

Disclosing Records Proactively to Achieve Transparency

Presented by:

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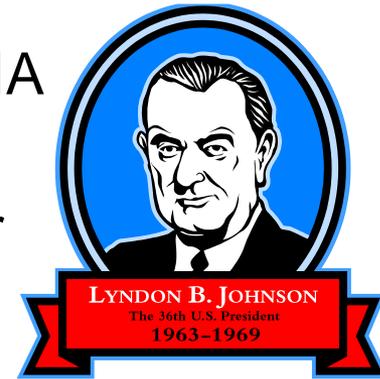
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- The Freedom of Information Act (FOIA) is a law that gives people the right to access information from the federal government
 - ✓ FOIA is often described as the law that keeps citizens in the know about their government
 - ✓ FOIA requires federal agencies to disclose information contained in federal records, unless it falls under:
 - one of nine exemptions, or
 - one of three law enforcement exclusions
- The right to access may be enforceable in Federal Court



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- President Lyndon Johnson signed the FOIA into law on July 4, 1966
- FOIA has been amended periodically over the years (for example, Electronic FOIA Amendments of 1996)
- FOIA applies only to the Executive Branch of the federal government
- States have their own access laws for state records
 - ✓ Occasionally, we receive request citing state FOI laws
 - ✓ Those access laws do not apply to the federal government
- Sweden had the first such “access” law adopted in 1766



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Proactive Disclosures – Records made publicly available by agencies without waiting for a specific FOIA request.

Enhance transparency

Prompt disclosure of records about agency operations create an informed citizenry by revealing “the operations and activities” of government

...with more efficiency

By making information available to many people at once, agencies can promptly satisfy public demand without having to process repeated -- or any -- FOIA requests

Source: Department of Justice

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Agencies must **routinely** make specific operational and “frequently requested records” proactively available without waiting for a FOIA request.

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Four Categories of Required Disclosures

Three types of “operational” documents:

1. Final Opinions and Orders
2. Statements of Policy and Interpretations
3. Administrative Staff Manuals and Instructions

And records of significant public interest:

4. Frequently requested, or “Hot Topic,” Records

...unless such records are already made available under (a)(1) or are otherwise offered for sale.

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The FOIA Improvement Act of 2016 codifies the “Rule of 3” for Frequently Requested Records:



Agencies are now required to “make available for public inspection in an electronic format,” records “that have been requested 3 or more times.”

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A “release to one is a release to all”
standard for federal records.



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Both President Obama and former Attorney General Holder emphasized the Importance of Proactive Disclosures and the Use of Technology in Achieving Open Government.



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- [To] use modern technology” to inform citizens about their government; and
- To make “innovate” steps in making government more collaborative and transparent.
- Agencies should “readily and systematically post information online in advance of any public request.”

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[Census FOIA Library](#)

[DOC Electronic Library](#)

[FOIA.gov Libraries Listing](#)



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- Identifying interest in records through FOIA requests
- Quarterly records searches
- Intra-agency coordination to identify records as they are created
- Coordination among FOIA staffs and Open Government Teams
- Public Feedback
- Posting FOIA Logs
- Posting “most requested” topics

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- Intra-agency collaboration is key
- Timely disclosure is key



QUESTIONS?