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BOOK REVIEW: ‘The Liberal War on Transparency’

By: Ilya Shapiro and James Schindler - November 7, 2012

Transparency is demanded by those out of power and rejected by those in power. Witness President Obama, who ran as a transparency candidate in 2008 and then ran from transparency as president.

An intriguing and painstakingly in-depth glimpse into the hypocrisy of the Obama administration, “The Liberal War on Transparency: Confessions of a Freedom of Information ‘Criminal,’” catalogs the author’s Freedom of Information Act (FOIA) fiascos. In a rollicking tale of hilarious frustrations and disturbing government shenanigans, Christopher Hornershines the proverbial spotlight on some self-described spotlight-shiners who are anything but.

Mr. Horner, a senior fellow at the Competitive Enterprise Institute — a free-market think tank in Washington — recalls the history of the transparent-government movement, which was lauded by progressives such as Supreme Court Justice Louis Brandeis and President Franklin D. Roosevelt and codified in FOIA under Lyndon B. Johnson.

Likewise, modern liberals praise the “transparency” that resulted from sources such as WikiLeaks, the theft of official records relating especially to the Iraq War and Guantanamo Bay, calling it just the kind of openness needed for healthy government. Mr. Horner emphasizes the existence of a double standard by journalists who believe that transparency is only useful for scrutinizing conservatives — even if it requires rummaging through their trash. But when it comes to gathering information from liberal politicians and left-wing causes, these erstwhile muckrakers find virtue in an ambiguous government.

The book recounts the start of Barack Obama's term of office in 2009, when the president declared that his administration would be "the most transparent in history." The White House even issued memos instructing agencies to err on the side of transparency in FOIA requests. It did not, however, take long for the other shoe to drop: Scandals, cover-ups and bad publicity necessitated less transparency, lost and destroyed records, and systematic circumvention of the law.

One agency Mr. Horner repeatedly criticizes is the Environmental Protection Agency, whose officials were discovered using personal email accounts to conduct official business in order to avoid FOIA scrutiny. Carol Browner, former EPA administrator and later energy and environment "czar," was caught having used two email accounts for her government work — one for "official" business, and the other for off-the-record business.

Similarly, the author chides the Department of Homeland Security, an agency that has been without an inspector general since January 2011, for prescreening FOIA requests for possible bad political implications. He decries the Department of Homeland Security's front office for no longer using email, relying solely on in-person and telephone communication to avoid requestable written communication.

Mr. Horner exposes the practice of White House staffers meeting with lobbyists in secrecy at a nearby row house to avoid official visitor record keeping. Other examples of situations where officials illegally delayed the release of FOIA-covered records ("lost" them or otherwise made them difficult to obtain by forcing researchers to seek court orders) is a list of the administration's political dirty laundry: Fast and Furious, TARP, the BP oil spill, the GM and Chrysler bailouts, the National Labor Relations Board's attack on Boeing, ACORN, czar appointees, recess appointments, cap and trade, the Keystone XL pipeline and Solyndra.

In contrast, certain FOIA requests for information politically favorable to the Obama administration achieved responses as quickly as the same day.

Among the worst FOIA abuses Mr. Horner chronicles are those by NASA and taxpayer-funded university climate scientists who routinely lost or destroyed important statistical records and used personal email accounts to thwart detailed investigations. Indeed, the word "criminal" in the book's title refers to a speech by current EPA Administrator Lisa Jackson, in which she asserted that using FOIA to seek records from government-funded scientists was "criminal."

Mr. Horner recalls President Eisenhower's farewell address in which he warned not just of a growing military-industrial complex but of the unhealthy concentration of the nation's scholars and scientists in federal employment. All the while, the media remain mostly silent, underscoring again the liberal double standard and undermining the nation's trust in its educational institutions.

Mr. Horner ends the book with a useful how-to guide for filing one's own FOIA requests, chock-full of wisdom that comes only from years of trial, error and experience as an "information criminal."

Overall, "The Liberal War on Transparency" is an easy, interesting read with only a few minor stylistic flaws. Sometimes in Mr. Horner's desire to be comprehensive, for example, his anecdotes can be superfluous or overlong. It's clear the author is an attorney from his occasional use of 10 words when two will do.

But those are just quibbles; this book provides vital information in a straightforward manner. It should be read by those who want to "speak truth to power" — and especially by those in power.

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