations involved in FOI processes	Analytic concepts of compliance/non-compliance only relevant to extent that they are leveraged by the user/coordinator in dispute	Centrality of user and coordinator displaced as actors in larger network of humans and non-humans	Objects with capacity to shape social relations	Power is the outcome of a successfully translated network

when analyzing state information practices (Table 2).

First, the approaches diverge when it comes to conceptualizing the relationship between citizen and the state. The live archive framework views FOI as a way that citizens can learn about and control abuses in government and monitor the wellbeing of democratic institutions. The focus on transparency, accountability and social justice is the focus of literature on FOI and public policy (Cordis & Warren, 2014; Hazell & Worthy, 2010; Nam, 2012; Shepherd, Stevenson, & Flinn, 2010). The obfuscation framework understands FOI as part of the process through which states manage information and therefore part of the way they control and monitor the citizenry. It has long been in the interests of the state to "withhold information, deny observation and dictate the terms of knowledge" (Abrams, 1988, p. 62). FOI is no exception to this rule. The social studies of science/ANT framework treats the disputes and contestations over FOI requests as a constant process of enrolment and translation, of citizenship and governance in action and in the making.

Second, the three approaches differ in relation to the theme of legal compliance. The live archive framework explicitly promotes compliance with FOI law to ensure proper text production and retention, which will boost public accountability. The obfuscation framework views compliance with FOI law as the ultimate form of consent, as a diversion from more radical questions about the political. The ANT framework only cares about compliance to the extent that it is an active agent in the network; sides only "comply" to the extent that this is an idea (an actant) enrolled into the network by the user or coordinator who may find it advantageous to do so. Rather than focus on issues of compliance/non-compliance a priori, the ANT scholar instead explores questions of FOI disputes, contestations, and controversies, and only takes interest in ideas of legal compliance to the extent that they emerge as actants in the FOI actor-network.

Third, the approaches differ when it comes to conceptualizing the FOI user and coordinator. In practice, there are many other definitions of user and coordinator possible, but such crude generalizations are sufficient in representing the core differences. The live archive framework views the FOI user as an active and informed citizen, one interested in promoting public accountability through requests for information and dissemination of the results. The coordinator is viewed as a publicly accountable official with a duty to assist the user by complying with law. At worst, the obfuscation framework views the FOI user as liberal dupe. At best, the FOI user is a minor albeit tolerable irritant to the state. The coordinator, though only a single bureaucrat in a much larger governmental network, is seen as an arbitrator of state power and interests. The ANT framework conceptualizes the FOI user and coordinator as two among many players in a larger actor-network. Usually central and mediating nodes in the network, the FOI user and coordinator espouse creative strategies to win disputes, overcome challenges, ally with and enrol new human and nonhuman actors into the network, and to outsmart one another in defense of their respective interests (to gain access, to reduce workload, etc.).

Fourth, the approaches deviate as it regards conceptualizing the records and texts themselves. The live archive framework understands records and texts disclosed through FOI (or located in a public archive) as keys to accountability and social justice. The secrecy and obfuscation framework views the records and texts disclosed through FOI as limited and in most cases unthreatening to the status quo. The ANT framework understands texts and records as objects with their own capacities (Walby & Spencer, 2012) to befuddle, to entice, to dispute, worth all the legal wrangling but neither liberal opium nor critical smoking gun. When it comes to this dimension there may be overlap between the focus on active texts in the live archive approach and the notion of texts as actants in ANT (Callon & Law, 1997, p. 168; also see Walby & Larsen, 2011), though ANT is decidedly less humanist overall.

Finally, the approaches diverge in terms of how they view power. The live archive framework understands the FOI user as an empowered citizen, using their fundamental "right to know" enshrined in law to

shine a light on the state and speak truth to power. The obfuscation framework views power as something that is exercised, as well as mystified and concealed, by bureaucrats including FOI coordinators. The ANT framework understands power only as emerging in a successfully translated network, in a set of “crystallized” relations, rather than treating power as something pre-determined or pre-determining. By shifting the focus to the workings of FOI in action and in the making, to the creative brokering strategies of FOI users, the ANT framework also accentuates an FOI user's *will* and *proficiency* to know rather than their legal right.

By advancing these three frameworks for theorizing FOI and its relation to state power, we do not mean to suggest that researchers must take sides, as if it were up to scholars to develop these three perspectives into “grander” theories and debate each one's relative superiority. Nor do we wish to suggest that these are the *only* perspectives possible. There are no doubt countless others that should be developed in future discussion. We view all three of these perspectives and their major divergences as complementary. The live archive perspective emphasizes transparency and accountability, but alone this framework risks a naivety that the obfuscation framework, with its counter emphasis on questions of secrecy, failure, and unknowing, can hold in check. If it is true as Birchall (2011) has argued that the relationship between transparency/secrecy is not mutually exclusive and zero-sum, a matter of “balancing” the two sides as state officials frequently claim (Neocleous, 2002), it becomes necessary for us as scholars to seek complex ways of understanding transparency and secrecy's relation and interconnectedness. Rather than reproduce government myths about transparency/secrecy trade-offs, the live archive and obfuscation frameworks, when held in “irreducible tension” (Birchall, 2011) with one another, can aid scholars in understanding the impacts of their use of FOI in more sophisticated but yet unforeseen terms. Finally, it is the turn to ANT, with its emphasis on political and conceptual agnosticism, (im)material processes, and extreme relationality, that scholars can temporarily escape the prefigured concerns of the live archive and obfuscation perspectives and empirically zoom in on FOI's workings in action. This latter shift to ANT not only has theoretical benefits, but has aided us in refining our use of FOI as a methodological strategy. Generating empirical accounts of FOI in action helps the researcher better understand how it is that users and coordinators negotiate and dispute one another's claims, thereby providing a basis upon which FOI brokering strategies can be improved in future research.

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