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OUR OPEN-GOVERNMENT LAWS NEED TO BE STRONGER AND CLEARER

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I am a frequent flyer. As a passenger, I've traveled through airports all over the world. When I first moved to Minneapolis in 1999, I found the MSP International Airport very difficult to navigate. I suspect it was simpler in 1929, when passenger service first began, or even when the first phase of the Lindbergh terminal was constructed in the early 1960s.

But nowadays the airport is big, sprawling and complicated. Signs vaguely point you in the general direction of services like car rental and the light-rail station, but you can end up in a security screening line if you aren't paying close attention. To go up, you have to take an escalator going down. You walk what seems like miles to change planes between concourses. After hundreds of flights, I've learned my way around. But to the uninitiated, it can be intimidating and exhausting.

The Minnesota Government Data Practices Act -- Minnesota's version of the Freedom of Information Act -- is a lot like MSP airport. Thirty-odd years ago, in those heady days after the Watergate scandal, when it seemed like everyone was clamoring for greater oversight of government, Minnesota took its first stab at drafting a simple statute that would guarantee public access to government data. That law was about four pages long and easy for almost anyone to understand. Government data was presumed to belong to the public.

But a lot has changed since then. The MGDPA has morphed into a 100-page monster, subject to dozens of exceptions mandated by state and federal laws. Although the process for requesting data seems straightforward, actually getting the information you seek, in the format you can use, often depends on the whim of the agency. Although the courts have the authority to review agency denials, requesters rarely appeal -- and no wonder. It's expensive to file a lawsuit, and there's no guarantee that the requester's fees will be covered, even if she prevails. It's not surprising that analysts ranging from the Better Government Association and the National Sunshine Week Coalition give the Minnesota Government Data Practices Act a failing grade.

Part of the problem is that the MGDPA is trying to do too many things in one statute. Not only is it intended to be a freedom of information law, but it's also the law protecting the privacy of personal information in government files. Unlike federal legislation, which

splits these two concepts into two separate statutes, the Minnesota statute tries to do it all in just one.

This might seem efficient. But competing values of openness and personal privacy often conflict, and inevitably, one will trump the other. In Minnesota, the default position seems to be to favor privacy. For example, Gov. Tim Pawlenty signed a new law this year that defines the Department of Natural Resources licensing database as "nonpublic," even though the information about who gets boating, hunting and fishing licenses used to be available for public inspection. This new policy is supposed to protect people from being bombarded by direct-mail advertisements from commercial vendors or advocacy groups like the Sierra Club or the National Rifle Association.

But we pay a high price for this kind of "privacy." Government is always going to collect information about individuals in its databases. That information tells us a lot about how government treats those individuals, as well as about what the government is up to generally. If we close off access simply because a database contains personal details, a lot of information about how government works will become secret, too. However well-intentioned, the result of exceptions like this one is that another important function of government will become obscured, and the public will be denied the means of holding it accountable for what it does.

Stalwart advocates of open government, like former state director of information Don Gemberling and data privacy activist Rich Neumeister, insist that the Minnesota access law is a good one, and that it is easy to use. And for them, it probably is. They've devoted a good portion of their lives to parsing the statute, and they know how to make it work.

But for most of us, the MGDPA is neither transparent nor a key to transparency. It's a barrier, not a gateway, to information.

It doesn't have to be that way. This weekend, the National Freedom of Information Coalition, a nonpartisan alliance of open government activists from all over the United States, will convene in Minneapolis for its annual convention, hosted by the Minnesota Coalition on Government Information. Diverse groups including librarians, attorneys, journalists, legislators, gun rights activists, environmentalists and ordinary citizens will share experiences and strategies from their respective states, and discuss how to join together to encourage debate that will formulate policies to strengthen public access and government accountability.

I hope that anyone who cares about information policy in our state will take advantage of this opportunity. Whether you think the Minnesota model is a terrific or terrible piece of legislation, this is our chance to learn how to make it even better. It's long past time to demystify the MGDPA. You shouldn't have to be an "expert" to make the open government laws work for you.

Jane E. Kirtley is the Silha Professor of Media Ethics and Law at the School of Journalism and Mass Communication at the University of Minnesota. From 1985-99, she was executive director of the Reporters Committee for Freedom of the Press in

Washington. She will be moderating a panel discussion on Financial Transparency at the 2009 NFOIC Summit in Minneapolis on Saturday.