




Freedom of Information

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The Federal Freedom of Information Act (FOIA)

...and state FOI laws, for that matter...exist for a reason, or reasons...



FOI At Work

- ◆ The Associated Press: One-hundred twenty-two levees across the country are in jeopardy of failing, according to an Army Corps of Engineers list released under FOIA to the Associated Press and other news organizations. Homeowners who live near the levees could be required to buy flood insurance, according to an official with the National Flood Insurance Program...



FOI At Work...

- ◆ Federal data shows 17,000 bridges were not inspected within the last two years, MSNBC reports using National Bridge Inventory data to create a searchable database that allows users to view bridge inspection histories for any bridge along a specified route & contact bridge inspection authorities.



FOI At Work: You Just Knew...

- ◆ Federal records obtained by The Washington Post under FOIA, showed that two-thirds or 1.6 million civilian full-time federal government employees received merit bonuses or special time-off awards in the year ending Sept. 30, 2003. Nearly three out of four workers whose salaries ranged from \$49,000 to \$107,357 were awarded bonuses.



Why FOI?

- ◆ It's the public's statutory right...
- ◆ It provides a useful avenue for scrutiny and accountability...
- ◆ It helps level the playing field -- a bit -- between government and the citizenry
- ◆ It fosters greater communication between government and the governed....



It's a complete pain in the&%^#%#...

- ◆ Well, sure it is...
 - ◆ But...it's an opportunity!
- ?????



Work With Those Requesters...

- ◆ OK, so sometimes not...but as often as you can, reach out...
- ◆ Can you narrow the request? By date, or type of record? What are they looking for? Help them help you!



Helping them...help you

- ◆ Citizen requesters rarely know what they want...and appreciate the help!
- ◆ The media does too, more often than you might think.
- ◆ Would inspecting the records get the job done, and save you work? Sometimes...
- ◆ If you don't know the answer, seek help!



What is the FOIA?

The FOIA, codified at 5 U.S.C. section 552, is a federal law that establishes the public's right to obtain information from federal government agencies. "Any person" can file a FOIA request, including U.S. citizens, foreign nationals, organizations, associations, and universities.

Source: National Security Archive



FOIA


- ◆ Who is covered?
- ◆ Executive Branch departments, agencies, and offices; federal regulatory agencies; and federal corporations.
- ◆ Who is not covered?
- ◆ Congress, the federal courts, and parts of the Executive Office of the President that function solely to advise and assist the President, are not subject to the FOIA

Source: National Security Archive




FOIA

- ◆ . "Agency records" obtainable under the FOIA include a wide range of documents or other materials (including print, photographic, and electronic formats) that were created or obtained by a Federal agency and are, at the time the request is filed, in that agency's possession and control.



At the state and local level...

- ◆ “It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy.”



At the state and local level...

- ◆ That the actions of “public governmental bodies...” are subject to the law
- ◆ This includes not just state agencies and officials, but also governing bodies of institutions of higher education; and any department of any political subdivision of the state, county or municipal government, school district or special-purpose district, including sewer and water districts...as well as quasi-governmental organizations.




And...

- ◆ So are committees, task forces, work groups, and any other subcommittee comprised of public officials, and sometimes even when they aren't...but perform a public function, like a Convention & Visitors Bureau...



Handling incoming FOIA requests

- ◆ Try to get specific...
- ◆ Ask whether they want records in a specific order
- ◆ If the description is “inadequate...”
- ◆ If the records are “exempt from disclosure...”
- ◆ In most states, non-exempt data be extracted
- ◆ Requesters can contest and appeal
- ◆ The more communication, the better!



U.S. Freedom of Information Act (FOIA) Exemptions

- ◆ National security
- ◆ Internal agency personnel rules
- ◆ Information exempted by dozens of federal laws already on the books – “Catch-all exemption
- ◆ Trade secrets and confidential commercial information
- ◆ Internal agency memoranda and policy decisions
- ◆ Law enforcement investigations
- ◆ Federally regulated banks
- ◆ Oil and gas wells
- ◆ Personal privacy – The Privacy Act



Responses

- ◆ Make sure they know they are in line behind a lot of other requests
- ◆ Get contact info and stay in touch if practical
- ◆ Start tracking incoming requests and form a system for tracking them...



Know Thy Exemptions...

- ◆ Share them with the requester....
- ◆ “You certainly don’t HAVE to tell me, and if it’s an issue, don’t, but....”
- ◆ Could we narrow a bit? Date limiters, etc.?



The Real Action: Proactive Disclosure!

- ◆ The Open Government Initiative:
 1. Transparency as default: to replace the hunt-and-peck method with robust data sets online
 2. The goal? Greater citizen participation in the democracy...
 3. By fostering greater collaboration between governments, citizens, NGOs, corporate citizens...



Let's look at a municipal example....

- ◆ San Francisco's DataSF.org
- ◆ A central clearinghouse for datasets published by the City & County of San Francisco. The site allows you to find datasets in several ways: general search, tags/keywords, categories, and rating. The goal is to improve access to city data through open machine-readable formats.



And another...

- ◆ The [District of Columbia](#) is setting the pace...
- ◆ Recall that [huge snowstorm](#) in February?



How is the federal government spending our dough?

- ◆ Check this [interactive graphic](#) out...
- ◆ The goal? [Civic engagement](#)...
- ◆ Even if it's just to [complain about a pothole](#)!



How to get started?

- ◆ Start simple, with data that is already public and frequently requested.
- ◆ Create a data inventory: partner with state archivists, librarians and records managers to identify low-hanging fruit.
- ◆ Look at the request logs. What records are frequently requested and disclosed?



Some goals of e-records

- ◆ A list of the data fields
- ◆ A description of the format or record layout
- ◆ Information as to the frequency with which the database is updated
- ◆ A list of any data fields to which public access is restricted



Other goals?

- ◆ A description of each form in which the database can be copied or reproduced using the agency's computer facilities
- ◆ • A schedule of fees for the production of copies in each available form



Small steps, big results

- ◆ Publicize what you do...
- ◆ Ask the public to play along!
- ◆ Make the transparency efforts, well, transparent.
- ◆ Tell them why it's important.



Where's it all heading?

- ◆ Online county check registers
- ◆ Independent players are joining the game...
- ◆ More every day!
- ◆ The result will be entrepreneurial enterprises leveraging government data...



Web resources

- ◆ <http://www.msnbc.msn.com/id/22262284/>
- ◆ <http://www.datasf.org/>
- ◆ <http://data.octo.dc.gov/>
- ◆ <http://www.dhs.gov/xabout/open-government.shtm#top>



Some more sites to check out...

- ◆ <http://www.defense.gov/open/factsheet.aspx?id=7>
- ◆ <http://www.defense.gov/open/factsheet.aspx?id=7>
- ◆ http://www.cookcountygov.com/portal/server.pt/community/open_county_initiative/320/check_register



Help is a click or call away

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