

<sup>20</sup> Privacy Commissioner, *Annual Report 1985-86*, p. 25.

<sup>21</sup> Circular A-130, *Federal Register*, Vol. 50, No. 247 (Dec. 24, 1985), 52739.

<sup>22</sup> *Oversight of Computer Matching to Detect Fraud and Management in Government Programs*, Hearings before the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs, United States Senate, 97th Congress, 2nd Session, 15-16 December 1982 (Washington, DC: Government Printing Office, 1983), pp. 149-51.

<sup>23</sup> Treasury Board, *Review of Access to Information and Privacy Coordination in Government Institutions*, (1986), submitted to the Standing Committee on Justice and Solicitor General.

<sup>24</sup> *Ibid.* —or in some cases required—to refuse disclosure of all or part of the information sought. The government institution, however, need cite the statutory ground in the *Access to Information Act* or *Privacy Act* upon which the exemption is based or would be based if the record existed. At present, the Department or agency is not required to confirm whether a particular record or specific personal information actually exists, since disclosure of its existence or non-existence may be the exact thing that needs to be withheld. Each government institution must "sever" exempted portions of records and provide access to the rest—solely, however, under the *Access to Information Act*.

Exemptions are very difficult to apply; however, the precise terms used in the statute are crucial in determining how open the government must be. The Department of Justice has clearly set out the problem.

The exemptions are based on a "wholly test" or "class test." Some exemptions are discretionary, while others are mandatory. Exemptions which require an "injury test" take into account whether the disclosure of the information could reasonably be expected to be injurious to the national interest. Injuries to activities essential to the national interest, the activities of the government, or the activities of the courts are examples. "Wholly exemptions" refer to a situation in which a record or information is so injurious to the national interest that an injury could reasonably be expected to result from its disclosure and it is withheld in confidence from the public.

Exemptions are also based on the nature of the information and whether the exemption is discretionary or mandatory. Exemptions are also based on the nature of the information and whether the exemption is discretionary or mandatory.

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