

# **The Freedom of Information Act**

—*Jasper Craven, September 2017*

The Freedom of Information Act, or FOIA, was ratified on July 4, 1966.

Upon signing the bill into law, President Lyndon B. Johnson declared:

“This legislation springs from one of our most essential principles: A democracy works best when the people have all the information that the security of the Nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest.”

FOIA only applies to **federal agencies**, and some offices within the **White House**. [A series of Department of Justice memos](#) have outlined what White House documents can be requested by the public. (The White House voluntarily releases certain reports, regulatory information and congressional work [here](#). The financial disclosure and salary data for White House officials is available [here](#).)

Congress is exempt from FOIA, though you can request communications between a politician and a federal or state agency, which can yield a peek into the legislative process. States have their own public records laws, which vary widely. A comprehensive breakdowns of state public records laws is available [here](#).

In an [interview](#) with nonprofit news site [MuckRock](#), FOIA expert and BuzzFeed news reporter Jason Leopold speaks to the importance of FOIA in his work. “I felt that if I could obtain documents via FOIA to back up the assertions these sources had leveled it would strengthen my reporting and lead the public to trust my work more.”

The system isn’t perfect, of course, and the backlog of requests — due to staffing and government intransigence — has been well [documented](#). The bill has been updated periodically in the decades since its creation, but meaningful FOIA reform has [remained elusive](#).

## **How to file a public records request:**

### **Before filing, search FOIA reading rooms**

Many government records are posted publicly online, and many agencies keep online FOIA libraries filled with all the documents previously released through public records requests. Federal agency sites often post FOIA libraries, but the most comprehensive resource is FOIA Mapper, a search engine, of sorts, for government data. [The site](#) has recorded all the sub agencies, information systems, FOIA officers and FOIA logs throughout the federal government.

### **Figure out your agency’s preferred filing method**

Federal, state and local agencies vary widely in how they prefer to process public records requests.

Often, the best way to figure out whether an agency prefers email, fax or snail mail is to simply google “FOIA” and the agency’s name.

Some, like the Securities and Exchange Commission, have their [own online portal](#) for FOIA requests. There is also a [federal filing site](#) that facilitates public records requests at the following agencies:

Customs and Border Security  
Defense Logistics Agency  
Department of Defense  
Department of Justice – Executive Office for U.S. Attorneys  
Department of Justice – Office of Information Policy  
Department of the Navy  
Environmental Protection Agency  
Federal Communications Commission  
Federal Labor Relations Authority  
General Services Administration  
Merit Systems Protection Board  
National Archives and Records Administration  
National Labor Relations Board  
Pension Benefit Guaranty Corporation  
Social Security Administration  
U.S. Department of Commerce  
Small Business Administration

Other agencies have an email account dedicated to public records requests, while some local agencies will begin searching for documents if you simply call up the office and explain what you are looking for.

Once you have filed your request, it will be assigned a tracking number. Make sure to save this number, as it is your key for following up on the status of your request.

If you are looking for a user-friendly way to file requests at virtually any federal, state or local agency, [MuckRock](#) is a great resource. The organization will file your public records — [at a cost](#) — and doggedly follow up with agency officers in pursuit of documents. There are other processing organization, such as [FOIA professional services](#), but as of now, MuckRock appears to be the most affordable option, and best caters to the needs of journalists.

### **Strike up friendships with FOIA officers**

FOIA officers are officials at government agencies tasked with seeing your request through to its completion. While some officers can be difficult and evasive, others are truly committed to releasing documents, and will often help you tweak or narrow a request.

A list of federal FOIA officers is available [here](#).

### **File early and frequently**

It can take months, even years, for a single public records request to be completed. Because the process is so slow, make requests early, and often. I try to make one request a day, and often touch on different story ideas in case one idea doesn't pan out.

Data World has created the [FOIA predictor](#), which can help gauge whether a public records request will be completed based on archived data from MuckRock.

### **Subscribe to Inspectors General Reports**

Inspector Generals are a rare breed of bureaucrat in that they are constantly working to release documents. If you cover a specific agency as your beat, make sure to sign up for your agency's IG email blast. Reports are released frequently, and often reference documents that can be obtained through FOIA requests.

### **Be specific**

The more specific you are, the more likely you are to have your request fulfilled. It's much better, for example, to request all EPA records pertaining to an April 2015 oil spill in New Orleans than to ask for all records of chemical spills in 2015 in Louisiana. Broad requests are often seen by agencies as too cumbersome to complete, and they will either reject the request or impose huge fees to complete the request.

The Student Press Law Center has a helpful [letter generator](#) to ensure reporters file using all appropriate language and statutes.

### **Request FOIA logs**

FOIA logs can be a great resource for fledgling public records sleuths. The logs can be obtained from any federal, state or local agency, and detail the specific documents that have been requested from citizens. Logs show specific request language, and detail what types of requests an agency has fulfilled, and rejected.

The FOIA logs for the U.S. Department of Education can be viewed [here](#). And FOIA logs for the Central Intelligence Agency are available [here](#).

### **Learn the statutes**

Every federal and state agency has drafted rules and regulations concerning what they will and won't release to the public, and agencies often invoke complicated federal statutes to deny requests. Often these statutes are broadly interpreted, and, if you read and understand them, it is fairly easy to make a case that your records should be released. If a request is denied based on a

specific statute, look that language up and look for a way to alter your language so that your request can be granted.

### **Always repeal rejections and always request fee waivers**

Some FOIA officers and agencies will almost immediately reject a request in hopes that it will scare off requesters and make their jobs easier. Make sure to file appeals shortly after documents are denied, as most agencies have a 30-day time limit for appeals. Federal law requires an agency to decide an appeal within 20 working days of receiving it.

By appealing rejections, you can often goose an officer into taking your request seriously. Be polite but persistent in your appeal, and check in frequently to check on the status of your request.

The [Digital Media Law Project](#) has a helpful FOIA appeals guide, as does the [Reporters Committee for Freedom of the Press](#).

Also, make sure to always request a fee waiver. FOIA stipulates certain instances where records are to be provided free of charge, including when the information will be used by journalists. The following is a barebones fee-waiver request:

“The requested documents will be made available to the general public through reporting in [news outlet]. Because this request is not being made for commercial purposes I request that all associated fees be waived.”

### **Seek legal help**

If you believe that an agency is willfully ignoring or rejecting your request for no good reason, you may want to seek legal help, especially if you are convinced the documents are crucial to your reporting. The Knight Foundation has funded an [FOI litigation fund](#) and the Reporters Committee for Freedom of the Press has a [FOIA hotline for legal help](#).

## **Great FOIA Resources and Tip Sheets:**

-**MuckRock** has a great series of interviews with some of the most successful FOIA sleuths in journalism available [here](#).

-The Society of Professional Journalists has [a step-by-step FOIA guide](#) for new requesters.

-**David Cullier**, professor journalism at University of Arizona journalism school, has also drafted a great FOIA tip sheet, available [here](#).

-[FOIA Wiki](#) and the [FOI Center](#) provide the FOIA basics, like translating arcane response language into laymen’s terms.

-**IRE** members have access to a [series of helpful tip sheets](#) on everything from fighting open records battles to where to find data.