

Sunshine laws and public records requests

**Peter Aldhous,
Science reporter, BuzzFeed News**

peter@peteraldhous.com
@paldhous

Knowledge is power

A popular Government without popular information or the means of acquiring it, is but a Prologue to a Farce or a Tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power knowledge gives.

James Madison

Sunshine laws

We have, in this country, a powerful set of rules that together are called the **Sunshine Laws**.

- Sunshine Laws set out to ensure an informed citizenry
- Sunshine laws foster greater transparency in government
- Journalists should use these laws to be vigilant and courageous about holding those in power accountable.
- But it's always a fight to find out what government doesn't want us to know!

Federal Freedom of Information Act (FOIA)

- Ensures public access to federal government records.
- Passed in 1966, amended in 1996 to improve access to electronic records.
- Carries a presumption of disclosure (the burden is on the government, to substantiate why information may not be released, not the public to establish why it should). This made statutory in 2016 FOIA reform.
- Requesters do not need to explain why they want the records.
- There are nine specific exemptions (more later).
- The right to access is ultimately enforceable in federal court

The basics...

Who can I request records from?

[Executive Branch](#) departments, agencies, and offices; federal regulatory agencies; and federal corporations.

Who can I not request records from?

Congress ([House](#) and [Senate](#)), the [federal courts](#), and parts of the [Executive Office of the President](#) that function solely to advise and assist the President.

Not just paper documents!

For example, you can request:

- **Photos**
- **Maps**
- **Audio**
- **Video**
- **E-mails**
- **Text messages** on government-supplied cell phones
- **Entire databases!**

But before you file a request...

Check that the information isn't already available on the web

Agencies are required to have Reading Rooms for documents released under FOIA. These may have an online equivalent – look for “Electronic reading room” or “E-FOIA” on government websites, [for example](#).

Searchable databases often have download options, which sometimes can be configured to export all of the data, [for example](#). Specific links may also be provided to download an entire database, [for example](#).

If you don't find it online, first simply ask! Only then file a formal request to the agency's FOIA officer

How much will it cost?

- News media requesters (and those from educational institutions) are required to pay duplication fees (typically \$0.10-\$0.45 per page), but the first 100 pages are free.
- We are also exempt from search and review fees which may be applied to other requesters.
- Even when requesting huge quantities of data, if you specify that you want it in a particular electronic form, e.g. on a CD or a zipped files sent by email or FTP download, costs should be low. But beware and be prepared to contest charges for computer programming!
- Fees can be waived if the request “is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.” Provide as much information to justify this as possible!
- Ask for prior notice if the costs will be more than a certain amount (e.g. \$25). If the fees are more than you can afford, ask for a reduction in price.

How long will it take?

- The agency is supposed to respond within 20 business days after receiving your request. For burdensome searches, it can ask for an extension of up to another 10 business days.
- But in practice, many agencies have huge backlogs, and some requests can take months or even years. If you don't have at least an acknowledgement after 20 days, contact the FOIA officer.
- You can request [expedited processing](#), but this is hard to obtain. You need to show a "compelling need" for the information to be made public, generally threats to safety of individuals. Department of Justice also allows expedited requests for "widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence."
- Keep calling back at regular intervals to ask about the status of your request.
- See [FOIA flowchart](#) e-handout for more on timescales.

What if I don't get what I ask for?

- Check whether the reasons for denial are covered under the nine exemptions from FOIA (see [FOIA Exemptions](#) e-handout).
- Always file an administrative appeal. If you get a denial, I can provide draft language for each FOIA exemption.
- If you still disagree with the decision after appeal, you ultimately can sue the agency in a federal court.

What if I do get what I ask for?

[Jason Leopold](#) of BuzzFeed News, once described as a “FOIA terrorist” by Department of Justice officials (translation: inconveniencing the feds by exercising his legal rights), recommends routinely appealing “the integrity of the search” even if the agency says it has complied to your request in full. They may turn up more records.

Meta FOIA: FOIA for FOIA logs

You can FOIA any agency for its FOIA logs, which provide a summary of all the requests it has received. If you see something that looks interesting, you can ask for it yourself. If the request was already fulfilled, you should obtain your records quickly.

Video recap

Other Sunshine laws

- **Public meeting laws**
- **Conflict of interest disclosure laws**
- **Campaign finance disclosure laws**
- **Federal Privacy Act**
Lets you inspect and correct files maintained on you by federal agencies
- **State public records laws**

California Public Records Act

- Basic principles are the same as for federal FOIA (see [Guide to California Public Records Act](#) handout).
- Applies to not only to state-level agencies but also local agencies (e.g. city police departments, county health departments, school districts).
- Agency has 10 days to decide if records will be provided (with an extension of another 14 days in “unusual” cases where records are off-site or require consultation with another agency).
- Again, there are specific exemptions – you will need to refer to these and appeal denials.

(Details on other states' laws [here](#) and [here](#).)

Examples of stories

For inspiration, see [the stories](#) highlighted in Investigative Reporters and Editors' Extra-Extra blog.

How do I file a request?

Automated letter generators/FOIA managers

[iFOIA](#)

Project of the Reporters Committee for Freedom of the Press

[FOIA Machine](#)

Project led by Center for Investigative Reporting, backed by Knight Foundation

Federal FOIA clearinghouse

[FOIAonline](#)

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