Why FOIA?

- 25 years ago, the Administration tried to establish "backdoor" surveillance for the Internet
- A Freedom of Information Act request revealed the true scope of the program
- A public debate followed. The proposal was withdrawn. (Mostly. See Snowden.)
- FOIA works.

Why FOIA Now?

- The new administration will put in place many programs and change current programs
- The public will get the public version (the "press release" version) of these programs
- The public is entitled to the real version, the actual documents that detail the program changes

My FOIA Philosophy

- You have a right under the FOIA to obtain records in the possession of federal agencies
- You also have a responsibility to do your homework, to make good requests, and to pursue your requests diligently
- Exercise your rights but don’t unduly burden the agencies
Purpose of this FOIA Class

(1) an introduction to the federal open government law
(2) access to resources and organizations in the FOIA world
(3) training in researching, drafting, and pursuing FOIA requests
(4) basic skills for pursuing FOIA administrative appeals; and
(5) practical tips and strategies to become an effective FOIA advocate.

Teaching Goals

(1) Understanding the purpose and history of the federal open government law
(2) Framing a well-crafted FOIA request that seeks significant materials on a matter of public interest from the appropriate federal agency
(3) Drafting an administrative appeal in a FOIA matter that reflects a good understanding of the relevant law and litigation strategy
(4) Publicizing results and sharing outcomes with media organizations

FOIA Resources

✤ Lots of excellent resources and organizations
✤ Many on EPICFOIA.ORG website
✤ More will be added
✤ (let us know what we are missing)

Class Topics

✤ Week 1 (Feb 2): Overview of the Federal Freedom of Information Act: History, Purpose, Significance, and Examples
✤ Week 2 (Feb 9): Drafting the FOIA Request: Identifying the Topic, Narrowing the Scope of the Request, Selecting the Agency, Requester status. Asking for fee waivers.
✤ Week 3 (Feb 16): The FOIA Statute: Key Terms, The Nine Exemptions, Agency Regulations
✤ Week 4 (Feb 23): Expedited Processing / Assessing the Documents: Why It Matters, Current Caselaw, Advice and Strategies
✤ Week 5 (Mar 2): The Administrative Appeal: Procedure and Practice, Doing the Research, Making the Argument
✤ Week 6 (Mar 9): FOIA and the Public: Working with the Media, Famous FOIA Cases, Recent Trends in FOIA Matters, Office of Government Information Services (OGIS), Other Tips for Requesters
Class Mechanics

- Thursday, 6 pm to 7 pm
- February 2 to March 9, 2017
- [https://epic.zoom.us/j/7055133182](https://epic.zoom.us/j/7055133182)
- Phone:+1 646 558 8656 (Meeting ID: 445 911 3768)
- Participate in Chat
- Documents available at [www.epicfoia.org](http://www.epicfoia.org)

About EPIC

- Privacy group committed to open government (personal privacy ≠ gov’t secrecy)
- Successfully litigated 100+ FOIA cases
- Focus on emerging privacy and civil liberties issues
- Developed techniques for teaching basic FOIA skills

Quick FOIA History

- The FOIA enacted in 1966
- The FOIA amended the Administrative Procedures Act (APA), which limited release of records in federal agencies
- FOIA reversed the presumption
- Records are now presumed to be available

1974 FOIA Upgrade

- The law wasn’t working. Agencies weren’t cooperating.
- Deadlines established
- Review of agency determinations by courts
- Obligation to release information that could be segregated
- Some efforts to control costs
- Many updates since
Who Uses FOIA?

- The media
- Corporations
- Advocacy groups
- Researchers
- Private citizens

The FOIA - W’s

- Who? Anybody can make a request (US person, visitor)
- What? Any record in a federal agency
- Why? No legal justification is required, but you should have a good reason
- Where? The record must be in possession of the agency.
- When? Whenever you want, though anticipate delay

FOIA Timeline (simple)

- Requester - Submits request for records to agency
- Agency - processes request (locates responsive documents, segregates materials that may be withheld, assesses fees)
- Requester - (I) accepts agency determination. Matter is closed. or (II) challenges agency

Assignment for Class 2 - Draft a FOIA Request

Focus on a significant issue
Request documents that you believe already exists
(1) Why do you think the document exists?
(2) Which agency will have the document?
(3) Why is it important for the public for the document to be released?
Keys to a Good FOIA Request

✧ Timely
✧ Relevant
✧ Well-researched
✧ Well-written
✧ Targeted
✧ Original

Questions?

1. Office of the Dir. of Nat’l Intelligence, Assessing Russian Activities and Interference in Recent US Elections (2017), https://www.dni.gov/files/documents/DNI_2017_01.pdf (stating in bolds “This report is a declassified version of a highly classified assessment...the version does not include the full supporting information on key elements of the influence campaign”).
2. Ibid. at 8.

EPIC FOIA Request 1 ODNI Report Russian (Expedited)