



Policies on Information Access and Transparency

An Analysis of Philippine Laws, Issuance, Agency Guidelines, and Bills on Information Access

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Agency Guidelines, and Bills
on Information Access

Asian Institute of Journalism
and Communication (AIJC)

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FOREWORD

The study on Philippine Policies on Information Access and Transparency conducted for UNESCO by the Asian Institute of Journalism and Communication (AIJC) is a commendable effort at documenting and analyzing policies affecting people's right to information.

This publication is a timely follow-up of *Freedom of Information: A Comparative Legal Survey* by Toby Mendel (2nd edition) published by UNESCO in 2008. It puts into national context the principles and issues discussed by Mr. Mendel as it also uses the 9 principles of Freedom of Information Regime set forth by the non-government organization Article 19 as framework in analyzing the policies included in the research study.

Access to information is an essential indicator of freedom of information and a prerequisite to achieving UNESCO's vision of a Knowledge Society. While access to information enables journalists to responsibly perform their duties and responsibilities in a free society, it is important to emphasize that access to information is the right of every individual. As the lead UN agency mandated to promote and protect freedom of information, UNESCO shall continue its endeavor to support global and local initiatives to expand access to information.

Despite having a Constitution that guarantees the people's right to information and transparency and international recognition of having the most liberal information regime in the region at the start of the 21st century, the Philippines is now beset with unresolved issues related to information access and transparency. After analyzing 182 policy documents of 29 government agencies, the study showed that existing policies would have been adequate to provide for a reasonably liberal information environment. That this was not the case could be attributed to causes identified earlier, among them a Constitutional guarantee that is not carried out with commitment, existence of laws working against access to information, and government officials and a public that is not fully committed to the need to protect right and access to information.

The efforts of access to information advocates have resulted in the passage of a Freedom of Information Bill in the Philippine House of Representatives and both in the Senate. Be that as it may, the study concludes that beyond passing a Freedom of Information Law, a number of things have to be done to ensure the benefits of such a law to the public, such as further advocacy on right to information; capacity-building on information-related competencies; ensuring vigilance over the right to information, continuing dialogue between government and sectors concerned with access to information.

The value of this work is that it provides a challenge to governments and other sectors to pursue further efforts in making access to information a reality for everyone.

A handwritten signature in dark ink, consisting of a large, stylized 'W' followed by a horizontal line that tapers off to the right.

ABDUL WAHEED KHAN

Assistant Director General for Communication and Information
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Acronyms and abbreviations used in this project

AEP	-	Alien Employment Permit
ALI	-	Agrarian Laws and Implementation
AMLA	-	Anti-Money Laundering Act and Entrepreneurship Development
AO	-	Administrative Order
BAC	-	Bids and Awards Committee
BIR	-	Bureau of Internal Revenue
BLR	-	Bureau of Labor Relations
BSP	-	Bangko Sentral ng Pilipinas
BWYW	-	Bureau of Women and Young Workers
CA	-	Court of Appeals
CAV	-	Certification, Authentication, and Verification of CHOs
COA	-	Commission on Audit
CSC	-	Civil Service Commission
DA	-	Department of Agriculture
DAR	-	Department of Agrarian Reform
DARCO	-	Department of Agrarian Reform Central Office
DBM	-	Department of Budget and Management
DFA	-	Department Foreign Affairs
DENR	-	Department of Environment and Natural Resources
DepEd	-	Department of Education
DIBAR-IS	-	Database of Individuals Barred From Taking Civil Service Examinations and From Entering Government Service Information System
DILG	-	Department of Interior and Local Government
DND	-	Department of National Defense
DOE	-	Department of Energy
DOH	-	Department of Health
DOJ	-	Department of Justice
DOLE	-	Department of Labor and Employment
DOST	-	Department of Science and Technology

DOTC	-	Department of Transportation and Communication
DPWH	-	Department of Public Works and Highways
DSWD	-	Department of Social Welfare and Development
DTI	-	Department of Trade and Industry
DTIS	-	Document Tracking Information System
EO	-	Executive Order
FOs	-	Field Officers
GAD	-	Gender and Development
G-EPS/PhilGEPS-		Philippine Government Electronic Procurement Plan
GII	-	Government Information Infrastructure
GOCCs	-	Government-Owned and Controlled Corporations
Gov	-	Government
HB	-	House Bill
HCRSIS	-	Health Commodities Reference Specification Information Systems
ICONET	-	Information Coordinating Network
Info	-	Information
IRR	-	Implementing Rules and Regulations
ISSP	-	Information System Strategic Plan
ISTMO	-	Information Systems and Technology Management Office
IT	-	Information Technology
LGPMs	-	Local Governance Performance Management System
LGUs	-	Local Government Units
MC	-	Memorandum Circular
MISD	-	Management Information Systems Division
MISS	-	Management Information Systems and Service
NBFI	-	National Bureau of Federal Investigation
NBI	-	National Bureau of Investigation
NCC	-	National Computer Center
NCIS	-	National Crime Information System
NCRFW	-	National Commission on the Role of Filipino Women
NEDA	-	National Economic Development Authority
NITC	-	National Information Technology Council
NPC	-	National Police Commission
NTC	-	National Telecommunication Commission
OFW	-	Overseas Filipino Workers
OM	-	Office Memo

OP	-	Office of the President
OPS	-	Office of the Press Secretary
OWWA	-	Overseas Workers Welfare Administration
PC Documents	-	Public Circulation Documents
PDPB	-	Policy Development and Planning Bureau
PESO	-	Public Employment Service Office
PIDSR	-	Philippine Integrated Diseases Surveillance and Response
PMR	-	Procurement Monitoring Report
PNP	-	Philippine National Police
POEA	-	Philippine Overseas Employment Administration
POLO	-	Philippine Overseas Labor Officer
PRESEED	-	Promotion of Rural Employment through Self-Employment & Entrepreneurship Development
QSS	-	Quality Standard System
RSA	-	Records Situation Appraisal
RTC	-	Regional Trial Court
SB	-	Senate Bill
SC	-	Supreme Court
SSS	-	Social Security System
SUCs	-	State Universities and Colleges
SWD	-	Social Welfare Development
TESDA	-	Technical Education and Skills Development Authority
TIN	-	Tax Identification Number
TLRC	-	Technology and Livelihood Resource Center
TS Documents	-	Top Secret Documents
WAP	-	Work Appreciation Program

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SUMMARY

The right to access information is the right to seek, receive, and impart information and ideas. In the Philippines, people's right to information and transparency in government are guaranteed by the Bill of Rights enshrined in the Philippine Constitution of 1987. A study on Policies on Information Access and Transparency conducted by the Asian Institute of Journalism and Communication (AIJC) for UNESCO made an inventory and analysis of national policies on access to information and transparency formulated and implemented by government primarily since democracy was restored in 1986. Information policies were contained in four types of policy documents:

- Laws and rules on writs
- Other issuances (executive or administrative orders, memorandum or administrative circulars);
- Agency guidelines, rules, and circulars; and
- Bills being processed in Congress to become Philippine laws.

The study sought to answer the following specific questions:

1. What laws/issuances and agency rules/guidelines on information access are being enforced in the Philippines at present?
2. How do they promote Article 19 of the Universal Declaration of Human Rights and the nine principles of a Freedom of Information regime?
3. Which of the nine principles do these policies reflect?

What measures can we recommend to (a) help government improve public access to information, and (b) empower the people to enjoy their right to information as mandated by law?

Three research tasks were involved: (1) collection of policy documents and supplementary interview; (2) subject analysis of the policy documents; and (3) analysis of FOI features of the policy documents.

Policy documents were collected from 29 agencies and offices of the Executive, Judicial and Legislative branches of government and supplementary interviews requested of officers mainly responsible for facilitating public access to information. The documents were analyzed in terms of subject and freedom of information features using the nine principles of freedom of information set forth by Article 19: (1) **maximum disclosure**, (2) **obligation to publish**, (3) **promotion of open government**, (4) **limited scope of exceptions**, (5) **process to facilitate access**, (6) **costs**, (7) **open meetings**, (8) **disclosure taking precedence**, and (9) **protection for whistleblowers**.

One hundred and eighty-two (182) policy documents were analyzed to get a picture of information access in the country: 11 laws and rules on writs, 20 other issuances, 92 agency/office guidelines and rules, and 59 information-related bills filed with the 13th and 14th Congresses.

Laws and other issuances. Thirty-one (31) acts, rules on writs, and other issuances were analyzed. Republic Acts (RAs) passed by the Philippine Congress primarily in the last 30 years provided for enhancing public access to information and protecting people against different kinds of dangers, one providing for surveillance of suspected terrorists (Anti-Terror Law). Improving public service through a code of conduct for public officials and employees and improvement of government systems and reporting also were covered. Policy documents from the Supreme Court—rules on the Writ of *Amparo* and Writ of *Habeas Data* the Court promulgated recently—provided for the protection of people's life, liberty, and privacy specifically from abuses (or negligence) of individuals in government or private persons or entities.

Subjects of Executive Orders (EOs) were primarily measures to enhance public information on access and transparency of government, improve information management processes, improve access through automation and information technology, and executive privilege. Administrative Orders (AOs) and Memorandum Circulars (MCs) also sought to improve information management in government offices through information technology, service guides and workflow charts, as well as to secure classified matter. Meanwhile an Administrative Circular by the Supreme Court sought to develop the Court's information disclosure policy.

In terms of Freedom of Information features, all of the Republic Acts (laws) and Rules on Writs (100%) reflected the principles on obligation to publish, promotion of open government, and disclosure taking precedence, which could ensure that a law either promoting or hindering information access takes precedence over all previous laws that may have provisions to the contrary. Almost all laws (91%) provided for maximum disclosure and processes to facilitate access, although one law declared as classified documents related to the gathering of information materials on a suspected terrorist organization—a provision that may impinge on individual human rights in general. Less than half (45.5%) had provisions for limited scope of exceptions, including the two Rules on Writs by the Supreme Court. Clear exceptions were provided also by the Anti-Terror Law. More than a quarter (27%) provided for protection of whistleblowers and other witnesses. Less than a fifth (18%) provided for costs, and one (9%) provided for open meetings.

Majority of the Executive and Administrative Orders, Memorandum and Administrative Circulars had provisions for obligation to publish (90%). But obligation to publish was provided for negatively, since almost three quarters (61%) of these did not provide for time for publication but that these orders and circulars were to be “effective immediately.” Other principles reflected by the provisions of most orders and circulars were maximum disclosure (90%) and promotion of open government (90%), although a few (22%) also reflected the latter negatively. More than three quarters (80%) provided for processes to facilitate access, albeit negatively in one memorandum circular. Less than half (40%) listed exceptions, although the exceptions were not always limited in scope. About a third (35%) provided for disclosure taking precedence. Costs were almost not reflected (5%) and protection of whistleblowers and open meetings not, at all.

Results of the study show that the Philippines has a large number of laws and issuances on access to information that provide for many of the features of a Freedom of Information regime. But there has been a difference between the intentions and ideals set forth in the laws and other issuances and the reality that information seekers and custodians face. Access to information and transparency continue to be a burning issue, fueled by the differences in national leaders’ approaches and subsequent differences in the degrees of freedom of information the people have enjoyed under each one.

Agency guidelines, rules, and circulars. Ninety-two (92) policy documents were identified as relevant to information access. The documents ranged from agency policy statements to department circulars/memoranda to administrative/department orders and advisories. In subject and general intent, they could be classified into:

- agency policy statements or agendas;
- rules, guidelines, and instructions;
- descriptions of new organizations/structures;
- technical/services information; and
- information systems/ICT information.

Agency policy statements/agendas made up of only 7% of the policy documents from the agencies/offices. These were collected from the Department of Agrarian Reform, Department of Environment and Natural Resources, Department of Social Welfare and Development. Majority of the policy documents from agencies/offices (43%) were guidelines, rules, and directives. Technical or services information covered specific topics important to the agency's work, or directly dealt on services to the public (20%). Some policy documents (13%) were laws and issuances pertinent to the agencies. Another 13% dealt with information systems and ICT, whereas descriptions of new structures and process were covered by only 4% of the documents. This may indicate the agencies' current focus on developing capacity in ICT-based systems rather than on physical structures and organizations.

Most agency policy documents satisfied the principles of processes to facilitate access (96%) and promotion of open government (93%). They mainly provided for implementation, stating requirements and steps. General statements linked them to higher-level undertakings covered by laws and issuances. About a third (35%) reflected the principle on obligation to publish. Only 17% listed any exceptions; majority did not. Provisions on maximum disclosure were in 15% of the policy documents. Costs were not provided except by 5% of the documents. This is significant, considering that at the implementation level costs are critical. No agency guidelines, rules or circulars provided for three of the nine principles: disclosure taking precedence, open meetings, and protection of whistleblowers.

Access to information in most agencies may not be very different from those in the environment sector, which, in an earlier study, TAI-Philippines assessed as 'lacking in understanding of the public's right to know, having

inadequate and not easily accessible data and storage systems, and lacking in clear and narrow standards for deciding what can be made available to the public, resulting in broad discretions on access to information.' TAI-Philippines reported that the government is not making adequate effort to facilitate access to environment information and not achieving adequate effectiveness, that in most cases government appeared to lack the commitment and systems to provide information that are accessible and comprehensible, and in cases where it had a crucial stake, it withheld information outright or gave it minimally.

Bills. The 59 bills studied dealt on six subjects: right to information (71%); development/ improvement of facilities, structures and systems for public information (22%); journalists' protection and welfare (15%); protection against reprisal, personal data theft, and economic espionage (14%); media coverage (restricting identification of criminals as Muslim or Christian (12%), and right to reply (2%).

In the current (14th) Congress, members of the House of Representatives filed a total of nine bills related to access to information while the Senate members filed five. These were the ones analyzed for their Freedom of Information features in this study.

All the bills (100%) from the House of Representative had provisions for maximum disclosure, promotion of open government, and processes to facilitate access. They provided for structures and systems, for improving information management, and procedures for requesting and complying with requests for information. Almost all (88%) provided for publication of information and limited scope of exceptions that included (a) threat to national security; (b) internal/external defense or law enforcement, (c) protection of privacy; and (d) exemption by other laws. More than three quarters (78%) had a repeal clause, guaranteeing precedence of the law on information access over others. None provided for open meetings or protection of whistleblowers.

All the bills from the Senate (100%) had provisions for maximum disclosure, obligation to publish, promotion of open government, processes to facilitate access, costs, and disclosure taking precedence. Except for one, all the bills (80%) defined their scope of exceptions, differing only in number rather than type of information to be exempted. While no bill provided for the protection of whistleblowers, 40% provided for 'protected parties' and protection especially for members of the press. The only bill (20%) that

had provision for open meetings mentioned dialogue between agency officials and the public.

With increasing awareness and understanding of the people's right to information, Philippine legislators are preparing and filing information access-related bills that satisfy more of the requirements for a Freedom of Information regime as reflected in the 9 Principles of promulgated by ARTICLE 19. Legislators are getting assistance from non-government entities who are equally interested in promoting freedom of information and transparency in the country such as the Access to Information Network (ATIN) and its partner institutions. With their help, legislators are turning out bills that make conscious effort to provide for the shortcomings of existing laws and issuances and safeguard against abuses that their implementation have been prone to.

Conclusions and Recommendations

A number of laws, issuances, and agency guidelines and rules provide access to information and transparency. To some extent they satisfy the 9 principles of Freedom of Information, providing for maximum disclosure of information, an open government, and the processes that facilitate access, and almost always are guaranteed to take precedence over other laws. Most information-related laws provide for adequate means to inform the public through publications and other means of information dissemination, but most of the issuances, particularly those by the Office of the President, provide only for the announcement of their 'immediate effectivity.' Many of the exceptions are not specific enough, thus leaving interpretation to personal judgment. Costs of information access, too, are not specified in many documents, and the concepts of protection for whistleblowers and open meetings are narrowly provided for or not at all.

Despite these deficiencies, the laws and issuances in force should have been adequate to provide for a reasonably liberal information environment. Ordinary people would be reasonably knowledgeable about where and how to get information, and would be able to use it in the various aspects of their lives. Access to information, or the lack of it, would not have been an issue against the government in a reasonably liberal information environment.

Findings of this research tend to confirm the assertions of previous investigations that liberal information environment has not been realized

because access to information and transparency is being pursued through many specific laws and portions of laws with other primary purposes and many established laws and issuances have provisions and mechanisms that work against public access, among other reasons.

Gaps identified. Results of the study indicate a number of gaps in current efforts toward promoting access to information through legislation. Laws and other issuances are inadequate on the aspects listed below, and therefore provisions should be formulated to address them in upcoming bills:

- Development of the country's resources for public domain information should be legislated. This should be provided for even as we intensify efforts to protect intellectual property rights.
- The right to reply is potentially controversial because of its repercussions on media freedom. There is a lack of legislative ideas on how to implement freedom of speech in the spirit of fairness to all concerned.
- Information about information available from government is required by the country's growing number of knowledge workers and other users. Publication and other methods of disseminating these should be made a policy for all government agencies and offices so that all who need information—not just the mass media, academe, and other knowledgeable users—are adequately served.
- Costs remain an intimidating factor in accessing public information, especially for the poor. Policies to democratize costs of information should be put in place.
- Complementation between the right to information and the right to privacy is not fully understood; it is generally assumed that to safeguard people's security, privacy of individuals must be minimized. Legislation is lacking on measures to (a) prepare citizens and organizations against cyber crime by promoting understanding of these crimes and other violations of the right to privacy; (b) deter potential criminals from committing such crimes.

Recommendations. The enactment of a new Freedom of Information Act should lay the groundwork for establishing a Freedom of Information regime. The gaps identified above should be bridged with pertinent policies and measures. But beyond enactment of a Freedom of Information law, the following interventions are recommended to help establish and sustain a Freedom of Information regime in the Philippines:

- Precedence of Freedom of Information Act over all laws must be ensured and safe guarded, so that all laws with provisions inimical to information access are repealed.
- Public awareness of the right to information should be promoted through campaigns and other interventions. Education on the right to know should be made available to citizens in all sectors via different modes and channels.
- Capacity building on information-related competencies including understanding of the access to information mandate of the government should be implemented among officials and employees of service agencies.
- The discourse on Freedom of Information should be kept alive and should expand the meaning of press freedom to include the people's right to know as well as their freedom to express themselves.
- Frequent dialogue should be held between officials of government and various concerned sectors for them to "arrive at a consensus on rules of engagement."
- In the light of increasing incidences of breach of security, identity theft or fraud, and abuses in security investigations abetted by advances in technology, privacy legislation must be prioritized next to information access. Interventions have to be done to help people understand that the right to information and the right to privacy are complementing human rights and that in a true democracy one is not promoted at the expense of the other.

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RESEARCH REPORT

I. Introduction

The right to information and ideas is a fundamental human right, as established by international and national laws. Along with the right to life, liberty, and security, the right to information is guaranteed in the Universal Declaration of Human Rights proclaimed by member-states of the United Nations. Article 19 of that Declaration states:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.”

In support of this declaration, other conventions among countries of the free world have declared their common commitment to promoting the right to information, such as Article 19 of the International Covenant on Civil and Political Rights on Freedom of Information and the Declaration of Principles of the World Summit on Information Society (WSIS) that pledges to “...a common desire and commitment to build a people-centered, inclusive, and development-oriented Information Society where everyone can create, access, utilize, and share information and knowledge, enabling individuals, communities, and peoples to achieve their potential in promoting their sustainable development and improving their quality of life.”

In the Philippines, people’s right to information and transparency in government is guaranteed by the Bill of Rights enshrined in the Philippine Constitution of 1987. First, Section 28 of Article II pledges government transparency in its transactions to the public:

“Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.”

Second, the right of people to access information is guaranteed by Section 7 of Article III:

“The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to limitations as may be provided by law.”

A number of laws, in essence, facilitate public access to information in the custody or control of government agencies, offices, and institutions. Foremost of these laws are Republic Act 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, that provides for transparency of transactions and access to information; the Local Government Code, recognizing that people’s right to information is essential to their participation in the policy- and decision-making process of government; and Executive Order 89 series of 1993, which seeks to implement a policy of accessibility and transparency in government by directing its agencies to formulate procedures for responding to requests for government data and information.

A 2001 survey on accessibility of information to the public showed the Philippines to have the most liberal information regime in Southeast Asia. (*Teodoro and Kabatay, 2006*). This would seem to be a straightforward indication that the Filipino citizen’s right to information was being respected and exercised. Yet the Philippine government is currently at the receiving end of criticisms about the lack of information access and demands for transparency in its dealings.

Why is this so? Two representatives of the Philippine House of Congress, Rep. Lorenzo R. Tanada III and Rep. Del R. de Guzman opine that despite the Constitutional guarantee and the judicial affirmation of the right to information, denial of access to government information remains widespread. They mention the long-standing problems identified by the Access to Information Network, such as the following: (*ATIN Reports, 2006*)

- Absence of a uniform, simple, and speedy access procedure;
- Access remaining discretionary in practice, although in legal theory there should be no discretion in giving access to information;

- Still untested if not insufficient basis for sanctions against violations;
- Remedy to compel disclosure of information remaining inaccessible to the general public;
- Very poor state of the government's record-keeping systems;
- Very low level of bureaucratic commitment to openness; and
- Excessive cost of access to certain information.

“There is a gap between what the government signs up to, showing its intent, and what it actually implements,” concluded researchers of TAI-Philippines (The Access Initiative-Philippines) who conducted an independent assessment of 16 case studies on access to information on environmental decision-making. In assessing the legal framework on access to information on environment, the team pointed out that the constitutional guarantee for access to information does not have a corresponding enabling law to enforce it. While the guarantee is explicit, the scope and extent of the “information” and “transactions” are not clearly defined; neither are the obligations and limitations associated with the exercise of this right specified. Consequently, enormous loopholes exist in the policies that were meant to provide for public access to information on environment.

These loopholes can be exploited for various vested interests. According to TAI-Philippines, the many restrictions imposed by the implementing rules and regulations of R.A. 6713 can be used to deny any kind of access to environmental information. The enormous leeway given to government officials in classifying information as restricted can lead to arbitrary decisions on access. And the threat of grave punishment on officials who divulge information that should otherwise be restricted could deter free and full access by the public.

With good reason, several sectors are convinced that the deplorable state of information access and government transparency “is wrecking havoc on the Philippine economy and eroding the people’s trust in their government.” Calls have been pitched for those in the current government to divulge information and knowledge that are clearly of public interest. Private individuals who felt their right to information had been violated, whistle-blowers and witnesses, cause-oriented groups, the religious, the academe, opposition leaders, and even individual members of the silent majority have expressed various levels of concern or indignation over the perceived disregard for this fundamental human right and are criticizing high government officials for it.

Beyond criticisms and accusations, calls for change are also being heard — change toward transparent governance that provides for and safeguards the people’s right to know and be informed; change toward making the “most liberal information regime in Southeast Asia” a reality to the Filipino public.

A step toward this change is to understand what has been done so far to further the cause of information access and transparency. Access to information is a principle that provides that government information should be available to the public. (*Office of the Information Commissioner - Canada, 2008*). Transparency is an essential democratic practice that allows citizens to see openly into the actions of their government. (*de Vera, 2007*).

The legal framework of the right to information access needs to be examined beyond the broad guarantees of the Philippine Constitution and other declarations of general intent. What are the policies that guide public access to information? What do they contain? How do they fare as instruments for establishing a Freedom of Information (FOI) regime? How can they be improved?

II. Rationale and Objectives

This study on Policies on Information Access and Transparency was conducted by the Asian Institute of Journalism and Communication (AIJC) for UNESCO to inventory and analyze policies on transparency and public access to information formulated and implemented by government. Such policies constitute the legal framework for public access to information in the custody or control of government through its agencies, offices, and instrumentalities. They are contained in the following three types of policy documents that were the subjects of this study:

1. Laws and other issuances that have the force of law (i.e., rules on writs, executive/administrative orders, circulars)
2. Agency guidelines, rules, and circulars that guide agencies of government in the conduct of their responsibilities related to public access to information
3. Bills in process to becoming laws at either Houses of the Philippine Congress.

Specifically, the study sought to answer the following questions:

1. What laws/issuances and agency rules or guidelines relevant to information access are presently in force in the Philippines? What bills seeking to establish policies on information access have been filed and are in the process of becoming laws? What are their major provisions?
2. How do these laws, rules, and bills promote Article 19 of the Universal Declaration of Human Rights, as indicated by their inclusion of the nine Principles of a Freedom of Information (FOI) regime?
3. Which of the nine Principles do these policies affirm? Which do they not affirm?
4. To establish an FOI regime, what measures can we recommend to:
 - a) help government improve public access to information?
 - b) empower the people to enjoy their right to public information, as mandated by law and government service policy?

III. Methodology

Document collection and supplementary interview

Copies of policy documents on public access to information were solicited from about 30 agencies and offices of the Executive, Judicial, and Legislative branches of the Philippine government. To supplement information contained in the policy documents, interviews also were requested from the agencies' officer/s mainly responsible for facilitating public access to information.

Subject analysis of policy documents

The subjects of the policy documents studied were analyzed and clustered. The subject clusters that emerged and their scope were used as framework for subject analysis. The documents' contents were analyzed and certain gaps identified.

Analysis of Freedom of Information (FOI) features of policies

Policy documents were analyzed based on the Principles on Freedom of Information Legislation set forth by Article 19. (*Mendel, 2008*) These Principles specify the standards which, Mendel said, should underpin right to information legislation aimed at promoting and safeguarding the people's right to information as embodied in Article 19 of the Universal Declaration of Human Rights. (*UN General Assembly, 1948*) Matrices of the provisions of the laws/issuances, guidelines/rules, or bills were constructed using the following Principles of an FOI Regime specified by Article 19 (Details in **Appendix 1**):

- **Principle 1: Maximum disclosure** -- Freedom of Information legislation presumes that all information held by public entities should be subject to disclosure unless there is an overriding risk of harm to a legitimate interest.
- **Principle 2: Obligation to publish** -- Beyond acceding to requests for information, public entities have an obligation to actively publish and disseminate key categories of information.
- **Principle 3: Promotion of open government** -- Governments must be encouraged toward a culture of openness and the general public made aware of their rights and how to exercise them.
- **Principle 4: Limited scope of exceptions** -- Exceptions should be clearly and narrowly drawn and subject to strict tests of "harm" and "public interest."
- **Principle 5: Process to facilitate access** -- A freedom of information law must stipulate clear processes for deciding upon requests by public entities, as well as a system for independent review of their decisions.
- **Principle 6: Costs** -- Individuals should not be deterred from making requests for information by excessive costs.
- **Principle 7: Open meetings** -- Meetings of public entities should be open to the public.

- **Principle 8: Disclosure takes precedence** -- Laws that are inconsistent with the principle of maximum disclosure should be amended or repealed.
- **Principle 9: Protection for whistleblowers** -- A freedom of information law should protect individuals against any legal, administrative, or employment-related sanctions for releasing information on wrongdoing.

IV. Results and Discussion

A total of one hundred and eighty-two (182) policy documents relevant to access to information and transparency were analyzed. These consisted of eleven (11) laws and rules on writs, twenty (20) other issuances, ninety-two (92) guidelines and circulars of agencies, and fifty-nine (59) bills filed with the Philippine Congress. These documents were solicited from 29 government agencies in Metro Manila, including the Philippine Senate, House of Representatives, and the Supreme Court. Analysis of these policy documents was done to get a picture of information access in the country, since the laws, issuances, and agency guidelines determine how government officials and employees respond to requests for information from the public or facilitate information dissemination, and the bills reflect the intentions of the legislators and may become part of the country's system of laws in the future.

The laws were primarily Republic Acts passed by the Philippine Legislature, majority of them enacted in the last 30 years. Two Rules on writs promulgated by the Supreme Court were added to this category of documents. The issuances, which also have the power of law, were executive and administrative orders and memorandum circulars issued by the Office of the President; and one issued by the Supreme Court.

The guidelines, rules, and orders represented the government agencies' policies with regard to access to information. While their policies were derived from laws and issuances of higher offices such as Republic Acts and Executive and Administrative Orders from the Office of the President, the agencies' interpretation of their role and responsibility in relation to information in their custody is vital because it will determine the level of information access (or non-access) they will allow the public. A total of 92 policy statements, guidelines, rules, orders, and circulars on information access or with implications of such were analyzed in the study.

The bills were collected from the 13th Congress and early part of the 14th Congress of the Philippine Senate and House of Representatives. In the search for bills relevant to information access and transparency, the researchers identified 59 documents—18 with the House and 41 with the Senate—as relating to information access and transparency. These documents comprised the draft bills analyzed initially. The Committees on Public Information of the House of Representatives and the Senate have since narrowed down their respective freedom of information (FOI) bills to nine of the House and five of the Senate. Thus, the analysis of the bills for FOI features was focused on these different versions of the would-be Freedom of Information Act of 2008.

The process by which the information and data on the information access policies were collected or not collected from the government entities can be, by itself, a documentation of the way the public can access information from these entities—from acknowledgment of the request to follow-ups to referrals, etc. Of the 29 agencies and offices contacted, 25 or 83 percent acknowledged the request in writing or by telephone. Ten (10) or 35 percent agreed to interviews of their officials with information access responsibility. Number of follow-ups ranged from 3 to 12. Five (5) or 17 percent did not acknowledge the researchers' request. **Table 1** summarizes the research team's transactions with the government agencies and other offices.

Table 1. Summary of researchers' transactions with government entities requested to participate in Information Policy Research, 2007-2008.

	Government Agency/Office	Info Sources Provided	Interviewee	Number of Follow ups Made
Executive				
1	Department of Agrarian Reform	Documents on website; agricultural law book; Interview	Dir. Hugo D. Yonzon III, Public Affair Staff	3
2	Department of Agriculture	Document on website; Interview	Dr. Felimon F. Barral, OIC Dir., Agriculture and Fisheries Information Service (AFIS)	3
3	Department of Budget and Management	Documents in hardcopy; Interview	Dir. Fe Verzosa-Ico, Training and Information Service	4
4	Department of Education	Documents in hardcopy		9
5	Department of Energy	Documents on website		5
6	Department of Environment and Natural Resources	Documents in hardcopy; Interviews	Ms. Corazon M. Camat , OIC-Chief, Records Management and Documentation Division Ms. Ruby Buen, Asst. Division Chief, Policy Studies Div., Planning and Policy Office	3

	Government Agency/Office	Info Sources Provided	Interviewee	Number of Follow ups Made
7	Department of Foreign Affairs	Documents in hardcopy; Interview	Amb. Claro S. Cristobal, Spokesperson and Head, Public Information and Services Unit (PISU)	3
8	Department of Interior and Local Government	Documents on website		6
9	Department of Health	Documents in hardcopy		6
10	Department of Labor and Employment	Documents in hardcopy		2
11	Department of National Defense	Document titles but all confidential ; Interview	Col. Joselito E. Kakilala, PA Military Asst. for Public Affairs	2
12	National Economic Development Authority	Documents in hardcopy; Interview	Dir. Benjamin Turiano, OIC Director, Development Information Staff	9
13	Department of Social and Welfare Development	Documents in hardcopy		4
14	Department of Trade and Industry	Document on website		2

1

Laws and Other Issuances Relevant to Information Access



Laws and Other Issuances Relevant to Information Access

Thirty-one (31) laws and other issuances seen relevant to information access in the last two to three decades were analyzed. Primarily these included laws and issuances since the Philippine Constitution was promulgated in 1987 and one 40-year-old issuance still being used as basis for subsequent issuances on access to government information to this day. This group of policy documents consisted of the following:

- 9 Republic Acts or laws passed by the Philippine Congress;
- 2 Rules on Writs and 1 Administrative Circular issued by the Philippine Supreme Court;
- 11 Executive Orders, 5 Administrative Orders, and 3 Memorandum Circulars issued by the Office of the President.

A matrix of information-related laws and other issuances is presented in **Appendix Table 2**, which lists the provisions that correspond to each of the nine features of a Freedom of Information Regime. The full texts, of two Acts and one Executive Order mentioned in documents as relevant to information access could not be retrieved and so were not included in the analysis.

A. Subject analysis of laws and other issuances

The laws and other issuances covered different aspects of information access. The Republic Acts analyzed provided for mainly enhancing public access to information and protecting the people against different kinds of dangers (RA 9372, RA 8484, RA 8042, RA 6713). Most controversial of these Acts is the Anti-Terror Law (RA 9372), which legalizes surveillance of suspected terrorist groups by law enforcers with permission from the Courts. On the other hand, the Code of Conduct and Ethical Standards for Public Officials and Employees (RA 6713) has been widely invoked in information access issues because of its provisions for public officials and employees to be responsive to the needs of the public and to ensure openness of information. Other Acts sought to improve government

systems through application of information technology (RA 9184, RA 8792). Improving information reporting and penalizing reporting of false information were provided by three other Acts (RA 7653, RA 708, RA 9194).

The policy documents by the Philippine Supreme Court provided the Rules on two new writs for the protection of people: the Writs of *Amparo* and *Habeas Data* (AM 07-9-12 SC, AM 08-1-16 SC). The two writs were promulgated by the Supreme Court in late 2007 and early 2008 respectively to protect the constitutional rights of people to life and privacy from abuse by public or private individuals or organizations.

Executive Orders 662, 656, 511, 348 were about enhancing public information and transparency of government. EOs 608, 301, and 89 sought to improve information management and dissemination by government, while EO 40, EO 7, and EO 9 wanted to improve information access through automation systems and information technology. One highly controversial EO (EO 464) aimed to “protect the rights of public officials in Legislative hearings” through executive privilege. It was repealed in March 2008.

Administrative Orders issued by the Office of the President were about the improvement of information management in government offices through automation or application of information technology (AO 170, 332, and 175), and one (AO 181) was to ensure coordination between agencies concerned with the investigation and prosecution of the killing of journalists. The Memorandum Circulars issued by the same office dealt on improving information access to the public by publishing service guides and posting workflow charts (MC 35) and improving government information management, particularly in securing classified matter (MC 78). An MC that was seen as in the same league as EO 464 is MC 108, which requires “All heads of departments of the Executive branch to secure the consent of the President prior to appearing at a question hour” of the Legislative branch.

An Administrative Circular also by the Supreme Court (AC 2-2006) provided for the creation of a Task Force to develop the disclosure policy for the Court.

B. Analysis of Freedom of Information features of laws and issuances

Laws and Rules on Writs

Laws here refer to Congressional acts that the citizens of the country recognize as binding on them. Writs are court orders for someone to do or stop doing something. Rules on how to obtain and execute writs are promulgated by the Supreme Court. Nine (9) information access-related laws and two (2) rules on writs—the Writ of *Amparo* and Writ of *Habeas Data*—were analyzed for their FOI features (**Appendix Table 2**).

Obligation to publish. All (100%) of the laws and writs contained provisions on obligation to publish. Majority provided for an effective date, e.g., “15 d after publication in the Official Gazette or in at least two national newspapers of general circulation.” RA 9372, the Anti-Terror Law, went as far as providing for publication “in three national newspapers of general circulation, three newspapers of local circulation in Ilocos Norte, Baguio City, and Pampanga (Luzon); three each in Cebu, Tacloban, and Iloilo (Visayas), and one each in Cagayan de Oro, Davao, and General Santos City (Mindanao).” It also provided that the title and provisions of the Act “be aired frequently on radio and TV in the dominant language of the country.” A few other laws mentioned other forms of publication such as official releases (RA 9184) and monthly balance sheets (RA 7653). No law or rule on writs reflected the principle negatively.

Promotion of open government. All the laws and rules (100%) provided for promotion of an open government. Establishing information systems and infrastructures, promoting use of ICT in government transactions, and recognizing and regulating e-transactions were the intents of at least three acts (RA 9184, RA 8792, RA 8484). Protecting the privacy of individuals from information-related crimes was an objective of AM-08-1-16 SC, the Rule on the Writ of *Habeas Data*.

One particular act, RA 9372, contained provisions deemed negative to the promotion of an open government. It provided for no limits to the exercise of the Constitutional power of the Executive branch to protect the people against terrorism.

Invoking the Constitutional powers of the Executive branch above all considerations and person-based granting of executive privilege run counter

to the conditions of the principle of promoting an open government, which include the condition that the legitimacy of refusal to access a piece of information should be based on its posing a real risk of serious harm to national interest, etc. The threat of administrative or criminal prosecution can effectively deter any desire of a government official or employee to disclose any information at all. Such provisions can perpetuate a culture of secrecy in government and, consequently, to failure in promoting an open government.

Maximum disclosure. Almost all (91%) of the acts and rules on writs started with a policy statement pledging to recognize and promote transparency and public access to information (RA 8042), improve government performance (RA 9184, RA 7653), and protect the people from terrorism, money laundering, and abuses in e-transactions (RA 9372, RA 9194, RA 8792, RA 8484). They provided for the involvement of many government agencies, offices, and sectors.

Processes to facilitate access. All laws and rules except one (91%) provided for processes for accessing information under the custody or control of government. They listed the steps or described the components of the process involved. Majority of the processes, however, prescribed steps or activities from the viewpoint of government officials and employees rather than that of the public.

One law contained provisions seen as contrary to the principle of providing processes to facilitate access to information. One such provision declares as classified the original application for gathering information materials on a suspected terrorist organization and the authorization by the Anti-Terrorism Council (RA 9372). This statement opens venues for abuse by law enforcers with vested interest and invites suspicion of manipulation among the public.

Disclosure takes precedence. Provisions for precedence of the law over previous laws or other issuances were in all (100%) of the acts studied. They were in the standard repeal clause stipulating that all issuances inconsistent with the provisions of the particular law have been repealed, amended, or modified accordingly by its passage or approval. As a provision of a law that promoted information access and transparency, this clause technically repealed or modified provisions of previous laws and issuances inconsistent with information access and transparency. By the same token, as a provision of a law or issuance that hindered information access

and transparency, it repealed or modified previous laws or issuances inconsistent with the information-stifling provisions of the current law.

Limited scope of exceptions. Less than half (45.5%) of the laws and rules had provisions for limited scope of exceptions. The two Supreme Court rules on the Writs of *Amparo* and *Habeas Data* (AM 08-12-16 SC, AM 07-9-12 SC) specified the type of information that should be heard in chambers: information that, when released to the public, shall compromise national security or trade secrets and privileged information. RA 9372, meanwhile, clearly provided for exemption from surveillance communication between lawyers and their clients, doctors and their patients, journalists and their sources, and confidential business correspondence. Majority of the laws, however, did not list exceptions at all.

Protection of whistleblowers. A small proportion (27%) of the laws and rules provided for the protection of sources of information about wrongdoing such as whistleblowers, witnesses, and protected parties. The provisions were contained in the Rules for the Writ of *Amparo* issued by the Supreme Court and the Anti-Terror Law, both of which provided that the Court concerned may refer the witness to the Witness Protection Security and Benefit Program (AM 07-9-12 SC, RA 9372). The Migrant Workers' Act of 1995 likewise guaranteed that victims of illegal recruitment shall be placed under the Witness Protection Security and Benefit Program (RA 8042).

Costs. Less than a fifth (18%) of the laws and rules had provisions that correspond to the principle of costs of information access. All of them, however categorically stipulated that individuals should not be deterred from seeking information by excessive costs. The Rules of the Writs of *Amparo* and *Habeas Data* exempted all or indigent petitioners from paying docket fees (AM 07-9-12 SC, AM 08-1-16 SC). None of the laws or Republic Acts provided for costs of information access.

Open meetings. Mendel (2008) qualified that the principle of open meetings is not usually covered in FOI laws. This was reflected in the current study, where open meetings were provided by one (9%) of the 31 laws and rules examined. The Code of Conduct and Ethical Standards for Public Officials and Employees promulgated in 1989 by then President Corazon Aquino has long been quoted in defense of the existence of public access to information in government, since it requires public officials and employees to “provide prompt, courteous, and adequate service to the public... provide information on their policies and procedures and ensure

openness of information.” The Code states that standard responsiveness to the public directs public officials and employees to, among others, (hold) “public consultations and hearings whenever appropriate.” (RA 6713).

Other Issuances

Issuances refer to promulgations put into effect by official proclamation. These are executive or administrative orders, memorandum or administrative circulars, and directives issued primarily by the Office of the President. They are decisions and directives for official compliance and have the force of law (**Appendix Table 2**).

Obligation to publish. Analysis of 20 issuances indicated that almost all (90%) provided for the FOI principle on obligation to publish. Majority (61%) of these issuances, however, had provisions contrary to the FOI principle, since they provided for their immediate effectivity. This provision implies implementation of the issuances without informing the public of their contents and without giving people time to ask questions or give feedback. These issuances carry the force of law; they do not concern just a few officials and employees of government but several public sectors throughout the country, and therefore should be publicized well before they take effect.

The few provisions seen to be supportive of the obligation to publish (39%) were about posting procurement reports on the government website (EO 662) and publishing service guides and posting of workflow charts by government service agencies (MC 35), among others.

Maximum disclosure. Almost all (90%) contained provisions for maximum disclosure. Most (78%) started with a policy statement pledging to recognize and promote transparency and public access to information. They also had broad definitions of information and provided for the involvement of many agencies, offices, and sectors.

On the other hand, provisions negative to the principle of maximum disclosure were observed in about a fifth (22%) of the issuances, all of which were by the Office of the President. These Executive and Administrative Orders and Memorandum Circulars sought to protect and ensure the integrity of classified or sensitive materials (EO 608 and MC 78) or gave broad and seamless prerogative to the President and senior officials of the Executive branch in granting executive privilege (EO 464).

Coordinating release of information on government policies, programs, and achievements by creating an Office of the Communications Director (EO 348) and requiring the reporting of RPWEB accomplishments to the Office of the President (EO 9) are but bureaucratic procedures to improve efficiency, but these provisions may also be used to control rather than promote public access to information.

Promoting an open government. Almost all of the issuances (90%) had provisions that corresponded with the principle of promoting an open government. More than three quarters (77%) provided for greater transparency in government operations and transactions, the creation and modernization of structures and systems to improve information management and promote greater public access, and specific penalties for information-related violations. Establishing information systems and infrastructures and promoting use of information technologies were provided for by six information-related issuances from 1995 to 2007: AO 170, EO 40, EO 35, AO 332, EO 9, AO 175.

Rationalization, reorganization, and improving security of government information were among the provisions of issuances since 2004. Some mandated collaboration among government agencies, while others delineated specific information-related responsibilities. EO 348 created a supra unit, the Office of Communications Director, and moved the supervision of the National Printing Office (NPO) to the Philippine Information Agency (PIA) to systematize, rationalize, and improve team work among the Office of the Press Secretary (OPS), PIA, and other communication and information offices in the Executive branch. While it may improve efficiency of operations, centralizing decision-making and responsibility for communication can potentially create barriers to public access to information.

A few issuances (22%) had provisions deemed negative to promotion of an open government. These included provisions for integration and rationalization of public information functions of the Executive branch (EO 511 and EO 348); covering with executive privilege all conversations and correspondence between the President and privileged officials, placing these in the same category as military and diplomatic matters, information between agencies prior to the conclusion of treaties, and discussions in Cabinet meetings and matters affecting national security and public order (EO 464); and administrative sanctions and criminal prosecution as consequences for violating the security of classified matter (MC 78).

Processes to facilitate access. A slightly lower number of issuances (80%) provided for processes for accessing information under the custody or control of government. Most of these (75%) listed the tasks and the units to be involved. Some gave agencies and other offices the freedom to develop their own information-related procedures, such as to “formulate procedures for the public to obtain access and for responding to requests for information” (EO 89) or to “dispose of their valueless records subject to audit rules and to standards and guidelines set by the Records Management and Archives Office” (EO 301).

Nevertheless, the classification of matter that needs to be protected in the interest of national security (MC 78) and increased integration of government information units through the Office of the Communications Director (EO 348) run counter to the principle of providing processes for facilitating access. Having different categories of restricted information with different security measures to observe can render the task of information handling more complicated for government officials and employees and can lead many of them to err on the side of caution when facilitating access to information. On the other hand, greater integration of government information units could lead to greater centralization and control of information access.

Limited scope of exceptions. Less than half (40%) of the issuances had provisions on the scope of exceptions from coverage. A few provided for a clearly limited scope of exceptions, such as the requirement to use the G-EPS (Government Electronic Procurement System) in procuring goods and services, which exempts contracts funded by international financing institutions and bilateral and other foreign sources (EO 40), and EO 301 which listed clearly the kind of supplies and suppliers exempted from public bidding. AC 2-2006, which was issued by the Supreme Court, succinctly described information exempted from its disclosure policy.

Nevertheless, one issuance (4%) had a provision seen to be vague in its boundaries. This was the exception from the requirement to post the names and designations of officials/employees of service agencies “where confidentiality is required” (MC 35), which does not provide for or refer to the basis for requiring confidentiality and leaves the discretion to the officials of that agency. This way, the public can lose out on information that they might need to fix accountability. Moreover, orders that have stirred transparency issues did not list any exceptions from their wide-ranging coverage. These were EO 464 and EO 108 that covered many types of information and officials in executive privilege and sought Presidential

consent for officials of the Executive branch to appear before a Legislative inquiry.

Disclosure takes precedence. Provisions for precedence of the issuance over previous laws and issuances were in about a third (35%) of the issuances studied. They were in the standard repeal clause stipulating that all issuances inconsistent with the provisions of the particular law or issuance have been repealed, amended, or modified accordingly by its passage or approval. Such a provision can establish precedence for an issuance that promotes or suppresses FOI.

Costs. Only one (5%) of the issuances had provisions that correspond to the principle of costs of information access. MC 35 issued by the Office of the President provided that the service guide to be published for people seeking services from government agencies shall “state the fees and their legal bases.” None of the Executive or Administrative Orders provided for costs of information access.

Protection of whistleblowers; Open meetings. No orders, circulars or memoranda provided for protection of whistleblowers or open meetings. Since the issuances were primarily for official compliance, their formulators may have failed to see the relevance of these two features. Nevertheless, public officials and employees will carry out the decisions and directives in these issuances with public sectors and individuals; in a truly liberal regime, the protection of whistleblowers when exposing a wrongdoing and the public’s understanding of democratic processes should be guaranteed.

Table 2 shows that the Philippines has several laws and issuances on access to information—one reason a comparative review by the Southeast Asian Press Alliance in 2002 found the country to be one of the most open information regimes in Asia even without a formal Freedom of Information law.

Why, then, is access to information and transparency a burning issue? The perceptions of individuals who have the pulse of the information-accessing public would explain the difference between the ideals reflected in our laws and issuances and the reality that information seekers and custodians face.

In his article in the PJR Reports (March 2008) titled “A Kind of Hush,” Don Carreon described the phases that access to information went through in

the recent history of the Philippines. With additional inputs from the current research, the timeline may be presented thus:

- 1964 – President Diosdado Macapagal issued MC 78, which laid down the guidelines for the classification of information into restricted, confidential, secret, and top secret information.
- 1968 – President Ferdinand Marcos amended MC 78 by issuing MC 196, which added other security measures in handling classified information.
- 1984 – President Marcos again invoked MC 78 in Letter of Instruction 1420, which reiterated that government personnel who reveal classified information to the public or the media would be penalized. ATIN made the observation that LOI 1420 “was a measure to further constrict information at a time when the challenge to the Marcos dictatorship was gaining momentum.”
- 1987 – President Corazon Aquino issued EO 301 decentralizing actions on government records disposal
- 1989 – President Aquino signed into law RA 6713, establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, which provided that such officials and employees be responsive to the public, inform the public of government policies and procedures, and ensure openness of information.
- 2005 – President Gloria Macapagal-Arroyo issued EO 464, which prevented Cabinet officials from appearing before inquiries in Congress without her permission.
- 2007 – President Macapagal-Arroyo signed the Anti-Terror Law (RA 9372) providing that law enforcers may listen to, intercept, or record spoken or written words among members of declared terrorist organizations.
- 2007 – President Macapagal-Arroyo issued EO 608 establishing a national security clearance system for government personnel with access to classified information. The big difference between the security clearance system alluded to in LOI 1420 and EO

608, it was observed, is that while LOI 1420 was limited to the defense and foreign affairs establishments, EO 608 covers the entire bureaucracy. “EO 608 was a step backward for the advocacy of right to information,” said Vincent Lazatin, president of Transparency and Accountability Network (TAN). But Fe Zamora, editor of the Philippine Daily Inquirer, observed that EO 608 is just another challenge for journalists to dig deeper and work harder in cultivating sources. “It’s just another hurdle, but what else is new?”

- 2008 –President Macapagal-Arroyo issued MC 108 after the Supreme Court struck down EO 464 for infringing on the people’s right to know and on the Legislature’s power of inquiry. MC 108, according to Carreon, is “basically EO 464 with a different name as it gave the President the discretion to identify which inquiries are in aid of legislation and therefore should be attended by Cabinet officials.”

In its recent history, therefore, the Filipino nation has gone through ups and downs as far as freedom of information is concerned. The people’s freedom of information has been determined by the leadership.

Newsbreak managing editor Glenda Gloria said she wanted to give the current government the benefit of the doubt about national security clearance systems, because other countries with mature democracies also have them. “*But since it will be implemented in the Philippines with its weak and politicized institutions, it may be open to abuse,*” she said. She cited as example that of over-classification: “In the military, even the daily news clippings gathered by their public information officers is marked ‘Confidential.’” (*PJR Reports, March 2008*).

“The recent ruling of the Supreme Court on the ‘Garci tapes’ is a significant step in support of press freedom,” said Dr. Florangel Rosario-Braid. The case was filed by former Solicitor General Frank Chavez against the Philippine Department of Justice and the National Telecommunications Commission which warned media not to air the controversial “Garci tapes,” the wiretapped recordings of conversations among particular politicians and then Commissioner of the Commission on Elections Virgilio Garcillano. (The tapes were generally perceived as indications of massive cheating in the 2004 presidential elections.) Chavez had charged that the warning constituted “prior restraint,” which is unconstitutional. “The ruling (in favor

of Chavez) upholds the public's right to know.” said Braid (*Manila Bulletin*, 27 February 2008).

“In the NBN-ZTE scam, official obfuscation reached new heights,” declared Jarius Bondoc in his column Gotcha (*Philippine Star*, 07 April 2008). The National Broadband Network was a multi-million dollar project that would have linked all government offices in the country but developed into a high-level scandal due to suspicions of corruption at the highest level. Bondoc listed the following efforts of the Arroyo administration to confuse (and conceal information):

- First, officials of the Department of Transportation and Communication (DOTC) kept quiet about a US\$330-M deal.
- Then, they said they could not show the contract because the only copies were stolen from their hotel room in China.
- When journalists and telecom competitors pressed for disclosure of the documents, the officials tried to link them with the “theft.”
- They had an anti-graft researcher fired, whistleblowers wiretapped, and journalists intimidated.
- In investigations done by the Senate, the entire Cabinet joined the cover-up, invoking EO 464 or blatantly lying under oath.
- Witnesses were kidnapped or slurred by propagandists.
- They got justices to declare that a President's executive privilege outweighs the people's right to know.
- Because of that ruling, Malacañang (the Executive office) said it would no longer send executive officials to Senate inquiries.

“Obviously, it had more things to hide...Malacanang cannot allow such probe and be made accountable,” Bondoc concluded.

2

Agency Guidelines, Rules, and Orders/Circulars



Agency Guidelines, Rules, and Orders/ Circulars

The government agencies contacted were primarily service agencies under the Executive branch. Government agencies are custodians, channels, and generators of a variety of technical information relevant to the services they render to the public. They have their respective client-publics to whom they are an important source of technical and facilitative information and control.

For instance, the Department of Environment and Natural Resources (DENR) is a research information source on the environment, forest, and fisheries resources for students, environmental scientists, and policy makers on the environment. It also approves land use and issues permits to business people looking to develop the country's coastal, marine, mineral, and forest resources. The Department of Foreign Affairs (DFA) represents the Philippine government in other countries. It assists Filipinos who want to leave for another country and stay away for a period or for good, as well as non-Filipinos of good standing who want to come and stay in the Philippines for a period or for good. Thus, it is custodian of a huge amount of information about the international relations of government, as well as information to support the international activities of Filipinos in business, tourism, education, technology, etc. and of information required by non-Filipinos who desire to live, work, do business, or simply visit the Philippines.

Like the DENR and DFA, the other agencies contacted, such as the Departments of Labor and Employment, National Defense, Science and Technology, the National Economic Development Authority, National Computer Center, etc. have their respective areas of operation, mandates, and consequent responsibilities to facilitate information access among its publics. These responsibilities are derived from higher laws and issuances but implemented according to policies, guidelines, and rules of implementation that agencies have formulated.

Ninety-two (92) policy documents had been identified as relevant to information access by the agency contact persons and the researchers. Four (4) of these, however, were classified National Defense material, and therefore the whole text could not be released; these were not included in the analysis.

A. Subject analysis of agency guidelines, rules, and circulars

- The policy documents were classified as follows, based on their general subject and intent:
- Agency policy or agenda
- Rules, guidelines, directives/instructions
- New organizations/structures
- Technical/Services information
- Laws/Issuances, their amendment or repeal
- Information systems/Information and communications technology

The policy documents were in various formats, such as policy statements/agendas, department circulars/memoranda, memorandum circulars/orders, administrative/ department orders, office circulars/ orders, or advisories on a specific subject (**Appendix Table 3**).

Agency policy/agenda. Less than a tenth (7%) of the policy documents from agencies were statements of their policy or agenda on information access dissemination. They included the Department of Agrarian Reform's national transparency and accountability agenda, the subject of its MC 05, series of 2003; the Department of Environment and Natural Resources' policy on the release or disclosure of information (AO 97-24); and the Department of Social Welfare and Development's policies for media coverage of victims of abuse and exploitation. An agency's policy statement or agenda can be the most all-encompassing statement of its commitment to information access. It expresses the agency's values, governs its priorities, and guides the manner by which it will implement its information-related tasks. The fact that very few of the agencies have such a statement or very few officials and employees knew enough to refer to it could be a hindrance to the promotion of information access at the agency level.

Guidelines, rules, directives. Almost half (43%) of the policy documents from the agencies and offices were rules and guidelines containing instructions. They ranged from guidelines on conducting job fairs and providing security for Overseas Filipino Workers in war-torn areas issued

by the Department of Labor and Employment (DOLE) to directives on monitoring the Executive Legislative Agenda by the Department of the Interior and Local Governments (DILG); from responding to all communication requests from the public issued by the National Telecommunications Commission (NTC) to classifying, reproducing, transmitting, storing, releasing, and destroying documents by the National Economic Development Authority (NEDA).

Technical/Services information. Information on technical content and those describing services made up the next biggest group of agency documents (20%). Majority of these bore information important to employees in the conduct of their work, such as the advisory on advanced fee fraud perpetuated on the Internet issued by the Central Bank and that on hazardous work for workers under 18 years by DOLE. The content of almost half of these documents were on control of information, such as measures to uphold the integrity and confidentiality of information by the Department of Agrarian Reform (DAR) and that by NTC on document and data control in their Quality Standard System manual. Less than a fifth (18%) described directly services to the public, such as DOLE's department orders on the seafarers' one-stop processing center and the training for household workers bound for Saudi Arabia.

Laws/Issuances. Full texts and other information on laws and issuances relevant to the agency's operations were part of the information available primarily for its officials and staff members. These issuances included RA 8239 or the Passport Act of 1996 available at the Department of Foreign Affairs and the National Computer Center's MC 2004-01 which repealed MC 99-02 prescribing guidelines for IT resource acquisition in government. Such documents made up 13% of the policy documents from agencies.

Information systems/ Information and communications technology (ICT). Another 13% consisted of official information on ICT. This development may be explained by the current interest of government to improve their operations through automation and ICT. Among the documents found on this subject were a department order issued by the Department of Education (DepEd) on the Philippine Government Electronic Procurement System or Phil/GEPS, which was the subject of EO 40 issued by the Office of the President for compliance by all government departments and agencies. Another information was a department order by the Department of Trade and Industry on the protection of personal data in information and communication systems in the private sector.

New structures/ processes. The smallest number of policy documents from the agencies (4%) contained information on new structures organized or processes established related to information. These issuances referred to the organization of actual structures such as DSWD's National Reintegration Center for Filipino Workers (DO 79-07, series 2007) or the prescribed practice and procedure for inquiry, investigation, study, etc. at the Department of Energy (DC 2002-07-004). The establishment of structures and processes related to information in an agency is vital to sustaining practices in information access. Their small number compared with documents on information systems may indicate the agencies' current focus on developing capacity in ICT-based systems rather than on physical structures and organizations.

B. Analysis of Freedom of Information features of agency policy documents

Processes to facilitate access; Promotion of open government. These two features were supported by majority of the policy documents from agencies (96% and 93%, respectively). At the level of the agencies, implementation is the main focus; thus department orders and memoranda contained requirements and steps in the actual processes rather than where and how such information may be accessed. General statements introduced these processes, mentioning the goals of these processes, and what groups will benefit or qualify. Such statements linked the particular activity to a higher-level undertaking often covered by a law or other issuances.

Obligation to publish. A third (35%) of the policy documents provided for the agency's obligation to publish the circular or order, most of them quoting the standard "publication in 2 newspapers of general circulation" or in the Official Gazette. A few, though, mentioned other ways of publishing, such as multimedia, infolink, and annual reports. Moreover, some provisions have been noted that may be considered negative to the principle of obligation to publish. These are the DOLE's proviso that no press release should be made about a job fair without proper clearance from the DOLE Regional Office (DOLE DO 2 series of 2001) and NEDA's prohibiting public dissemination of its memorandum on the guidelines in the classification, reproduction, transmission, storage, release, and destruction of documents (Office Memo, 13 Dec 1983).

Limited scope of exceptions; Maximum disclosure. Most policy documents did not list any exceptions; only less than a fifth (17%) listed

such exceptions. These were derived from laws and higher-level issuances. For instance, in the disclosure of information in the agency's records, the Department of Trade and Industry (DTI) stated that "verbal request/s (for information) shall be entertained unless trade secrets are involved" (MO 132 s 2007), referring to an exception listed in most of the laws and bills studied. Moreover, some exceptions were integrated in the guidelines in a practical way, such as the inclusion of invasion of privacy in DSWD's administrative order on its policies for the media coverage of victims of abuse and exploitation. The AO provides that if the victim refuses to be interviewed, she will not be forced, and the media practitioner will be given other useful information (i.e., social worker will talk about services of DSWD) (AO 15, s. 2004). Provisions on maximum disclosure were in 15% of the policy documents studied. They stated the higher goal of the subject and some specified units to be covered. The maximum disclosure that guidelines, orders, and circulars can provide for may be limited within the agency and its jurisdiction. Nevertheless, the documents should still have specified the units or areas covered by the order to make the document more informative and useful.

Costs. At the implementation level, information on costs is critical. Yet all except 5% of the policy documents studied did not provide for costs. Although the documents were issued primarily for the agency's officials and employees, several procedures and requirements could have been cost out and estimates included for the guidance of the implementers.

Disclosure takes precedence; Open meetings; Protection of whistleblowers. These principles were not covered in the policy documents at all, although they are integrated in laws and other higher-level issuances.

In evaluating access to information on the environment, TAI-Philippines assessed the action of government agencies to provide access to environment information. Findings of the team include the following:

- Government officials and staff of government agencies lacked understanding of the importance of the public's right to information (on the environment) and lacked awareness of their mandates in providing information access to the public.
- Information and documents necessary for discussion in public consultations organized were made available (by the government agencies) to the participating public.

- Cost of information was kept low when it was available, but transportation and copying of documents increased costs.
- Data storage systems were not comprehensive, complete, or easily accessible.
- There was lack of technical expertise to interpret data and transform information into layman's terms.
- There was a lack of clear and narrow standards for environment officials to decide what could be made available to the public, and they had broad discretion on access to information.

TAI-Philippines reported that the government is not making adequate effort to facilitate access to environment information and is not achieving adequate effectiveness. In most cases, TAI-Philippines added, government appeared to lack the commitment and systems to provide information that is accessible and comprehensible, and in cases where it had a crucial stake, it withheld information outright or gave it minimally.

The findings of the current study can help explain the situation described by TAI-Philippines in the environment sector. Service agencies such as DENR, DA, DepEd, DOH, and others facilitate access to information in the way this is provided for in the laws and issuances from which their implementation is derived, as well as in their capacity to carry out the information access-related tasks involved. Even if legislated, efforts at information access at the implementation level are suffering for lack of committed support from government.

3

Bills on Freedom of Information Filed with the Philippine Congress



Bills on Freedom of Information Filed with the Philippine Congress

A. Subject analysis of access to information-related bills

The Philippine Legislature consists of the two Houses of Congress. The Philippine Senate has 24 senators; the House of Representatives has 250 members. Access to information is a concern of the Senate Committee on Public Information and Mass Media and the House Committee on Public Information. Fifty-nine (59) bills filed with the Senate and House of Representatives were considered information-related and their subject matter was initially analyzed in the study (**Table 2**).

Table 2. Information access-related bills analyzed in the study, by source

Source	13 th Congress (July 2004 - June 2007)	14 th Congress (July 2007 – June 2010)*	TOTAL
House of Representatives	10	7	17
Senate	18	24	42
TOTAL	28	31	59

The bills or draft laws were deliberated on during the 13th Congress (July 2004-June 2007) and the early part of the 14th Congress (July 2007-June 2010). Of 28 bills filed in both Houses in the 13th Congress, 23 passed first reading, but only three made it to third reading. No information-related bill was enacted into law at end of the 13th Congress.

In terms of subject matter, the bills were found to deal on any of the following six subjects related to public access to information (**Table 3**):

- 1) Right to access to information
- 2) Development/ improvement of facilities, structures, and systems for public information;
- 3) Journalists' protection and welfare;
- 4) Protection against reprisals, personal data theft, and economic espionage;

- 5) Media coverage (restricting reference to criminals and suspects as “Muslim” or “Christian”; and
- 6) Right to reply to criticisms/ accusations via the mass media.

Table 3. Subjects of information access-related bills filed in the 13th Congress and first 6 months of first regular session of the 14th Congress, Philippines

SUBJECT	SENATE			HOUSE OF REPRESENTATIVES			GRAND TOTAL
	13 th	14 th	Total, Senate	13 th	14 th	Total, House	
1. Right to information access	8	8	16	6	6	12	28
2. Development/ improvement of facilities, structures and systems for public information	6	5	11	1	1	2	13
3. Journalists' protection and welfare	3	4	8	1		1	9
4. Protection against reprisals, personal data, theft, and economic espionage		6	6	0			6
5. Media coverage (restricting identity of criminals and suspects as Muslim or Christian)	0	0	0	2		2	2
6. Right to reply to criticisms/ accusations	1		1	0		0	1

These specific subjects were used to categorize the bills. It was found that majority of the bills filed with the Senate (38%) and the House (71%) underscored the need to provide for citizens' right to information, differing only in emphasis (branch of government or type or content of information covered) and details of implementation.

The second largest group of bills (22% of total) sought to develop or improve facilities, structures, and systems for public information. These bills called for the establishment of facilities such as public libraries equipped with information services to assist disabled Filipinos in learning, electronic access to all government regulations, resolutions, circulars, decisions, contracts, etc. Other bills called for the establishment of a Public Broadcasting System/ Service and a National Information Commission. In essence, the advances in information technology and consequent changes in the needs of people in terms of information services were one justification for this subject of the bills, with more filed with the Senate (26%) than with the House (12%).

The protection and welfare of journalists also concerned a notable proportion of Congress members (15%), who reiterated the call to amend an existing law (Republic Act 53) that provided for the exemption of print journalists and editors from revealing the source of published news or information obtained in confidence. The different versions of the amendment all sought to broaden coverage of the law to include journalists in broadcasting, wire services, and Internet publications. Two bills dealt on improving remuneration and providing benefits for journalists, many of whom are not paid well. More bills on the subject were filed by senators (20%) than representatives (14%).

Advances in information and communication technology (ICT) have brought about new concerns among Filipinos and the Philippine government, particularly in their information-related activities. Some bills filed with the Senate aimed to ensure protection of citizens from information-related risks such as reprisals by employers on an employee for disclosure of incriminating information, personal data theft, and economic espionage. These comprised 14% of Senate bills on information access, although no similar bill was filed with the House during the period.

Religion has been used by some vested-interest groups to fuel the conflict in Mindanao. One viewpoint is that labeling perpetrators or suspects of crime as "Muslim" or "Christian" has contributed to the escalation of the conflict. Some bills were filed with the House to restrict the use of the two

terms in the mass media to refer to criminals or suspects of crimes. These bills made up 12% of those filed in the House on information access, but no similar bill was filed in the Senate.

Philippine mass media are known to be the most exuberant in Asia. Cases are common when accusations or criticisms are leveled at individuals directly or through innuendos, blind items, etc. A bill was filed with the Senate to enable the individual to exercise his/her right to reply, and to exact penalties for violation of this right. The bill comprised 2% of the number of information access-related bills filed with the Senate; no similar bill was filed with the House.

B. Analysis of the bills' Freedom of Information features

Bills are proposed laws to be enacted by Congress. A bill that has passed both Houses of Congress becomes law with or without the approval of the President. Under pressure to legislate information access and transparency, the members of the two Houses filed several Information Acts and Freedom of Information Acts with their respective information committees in the 14th Congress. By February 2008 House members had filed a total of nine separate bills on freedom of information with the Committee on Public Information of the House of Representatives. In April 2008 the Senate Committee on Public Information and Mass Media had five such bills ready for public hearing.

The current study analyzed the provisions of these bills using the nine Principles of a Freedom of Information regime. These are presented in **Appendix Tables 4-5** of this report.

Information bills in the House of Representatives. All the House bills analyzed (100%) had provisions for maximum disclosure, promotion of open government, and processes to facilitate access. They described broad scopes of both the information and the government entities covered by the bill. About two-thirds (67%) covered all agencies, offices, and instrumentalities in the Executive, Judiciary, and Legislature; the other third (33%) did not. All (100%) provided for structures and systems for improving information management (record maintenance, access) and penalizing violations of the right to information. All the bills (100%) had provisions on how to request and comply with requests for information, time limits for compliance, denial, and appealing a denial.

Almost all (88%) provided for the active publication of information and scope of exceptions. These bills prescribed publication of the Act in the Official Gazette or national newspapers before its date of effectivity. Regular dissemination of information in print or online also was provided for by at least 22% of the bills (HS 997 and HB 3732). The exceptions common to the bills included the following: a) threat to national security, b) internal and external defense or law enforcement, c) protection of privacy of a third party natural person, and d) exemption by other laws or provisions of the bill.

More than three quarters (78%) had a repeal clause, which ensured that when the information bill becomes law, it will take precedence over all other previous laws and issuances with provisions inconsistent with it, thereby ensuring that disclosure as provided in the FOI bill takes precedence over all other laws.

No bills provided for open meetings or protection of whistleblowers or any other witnesses. The sponsors of the bill may not have considered whistleblowing a serious life-threatening enterprise, or they may have been relying on the Department of Justice to provide for the safety of these individuals.

Information bills in the Senate. All five (100%) information access-related bills in the Senate had provisions for maximum disclosure, obligation to publish, promotion of open government, processes to facilitate access, costs, and disclosure taking precedence.

Reflecting the principle of maximum disclosure, the bills all pledged to secure the people's constitutional right to information, with 60% listing the types of information to be made accessible, at least one intending to enhance access through improvement of procedures and application of technology, and another specifying the limitations.

All (100%) provided for the publication of information about the agencies, including its mandate, organization, and functions. At least 60% specifically provided for publishing or posting information on how the public could access information from the agencies.

The promulgation of rules and regulations for information access and penalizing violators of the right to information were provisions of all (100%) the bills analyzed. At least one bill (20%) provided for the categorization of information relating to national security, and declared as unlawful acts punishable with imprisonment or fine the communication of classified

information to unauthorized persons and failure to comply with directions “for the return or disposal of classified information” (SB 109).

Processes to facilitate access common to the Senate bills included the procedure for requesting extension of deadline for compliance, as well as appeal of denial. The bills provided for a specific period to comply with the request, but differed only in how long this period should be.

Provisions on costs of information access were included in all (100%) the bills studied. The bills all stated that costs should be reasonable and limited only to the direct costs of recovering, searching, and duplicating documents. At least one specified a modest margin of up to 10% but stipulated that no fees shall be collected in advance.

The scope of exceptions was defined in all the bills (80%) except SB 592. The bills that provided for exceptions differed in number rather than type of information to be exempted, varying from a list of four general categories to as many as 12 specific items. The bill that mentioned as exception information authorized to be kept in secret by the President (SB 109) specified that the authorization must have been through an “EO duly published in the Official Gazette or in at least 2 newspapers of general circulation.”

While no bills provided for the protection of whistleblowers, 40% provided for “protected parties,” or members of the press who gained access to classified information through reportorial enterprise. These parties, according to the bills, shall enjoy the protection of freedom of the press.

The only bill (20%) that had provision for open meetings mentioned opportunity for dialogue between agency officials and the public “about policies, procedures, and mechanisms for disseminating information.”

The bills listed in **Appendix Tables 4-5** would indicate that with increasing awareness and understanding of the people’s right to information, Philippine legislators are preparing and filing information access-related bills that satisfy more of the requirements for a Freedom of Information regime as reflected in the nine Principles of Article 19. Legislators are getting assistance from non-government entities which are equally interested in promoting freedom of information and transparency in the country such as ATIN and its partner institutions. With their help, legislators are turning out bills that make conscious effort to provide for the shortcomings of existing laws and issuances and safeguard against abuses that their implementation have been prone to.

Many sectors in the Philippines are eagerly anticipating the passage of a Freedom of Information law. The Freedom of Information Act of 2008 (HB 3732) was passed in the House of Representatives in May 2008. Rep. Lorenzo Tañada III, chair of the Technical Working Group and author of the template bill to HB 3732, called it a “legacy of the 14th Congress to the Filipino people in pursuit of democracy, development, and good governance.” He summed up the essential features of HB 3732 thus:

- an expansive scope in terms of government agencies and information covered
- a narrow list of exceptions
- counterbalancing the exceptions, an opportunity for citizens to override a recognized exception clear, uniform, speedy procedure for access to information
- a provision for implementing automatic disclosure of transactions of public concern
- proscription against excessive costs to information access
- accessible and speedy remedies for denied request for access
- promotion of a culture of openness within government, enhancing physical access and understandability of information to the public
- clear administrative, criminal, and civil liability for violation of the right to information.

The passage of the bill was a welcome development for those who had been working for it or following its progress through the Legislature. HB 3732 is a substitute bill that consolidates all nine Freedom of Information bills filed by 22 Representatives in the 14th Congress. Its passage elicited both hope for more transparent and accountable governance as well as calls for even greater effort to make the law work.

Braid warned that there still are existing EOs and MCs which establish an “intention and mechanism to withhold information,” such as EO 608 which instituted a clearance system for government employees with access

to classified information. She quoted a statement by ATIN that while “EO 608 appears to be harmless, its deviousness becomes plain since it also refers to MC 78.” MC 78 classified information as restricted, confidential, secret, or top secret. While the Southeast Asian Press Alliance in 2002 cited the Philippines as having one of the most open information regimes in the region even without a formal Freedom of Information law, Braid said, it also noted existing problems due to “a lack of culture of transparency in government bodies,” among other reasons. (*Manila Bulletin*, 12 March 2008).

The Philippines, she said, can learn from the experience of other countries. Results of a 2006 global survey of the state of freedom of information by David Banisar showed that most basic laws in the 63 countries he studied had provisions on this right, and their enabling laws ranged from comprehensive Freedom of Information statutes to more specific acts such as:

- Access to Administrative Documents - Italy
- Act on Disclosure of Information by Public Agencies - South Korea
- Law on Transparency – Panama
- Free Access to Information of Public Interest – Romania
- Access to Official Documents Law – Kosovo
- Free Access to Information of Public Character – Macedonia
- Freedom of Information Law, later amended to Electronic Freedom of Information Act – United States of America

All these laws were enacted recently – from the 1990s to 2004. This development would clearly indicate a new-found interest in legislating freedom of information among nations, if we consider that the first Freedom of Information law in the world was introduced in Sweden and Finland in 1766, followed by the one in Colombia in 1888, and the third in the United States in 1966.

Along with opportunities to benefit people, fast-paced development in information and communications technology (ICT) also has introduced new opportunities for abuses and criminal acts. New laws are needed to protect the rights of people from infringement of people’s rights using ICT. Chief Justice Reynato Puno of the Supreme Court has pointed to the need for tougher laws to crack down on identity thieves, or individuals “who appropriate another’s name, address, social security number, or other identifying information to commit fraud,” a feat made easier today with ICT and the legal recognition of electronic transactions. Identity theft

is a violation of the right to informational privacy that may unjustly burden someone whose personal information has been wrongfully used.

The right to privacy and the right to information are complementary rights, said the London-based advocacy group Privacy International. The two rights are interrelated with other information rights such as freedom of expression (FOE), classified information and state secrets, media rights, and whistle blowing (*Banisar, 2008*). Privacy may be any of the following: 1) territorial (i.e., one's home is his castle), 2) bodily (e.g., one's DNA, fingerprints, medical history), 3) communications (private correspondence), or 4) information/data about oneself. In today's information era, the fourth pervades over the first three: using technology, someone can take your territorial, bodily, or communications data/information without physically invading your privacy (*G. Hosein, 2008*).

The right to privacy, according to Privacy International, is often difficult to define because gains in protecting it are rarely obvious. Nevertheless, it is provided for in the United Nations Declaration of Human Rights of 1948, which declares that “*no man shall be subjected to arbitrary interference with his privacy, family, home, or correspondence.*” It is also provided for by other entities and conventions such as the European Convention on Human Rights, the American Declaration of Human Rights, OAS Human Rights Commission, Council of Europe Convention # 108, and the European Union. One hundred and fifty (150) countries have privacy rights in their Constitutions; 44 of these have both privacy and freedom of information laws. The Philippines holds the distinction of having the longest standing law on the protection of journalist sources (*Banisar, 2008*).

Early in 2008 the Supreme Court enacted the Rule on the Writ of *Habeas Data* (AM 08-1-16 SC), a rule to protect individual right to privacy. The writ of *Habeas Data* is “a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting, or storing of data or information regarding the person, family, home, and correspondence of the aggrieved party.” (Supreme Court of the Philippines, 2008) . “It is a procedure designed to safeguard individual freedom in the information age,” said Chief Justice Puno. But the promulgation of the Rule on the Writ of *Habeas Data*, he said, “is but a small step to protect the informational privacy of the Filipino individual; more needs to be done.” “Lawmakers should band together to create laws that can be used against identity thieves and prevent them from using the Internet in doing the crime.”

Conclusions and Recommendations

Conclusions and Recommendations

A number of laws, issuances, and agency guidelines and rules provide access to information and transparency. To some extent they satisfy the nine Principles of Freedom of Information, providing for maximum disclosure of information, an open government, and the processes that facilitate access, and almost always are guaranteed to take precedence over other laws. Most of the laws were seen to provide for adequate means to inform the public through publications and other means of information dissemination, but most of the issuances, particularly those by the Office of the President, provided only for the announcement of their “immediate effectivity,” and many exceptions have broad coverage and fuzzy boundaries that depend on personal judgment. Costs of information access, too, are not specified in many documents, and the concepts of protection for whistleblowers and open meetings are not sufficiently provided for. Nevertheless, the laws and issuances in force should have been adequate to provide for a reasonably liberal information environment.

That liberal information environment has not been realized, according to TAI-Philippines, because of the following factors:

- Access to information and transparency is currently being pursued in the context of many specific laws and as part of laws that have other primary purposes. In a regime that values people’s right to know and participate in governance, it can provide adequate access, but in one that prefers information control to access and secrecy to transparency, it may not.
- Right to information as guaranteed by the Philippine Constitution and generally provided for by pertinent laws is not being carried out with commitment to the effort and effectiveness level.
- Many established laws and issuances have provisions and mechanisms that work against public access to information. Non-discrete exceptions, the absence of an objective set of criteria for classifying information, and using personal judgment to make the decisions are all undermining what facilitative laws on information access are in force.
- Government officials and employees on the one hand and the public on the other lack understanding and appreciation of the

right to information. There also has been no conscious effort to develop their capacities to access and facilitate access to information.

The Freedom of Information bills now on the pipeline in the two Houses of Congress have provisions that affirm more of the nine principles. They also strive to make up for the deficiencies and loopholes in existing laws, making it more difficult for interested parties to manipulate the gaps to their advantage.

Access to information is a priority of Information Committees of both Houses in Congress. The House Committee on Public Information admittedly was distracted by events in the 13th Congress, but both Senate and House are indicating more concerted effort in the 14th. In interviews, key informants in the House of Representatives maintain that the number of information access-related bills that have been passed into law should not be used as indicator for the priority (non-priority) lawmakers place on information access, because many other factors determine the passage or non-passage of a bill, such as the interests of certain groups that are jeopardized by its becoming a law.

The bills filed dealt on six specific subjects related to information access:

1. Right to information access
2. Development/ improvement of facilities, structures and systems for public information
3. Journalists' protection and welfare
4. Protection against reprisals, personal data, theft, and economic espionage
5. Media coverage (restricting identity of criminals and suspects as Muslim or Christian)
6. Right to reply to criticisms/accusations via the mass media

These subjects are deemed important by the lawmakers in making information access a reality to the general public. From a communication point of view, these subjects respond to the basic concerns in a communication or information system, such as an implementation program, facilities and structures, welfare of major actors, and protection against abuses associated with digital technology. Efforts to pass a bill in the Senate to develop information access for facilities for the disabled like special libraries and IT-enabled systems speak of a growing

consciousness of information access as a human right among Philippine lawmakers.

The Freedom of Information features of the access to information bills in the House have been incorporated into one substitute bill that was passed last May 2008. The Senate is ready to incorporate bills into one substitute Freedom of Information bill and was ready to call for a public hearing on it as of September 2008.

Gaps identified. Through the study, a number of gaps were seen in current efforts toward promoting access to information through legislation. Laws and other issuances are inadequate on the aspects listed below, and therefore provisions should be formulated to address them in upcoming bills:

- Development of the country's resources for public domain information should be legislated. This should be provided for, even as we intensify efforts to protect intellectual property rights.
- Legislation is lacking on measures to: a) prepare citizens and organizations by increasing their understanding of information-related crimes; and b) deter potential criminals from committing such crimes.
- The right to reply is potentially controversial because of its repercussions on media freedom. There is a lack of legislative ideas on how to implement freedom of speech in the spirit of fairness to all concerned.

Academe, and other knowledgeable users—are served.

- Costs remain an intimidating factor in accessing public information, especially for the poor. Policies to democratize costs of information should be put in place.
- The complementarity of the right to information and the right to privacy is not fully understood; it is generally assumed that to safeguard people's right to information, privacy of individuals must be minimized.

Recommendations. The enactment of a new Freedom of Information Act should lay the groundwork for establishing a Freedom of Information regime. The gaps identified above should be bridged with pertinent policies and measures. Other tasks should also be done:

- The precedence of the Freedom of Information Act over all other laws must be ensured and consistently safeguarded, so that all laws with provisions inimical to access to information are repealed and not circumvented at will. This requires an informed, active citizenry that can work as one toward a truly liberal information regime.
- Public awareness of the right to information should be promoted through campaigns and other interventions involving established social institutions. Education on the right to know should be made available to citizens in all sectors via different modes and channels.
- Capacity building on information-related competencies, including understanding of the access to information mandate of the government, should be implemented among officials and employees of the Executive branch. Government officials and employees need to develop the knowledge, skills, and attitude necessary to proactively facilitate public access to information.
- Communication and information practitioners and educators should keep the discourse on Freedom of Information in the consciousness of the people. Such discourse should expand the meaning of press freedom to include the people's right to know, the freedom to express opinions with the freedom to access information.
- Frequent dialogue should be conducted between officials of government and the different sectors involved and concerned about access to information for them to “arrive at a consensus on rules of engagement.”
- In the light of increasing incidences of breach of security, identity theft or fraud, and abuses in security investigations abetted by advances in technology, privacy legislation must be prioritized next to information access. Specific rules have to be established to help people understand and demand protection of their right to privacy in the midst of borderless international information flow and mind-boggling data processing speed and utilization possibilities.

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Appendices

APPENDIX 1

Principles of an Freedom of Information (FOI) Regime specified by ARTICLE 19

Principle 1: Maximum disclosure - Freedom of Information legislation presumes that all information held by public entities should be subject to disclosure unless there is an overriding risk of harm to a legitimate interest.

- The body seeking to deny access to information should prove that the information may be legitimately withheld.
- Scope of the law should be broad. Information should be broadly defined to include all information regardless of form, date of creation, who created it, and whether or not it has been classified.
- No public bodies should be excluded from the ambit of the law.

Principle 2: Obligation to publish - Beyond acceding to requests for information, public entities have an obligation to actively publish and disseminate key categories of information.

- Public bodies should not just accede to requests for information; they should actively publish and disseminate key categories even in the absence of a request.
- Amount of information should increase over time.

Principle 3: Promotion of open government - Governments must be encouraged toward a culture of openness and the general public made aware of their rights and how to exercise them.

- FOI law should change the deep-rooted culture of secrecy within government.
- Public officials need to be trained on public access to information.
- Incentives should be provided for good performance and poor performance exposed.

- Legislative oversight should be ensured through annual reports.
- Responsibility for addressing openness should be allocated to an entity or individual, i.e., to an information commissioner, human rights commission, or ombudsman.
- FOI law should provide for criminal penalties for willful obstruction of the right to information.
- Government should promote public awareness of people's rights and how to exercise them.
- Disclosure of an information item should pose a real risk of serious harm to national interest, privacy, trade, diplomatic relations, etc. before refusal of access to it can be considered legitimate.
- Public bodies don't have to fulfill request for information that have already been published.
- Government should promote better record maintenance by public bodies.
- FOI law should mandate a minister/administrative oversight to set and enforce standards for record maintenance.

Principle 4: Limited scope of exceptions - Exceptions should be clearly and narrowly drawn and subject to strict tests of 'harm' and 'public interest'.

- FOI law must cater to all legitimate secrecy interests to avoid information disclosure that may cause unwarranted harm.
- FOI law must not be undermined by an excessively broad or open regime of exceptions.
- The 3-part test of exceptions:
 1. Information must relate to a legitimate aim listed in the law.
 2. Disclosure must threaten to cause substantial harm to the aim.

3. The harm to the aim must be greater than the public interest in having the information.

- Limitations to information access should aim to protect
 - national security, defense, and national relations
 - public safety
 - prevention, investigation, prosecution of criminal activities
 - privacy and other legitimate private interests
 - commercial and other economic interests, public or private
 - equality of parties in court proceedings
 - nature
 - economic, monetary, and exchange rate policies
 - confidentiality of deliberations with or between public authorities during internal preparation

Principle 5: Process to facilitate access - A freedom of information law must stipulate clear processes for deciding upon requests by public entities, as well as a system for independent review of their decisions.

- FOI law should stipulate clear processes for deciding upon requests and a system for independent review of their decisions.
- Overall responsibility for processing information access should reside on an individual, e.g., an information officer.
- Requests should be in writing and FOI law should provide for those who cannot meet this requirement.
- FOI law should provide for clear timelines for responding to request; these should be short, but reasonably so.
- Response to request should be in writing, stating any fee and if a denial, the reason for denial.
- FOI law should provide for specification of form of information by requester.
- There should be opportunities to appeal, e.g., internal appeal to a higher authority.

- It is crucial that appeal to an independent body be designed to operate as quickly and fairly as possible.
- FOI law should provide for the authority of the courts, which are the only entity with authority to set standards of disclosure.

Principle 6: Costs - Individuals should not be deterred from making requests for information by excessive costs.

- Fees should not be so high as to deter requests
- Costs that may be charged include those for information search, preparation, review of documents.
- Costs can be approached in different ways, but costs should be consistent and accessible.

Principle 7: Open meetings - Meetings of public entities should be open to the public.

- Open meetings are not often dealt with in an FOI law.
- Its inclusion is a reminder that FOI applies both to documents and meetings of public bodies.

Principle 8: Disclosure takes precedence - Laws that are inconsistent with the principle of maximum disclosure should be amended or repealed.

- FOI must take precedence over all laws.
- If FOI conflicts with other laws, provisions of FOI should overrule conflicting secrecy laws.
- Precedence of FOI law over all laws includes set of exceptions.
- FOI law must avoid putting public employees in quandary between prohibition vs. divulging information and doing it under a FOI law
- FOI law provides for review of all laws that restrict disclosure to bring them in line.

Principle 9: Protection for whistleblowers - a freedom of information law should protect individuals against any legal, administrative, or employment-related sanctions for releasing information on wrongdoing.

- FOI law should protect individuals who have released information on wrongdoing.
- Whistleblower should not have to do a complex balancing of different public interests.
- Wrongdoing may be commission of
 - criminal offense
 - failure to comply with legal obligations
 - miscarriage of justice
 - corruption or dishonesty
 - serious maladministration
- Wrongdoing is any serious threat to the health and safety of the public or the environment.
- FOI law should ensure that potential problems with official channels regarding the exposure of wrongdoing are taken into full account.
- FOI law should protect individuals who have mistakenly, but in good faith, released information that should not have been released.

APPENDIX 2

Summary of Information-Related Laws, Writs, Orders Office of the President, Supreme Court

SUMMARY OF INFORMATION-RELATED LAWS, WRITS, ORDERS Office of the President, Supreme Court

ID No.	Document Title	Date	Approving Authority
E O 662	Enhancing Transparency Measures Under R A 9184 and Creating the Procurement Transparency Board	20 Sept 2007	G. M. Arroyo (President) E. R. Ermita (Executive Secretary)
E O 656	Creating an International Media Office	24 Aug 2007	G. M. Arroyo (President) E. R. Ermita (Executive Secretary)
A O 181	Directing the Cooperation and Coordination Between the National Prosecution Service and Other Concerned Agencies of Government for the Successful Investigation and Prosecution of Political and Media Killings	03 July 2007	G. M. Arroyo (President) E. R. Ermita (Executive Secretary)
E O 608	Establishing a National Security Clearance System for Government Personnel with Access to Classified Matters, and for Other Purposes	30 Mar 2007	E. R. Ermita (Executive Secretary)

ID No.	Document Title	Date	Approving Authority
R A 9372	An Act to Secure the State and Protect Our People from Terrorism (Anti-Terror Law)	06 Mar 2007	G. M. Arroyo (President) M Villar (Senate President) J de Venecia (Speaker of the House)
A O 170	Establishing Working Arrangements for the Effective Operation of the Philippine Gov Portal, Delineating the responsibilities of Specific Gov Agencies Relative Thereto, and for Other Purposes		G. M. Arroyo (President) E. R. Ermita (Executive Secretary)
E O 464	Ensuring Observance of the Principles of Separation of Powers, Adherence to the Rule on Executive Privilege and Respect for the Rights of Public Officials Appearing in Legislative Inquiries in Aid of Legislation Under the Constitution, and for Other Purposes	26 Sept 2005	G. M. Arroyo (President) E. R. Ermita (Executive Secretary)

ID No.	Document Title	Date	Approving Authority
E O 348	Creating the Office of the Communications Director to Direct the Operations of Offices in the Public Sector, Mass Media, and the Public Info System of Gov	11 Aug 2004	G. M. Arroyo (President) G. Romulo (Executive Secretary)
M C 35	Directing All Departments, Bureaus, Offices, and Instrumentalities of the Gov, Including Gov-Owned and Controlled Corporations to Implement the Publication of Service Guides and the Posting of Workflow Charts and Providing Guidelines Therefore	17 Mar 2003	G. M. Arroyo (President) A. G. Romulo (Executive Secretary)
R A 9194	An Act Amending R A 9160, Otherwise Known as the “Anti-Money Laundering Act of 2001	07 Mar 2003	G. M. Arroyo (President)

ID No.	Document Title	Date	Approving Authority
E O 40	Consolidating Procurement Rules and Procedures for All National Gov Agencies, Gov-Owned or – Controlled Corporations, and Gov Financial Institutions, and Requiring the Use of the Gov Electronic Procurement System	08 Oct 2001	G. M. Arroyo A. G. Romulo (Executive Secretary)
R A 9184	An Act Providing for the Modernization, Standardization, and Regulation of the Procurement Activities of the Gov, and for Other Purposes	10 Jan 2003	G. M. Arroyo (President)
R A 8792	An Act Providing for the Recognition and Use of Electronic Commercial and Non-Commercial Transactions, Penalties for Unlawful Use Thereof, and for Other Purposes	14 Jun 2000	J. E. Estrada (President)
R A 8791	An Act Providing for the Regulation of the Organization and Operations of Banks, Quasi-Banks, Trust Entities, and for Other Purposes	23 May 2000	J. E. Estrada

ID No.	Document Title	Date	Approving Authority
E O 35	Directing the National Computer Center (NCC) to Design and Build an Integrated Gov Information Infrastructure (GII)	26 Oct 1998	J. E. Estrada (President)
A O 332	Directing All Gov Agencies and Instrumentalities Including Local Gov Units to Undertake Electronic Interconnect-ion Through the Internet to be Known as the RPWEB	04 Aug 1998	J. E. Estrada (President)
R A 8484	(Access Devices Regulation Act of 1998) An Act Regulating the Issuance and Use of Access Devices, Prohibiting Fraudulent Acts Committed Relative Thereto, Providing Penalties, and for Other Purposes	11 Feb 1998	J. E. Estrada (President)
E O 9	Directing All Concerned Gov Institutions to Ensure the Millennium Compliance of Their Computer-Based Systems	07 Nov 1997	J. E. Estrada (President)

ID No.	Document Title	Date	Approving Authority
R A 8042	An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes	20 Sept. 1995	F.V. Ramos (President)
A O 175	Delineating the Functions and Responsibilities of Agencies Involved in the Development and Maintenance of a Computer-Based National Crime Info System (INCIS)	17 Feb 1995	F. V. Ramos (President)
R A 7653	(New Central Bank Act) Chapter 1 – Establishment and Organization of the <i>Bangko Sentral ng Pilipinas</i>		F. V. Ramos (President) E. J. Angara (Senate President) J. de Venecia (Speaker of the House)
E O 89	Directing the Implementation of a Policy of Accessibility and Transparency in Government	18 May 1993	F V Ramos (President) A T Carpio (Chief Presidential Counsel)

ID No.	Document Title	Date	Approving Authority
R A 7157	An Act Revising R A No. 708, as Amended	19 Sept 1991	C. Aquino
R A 6713	An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations Thereof, and for Other Purposes	20 Feb 1989	C. Aquino (President)
E O 301	Decentralizing Actions on Gov-Negotiated Contracts, Lease Contracts, and Records Disposal	26 Jul 1987	C. Aquino (President)
M C 78	Promulgating Rules Governing Security of Classified Matter in Gov Offices	14 Aug 1964	Diosdado Macapagal (President) Calixto D. Zaldivar (Acting Executive Assistant)

ID No.	Document Title	Date	Approving Authority
R A 708	Foreign Service Law	June 1952	E. Quirino (President)
AM 08-1-16 SC	Rule on the Writ of <i>Habeas Data</i>	02 Feb. 2008	R S Puno (Chief Justice) SC <i>en banc</i>
A M # 07-9-12-SC	Rule on the Writ of <i>Amparo</i>	24 Oct. 2007	R.S. Puno (Chief Justice) SC <i>en banc</i>
A C 2-2006	Constituting a Task Force to Formulate a Disclosure Policy for the SC	Feb 2006	Hilario G.Davide (Chief Justice) SC <i>en banc</i>

FOI count based on 31 laws and issuances with complete entries

** Laws/Issuances referred to in other documents, but full contents not available and therefore were not included in the analysis*

APPENDIX 3

Summary of Information-related Agency Guidelines and Rules

SUMMARY OF INFORMATION-RELATED AGENCY GUIDELINES AND RULES

Bureau of Internal Revenue

ID No.	Document Title	Date	Approving Authority
MC No. 19-2006	Suspension of the Implementation of Guidelines and Procedures for the Issuance of TIN	March 22, 2006	Jose Mario C. Buñag, Commissioner
MC No. 10-95	MOA between NGOs and the BIR to Ensure Support and Assistance in the Taxpayer Service and Information Activities of BIR	March 10, 1995	Liwayway Vinzons-Chato, Commissioner
MC No. 19-1995	MOA between Bureau of Local Government Finance (BLGF) and the BIR to Ensure Support and Assistance in the Taxpayer Service and Information Activities of BIR	June 13, 1995	Liwayway Vinzons-Chato, Commissioner Roberto F. De Ocampo, Finance Secretary
MC No. 3-1993	Executive Order No. 53 Directing All Government Agencies Concerned to Provide the Bureau of Internal Revenue with the Necessary Information to Help Increase Tax Collections		Feb. 1, 1993 Jose U. Ong, Commissioner

Civil Service Commission

ID No.	Document Title	Date	Approving Authority
Office Memo No. 32, s. 2007	Flow of communications between CSC Central and Regional Offices	May 04, 2007	Karina Constantino-David, Chairperson
OM NO. 36 s. 2007	Policy Guidelines on the Operation of the Document Tracking and Management System (DTMS) for Internal Documents	May 22, 2007	Karina Constantino-David
Office Memo No. 25, s. 2006	Reminders in Handling cases and/ or official communications in the commission	May 04, 2006	Karina Constantino-David, Chairperson
Office Memo No. 26, 2006	Records Situation Appraisal (RSA) Report	May 05, 2006	Karina Costantino-David, Chairperson
OM No. 29 s. 2006	DIBAR System Access, Reportorial Requirement and Other Related Concerns	May 16, 2006	Karina-Constantino David

Department of Agriculture

ID No.	Document Title	Date	Approving Authority
AO No. 03 s. 2005	DA Policy on the Protection of Intellectual Properties	2005	Sec. Arthur C. Yap

Department of Agrarian Reform

ID No.	Document Title	Date	Approving Authority
MC No. 11 s. 2004	Release of DAR Central Office Decisions, Resolutions, or Order in Agrarian Law Implementation Cases and Personnel Discipline Cases	2004	Jose Mari B. Ponce, OIC, Secretary
Memo Circular No. 05 s. 2003	National Transparency and Accountability Agenda	2003	Sec. Roberto Pagdangan
MC No. 25 s. 1995	Observance of Measure to Uphold the Integrity and Confidentiality of Inter-Office Communications and Draft Resolution of Cases Involving Agrarian Reform Law Implementation and Personnel Discipline	Oct. 23, 1995	Sec. Ernesto Garilao

Department of Budget and Management

ID No.	Document Title	Date	Approving Authority
Circular Letter 2007-11	DBM Warning on the Proliferation of Spurious Release Documents	Sept. 28, 2007	Rolando Andaya, Secretary
Official Gazette Vol. 103, No.1	General Appropriations Act 2007	March 22, 2007	Pres. Gloria Macapagal-Arroyo

Department of Environment and Natural Resources

ID No.	Document Title	Date	Approving Authority
AO No. 2006-16	Organizing and Staffing of the Information Systems and Technology Management Office (ISTMO)	Nov. 6, 2006	Secretary Angelo Reyes
AO No. 2006-12	Guidelines on the Development and Management of a Standard Seamless National Digital Topographic Database	October 12, 2006	Secretary Angelo Reyes
AO No. 97-24	DENR Policy on the Release or disclosure of Information	July 30, 1997	Sec. Victor O. Ramos

Department of Education

ID No.	Document Title	Date	Approving Authority
DO No. 6, 2008	Philippine Government Electronic Procurement System (PhilGEPS) Registration and Posting	Jan. 22, 2008	Jesli A. Lapus, Secretary
DM No. 476 s 2007	Schoogle.ph On-Line College and Scholarship Database	Nov. 27, 2007	Teodosio C. Sangil, Jr. Under-secretary, OIC
DM No. 381 s. 2007	Guideline on the Issuance of Certification, Authentication and Verification (CAV) of Elementary and Secondary Education Diploma, Official Transcript of Records, and Other School Documents	Sept. 24, 2007	Jesli A. Lapus, Secretary
DO No. 31 s. 2006	Implementation of Policy Instruments in Reporting Cases of Children Involved in Armed Conflict	July 28, 2006	Fe A. Hidalgo, Undersecretary, OIC

Department of Foreign Affairs

ID No.	Document Title	Date	Approving Authority
RA No. 8239	The Philippine Passport Act of 1996	Nov.22, 1996	DFA Secretary

Department of Interior and Local Government

ID No.	Document Title	Date	Approving Authority
MC 2007-92	Institutionalization of the DILG Information Coordinating Network	August 7, 2007	
MC No. 2007-24	Amending Circular No. 92-17, Dated July 29, 1992, entitled Policy Guidelines Governing the Submission and Review of Executive Orders, Annual reports, Supplemental or Special Reports of Provinces, Cities, Municipalities, and Barangays and Related Information	March 6, 2007	Ronaldo V. Puno
MC No. 2005-06	Executive and Legislative Agenda (ELA) Implementation Monitoring	Jan. 31, 2005	Eduardo R. Soliman, Jr.
MC NO. 2005-01	Establishment and Maintenance of Data Base of LGUs GAD Focal Point	January 16, 2005	Angelo T. Reyes
MC No. 2004-141	Local Governance Performance Management System (LGPMS)	October 14, 2004	Angelo T. Reyes, Secretary
MC No. 2004-103	Issues Monitoring and Reporting System	August 14, 2004	Angelo T. Reyes
MC No. 2004-76	Training on Republic Act No. 9184, otherwise known as the "Government Procurement Reform Act" and Its Implementing Rules and Regulations Part A	June 21, 2004	Jose D. Lina, Secretary

Department of National Defense

ID No.	Document Title	Date/	Approving Authority
EO No. 608 s 2007	Establishing a National Security Clearance System for Government Personnel with Access to Classified Matters and for Other Purposes	March 30, 2007	
DC No. 11 s 2004	Establishment of a Central Registry by the Administrative Service Office (ASC) for Top Secret and Secret Matters	Nov. 24, 2004	
MC No. 196 s 1968	Amending Memo Circular No. 78 dated 14 Aug. 1964 entitled "Promulgating Rules Governing Security of Classified Matter in Government Office	July 19, 1968	
MC No. 78 s 1964	Promulgating Rules Governing Security of classified Matter in Government Offices	Aug. 14, 1964	

** Contents are classification info; cannot be released outside DND*

Department of Energy

ID No.	Document Title	Date	Approving Authority
Dept. Circular 2002-07-004	Rules of Practice and Procedure Before the Department of Energy	July 31, 2002	Vicente Perez, Secretary

Department of Health

ID No.	Document Title	Date	Approving Authority
AO No. 2007-0036	Guidelines on the Philippine Integrated Disease Surveillance and Response (PIDSR) framework	Oct. 1, 2007	Francisco F. Duque, Secretary
AO 2006-0025	Guidelines Establishing the Health Commodities Reference Specification Information Systems (HCRSIS)	July 25, 2006	Francisco F. Duque, Secretary
MC 2005-0020	Proclamation No. 802 from the office of the President "Declaring the Month of June 2005 as National Information and Communications Technology (ICT) Month Amending Proclamation No. 412	March 29, 2005	David J. Lozada, Jr., Assistant Secretary, Office for Management Services
MC No. 2005-0064	Administrative Order No. 127 from the Office of the President, "Providing for An increased Information Campaign by Government Agencies in All Government Owned and Controlled Media Outlets Regarding their Policies, Programs, and Objectives	September 19, 2005	David J. Lozada, Jr. Assistant Secretary Office Management for Management Services
AO No. 148 s. 2004	Document Tracking Information System (DTIS) Implementing Guidelines	May 21, 2004	Manuel M. Dayrit, Secretary
DO No. 100-a	Introduction to Information Technology	April 19, 2001	Juanito A. Rubio, Assistant Sec.
AO No. 11 s. 2001	Supplemental Guidelines for the processing of Clearance for Information Technology Materials and Equipment for Repair	April 27, 2001	Manuel M. Dayrit

Department of Labor and Employment

ID No.	Document Title	Date	Approving Authority
DO No. 81-07	Guidelines in the Implementation “Unlad Kabuhayan Program laban sa Kahirapan” (DOLE Worktrep Program)	Feb. 15, 2007	Arthur D. Brion, Secretary
DO No. 79-07 s 2007	Establishment of the National Reintegration Center for Filipino Workers	Feb.16, 2007	Arturo D. Brion, Secretary
DO No. 75-06 s 2006	Revised Rules for the Issuance of Employment Permits to Foreign Nationals	May 31, 2006	Patricia Sto. Tomas, Secretary
DO No. 65 s. 2004	Rules and Regulations Implementing Republic Act 7610 as amended	July 26, 2004	Patricia Sto. Tomas, Secretary
DO 58-04 s 2004	Expansion of Services Philippine Seafarers One Stop Processing Center (PSOC)	March 2, 2003	Patricia Sto. Tomas, Secretary
DO 64-04 s 2004	Operational Guidelines to Strengthen the Security Measures for All OFWs in War Torn Areas	July 20, 2004	Patricia Sto. Tomas, Secretary
DO 63-04 s 2004	Guidelines in the Implementations of Existing Protective Mechanisms for Land-based OFWs	July 20, 2004	Patricia Sto. Tomas, Secretary
DO 68-04 s 2004	Guidelines in the Implementation of Kasanayan sa Hanapbuhay Program (An Apprenticeship and Employment Program)	Aug. 18, 2004	Patricia Sto. Tomas, Secretary

ID No.	Document Title	Date	Approving Authority
DO No. 53-03 s 2003	Guidelines for the Implementation of a Drug Free Workplace Policies and Programs for the Private Sectors	Aug. 14, 2003	Patricia Sto. Tomas, Secretary
DO 24-02 s 2002	Training Program for Filipino Household Workers bound for the Kingdom of Saudi Arabia	July 23, 2002	Patricia Sto. Tomas, Secretary
DO No. 17-02 s 2002	Full Verification of Recruitment and Employment Documents	Feb. 1, 2002	Patricia Sto. Tomas, Secretary
DO No. 32-02 s 2002	Guidelines and Operational Procedures on the Master Listing of Child Laborers	December 12, 2002	Patricia Sto. Tomas, Secretary
DO No. 02 s 2001	Guidelines for the Conduct of Jobs Fair by Private Entities, Non-Government Organizations and Educational Institutions	March 22, 2001	Patricia Sto. Tomas, Secretary
DO 07 s 2001	Guidelines for the Operation of Quick Response Teams (DOLE QRT Operation Balik Trabaho)	Aug. 24, 2001	Manuel G. Imson, Acting Secretary
DO No. 44-03 s 2001	To Safeguard Health and Welfare of Filipino Workers	April 14, 2003	Manuel G. Imson, Acting Secretary
DO No.6 s 2000	Guidelines for Accreditation of Worker's Organizations for the Purpose of Assisting in the Implementation of Direct Housing Loan Facility of the Social Security System	June 30, 2000	Bienvenido E. Laguesma, Secretary

ID No.	Document Title	Date	Approving Authority
DO 06 s 1999	Amendment to the Implementation of the Program: Promotion of Rural Employment through Self-Employment and Entrepreneurship Development (PRESEED)	Nov. 9, 1999	Bienvenido E. Laguesma, Secretary
DO No. 04 s 1999	Hazardous Work and Activities for Persons below 18 years of age	Sept. 21, 1999	Bienvenido Laguesma, Secretary
DO No. 18 s 1998	Replacement and Monitoring Center	November 9, 1998	Bienvenido Laguesma, Secretary
DO no. 10 s 1997	Amending the Rules Implementing Books III and VI of the Labor Code as Amended	May 30, 1997	Leonardo Quisumbing Secretary
DO No.03 s 1997	Mechanics Implementing the Work Appreciation Program (WAP)	April 7, 1997	Leonardo A. Quisumbing Secretary

Department of Science and Technology

ID No.	Document Title	Date	Approving Authority
Written Policies	STII Library Policies on Public Access to Information	Nov. 2007	Carol M. Yorobe, ASEC and OIC STII
	ICT Usage and Security Policy	Oct. 2003	Sec. Estrella F. Alabastro

Department of Social Welfare and Development

ID No.	Document Title	Date	Approving Authority
MC No. 08 s. 2007	Policy Guideline on Linking Databases and Sharing of Information With Partner Agencies, Intermediaries and other Social Welfare and Development Stakeholders	August 28, 2007	Dr. Esperanza I. Cabral, Secretary
AO No. 4 s. 2007	Amendment to the Administrative Order No. 10, Series of 2006, Re Policy Guidelines for the Conduct of Studies/Researches in DSWD Offices, Centers, and Institutions	Feb. 28, 2007	Dr. Esperanza I. Cabral
AO No. 20 s. 2005	Establishment of Social Welfare Development Learning Network	Dec. 28, 2005	Luwalhati F. Pablo, OIC Secretary
MC No. 9 s. 2005	Amendment to MC No. 40, Series of 2004 "Website Development and Maintenance Guidelines"	May 10, 2005	Corazon Juliano-Soliman
MC No. 4 s. 2005	DSWD Information System Strategic Framework	February 4, 2005	Corazon Juliano-Soliman, Secretary
AO No. 3 s. 2005	Guidelines in the Preparation of Local Social Welfare Development (SWD) Situationer and Its Utilization	January 31, 2005	Corazon-Juliano Soliman
AO No. 15 s. 2004	Policies for the Media Coverage of Victims of Abuse and Exploitation	March 23, 2004	Corazon Juliano Soliman, Secretary
MC No. 5 s. 2004	Guidelines in the Pilot-testing of Child-friendly Investigation Studio in DSWD-NCR	June 7, 2004	Lourdes G. Balanon, Under-secretary (Programs and Policy Group)

ID No.	Document Title	Date	Approving Authority
MO No. 26 s. 2004	Information Technology (IT) Usage and Network Security Policy		Corazon Juliano-Soliman, Secretary
MC No. 40 s. 2004	Website Development and Maintenance Guidelines	November 3, 2004	Corazon Juliano-Soliman
MC No. 07 s.2003	Guideline in the Preparation of Administrative Issuance	April 15, 2003	Corazon Juliano-Soliman, Secretary

Department of Trade and Industry

ID No.	Document Title	Date	Approving Authority
MO No. 132 s. 2007	Guidelines in the disclosure of Information of DTI Records	Feb. 5, 2007	Zenaida Cuison Maglaya, Undersecretary, Chief of Staff, OSEC
DO No. 08 s 2006	Prescribing Guidelines for the Protection of Personal Data in Information and Communication System in the Private Sector	July 21, 2006	Thomas G. Aquino, Senior Undersecretary Peter B. Favila, Secretary

National Computer Center

ID No.	Document Title	Date	Approving Authority
NCC MC No. 2004-01	Repealing NCC Memorandum Circular No. 99-02 "Prescribing Guidelines for IT Resource Acquisition in Government" and providing new guidelines therefore	7 June 2004	Angelo Timoteo M. Dias De Rivera, Director General
ICT Advisory No. 2004-01	Inclusion of website address and official electronic mail (e-mail) address in all official communication materials	28 May 2004	Angelo Timoteo M. Dias De Rivera, Director General
NCC MC No. 2003-02	Prescribing a standard template for the Information Systems Strategic Plan (ISSP)	31 July 2003	Dr. Ibarra M. Gonzalez, Director General
ICT Advisory No. 2003-01	Edu.ph Registration	14 Feb 2003	Dr. Ibarra M. Gonzalez, Director General
NCC MC No. 2002-01	Guidelines on creation of the agency's official website and compliance to e-commerce law and stage one of the un-aspa stages of e-government	11 July 2002	Delfin Jay M. Sabido IX, Ph.D, Director General

National Economics Development Authority

ID No.	Document Title	Date	Approving Authority
Office Circular No. 03-2004	Guidelines Governing the Use of Information and Communication Technology (ICT) Resources in NEDA	June 14, 2004	Director-General Romulo Neri
Office Memo	Adopting General Guidelines in the Classification, Reproduction, Transmission, Storage, Release and Destruction of Documents of NEDA	Dec 13, 1983	Vicente B. Valdepeña, Director General

National Telecommunications Commission

ID No.	Document Title	Date	Approving Authority
Office Order No. 29-03-2005	Guidelines on scanning records/files covered by the eNTC Phase 1 Project		Roland Olivar Solis, Commissioner
Office Order No. 87-08-2005	Guidelines in the Document and Data Control in the Quality Standard System (QSS) Manual	August 22, 2005	Roland Olivar Solis Commissioner
Office Order No. 53-07-2002	Duty to Respond to all Communications filed by the Public Within Fifteen (15) working days	22 July 2002	Eliseo M. Rio, Jr., Commissioner

APPENDIX 4

Summary of Information-Related Bills

House of Representatives

14th Congress

ID No.	Document Title	Author/s
HB 997	Freedom of Information Act of 2007	Rep Villanueva
HB 2021	Freedom of Access to Information Act of 2007	Reps. Talino-Mendoza and Villanueva
HB 194	Freedom of Access to Information Act	Rep Angara
HB 2059	Freedom of Information Act of 2007	Reps. Tanada and de Guzman
HB 2176	Freedom of Access to Information Act	Rep. A Gonzales, Jr
HB 2223	Act to Ensure Access to Official Records, Documents, and any Other Information of Public Concern	Reps Ocampo, Casino, Masa, Beltran, Ilagan
HB 2293	Electronic Access to Information Act	Rep Pablo
HB 1665	Free Information Act	Rep. Abaya
HB 3732	Freedom of Information Act of 2008 Implementing the Right of Access to Information on Matters of Public Concern Guaranteed Under Section Twenty-eight, Article II and Section Seven, Article III of the 1987 Constitution and for Other Purposes	Reps Angara, del Mar, Villanueva, Gonzales (C), Abaya, Talino-Mendoza, Tanada, de Guzman, Gonzales (A), Ocampo, Casino, Pablo, Hontiveros-Baraquel, Coquilla, Fua, Teodoro, Chatto, Maza, Beltran, Ilagan, Abante.

APPENDIX 5

Summary of Information-Related Bills

Senate

14th Congress

ID No	Document Title	Author/s
S B 16	An Act to Ensure Public Access to Official Information and for Other Purposes	Sen R Revilla Jr
S B 109	Implementing the Constitutional Right of Access to Information, Prescribing Guidelines Therefore, and for Other Purposes	Sen. Mar Roxas
S B 576	An Act to Ensure Public Access to Official Information and for Other Purposes (Official Information Act of 2007)	Sen Jinggoy Ejercito Estrada
S B 592	An Act to Improve Public Dissemination of Government Information (Improvement of Information Access Act)	Sen Jinggoy Ejercito Estrada
S B 1578	An Act Implementing the Right of Access to Information on Matters of Public Concern Guaranteed Under Section Seven, Article III of the 1987 Constitution and for Other Purposes (Freedom of Access to Information Act)	Sen Manny Villar

