Access vs. Privacy: Freedom of Information Act (FOIA)

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Why care about FOIA?

“Before the Freedom of Information Act, I used to say at meetings, ‘The illegal we do immediately; the unconstitutional takes a little longer.’ [laughter] But since the Freedom of Information Act, I’m afraid to say things like that.”

Henry Kissinger, President Nixon’s Secretary of State,
Notable FOIA Cases

- **1960s**  Veterans groups used FOIA to learn from the DoD about defoliants used in Vietnam.

- **1971**  Surgeon General bans Agent Orange.

- **1982**  FDA released results of studies on aspirin and Reye's Syndrome in children.

- **1982**  Warning label mandatory for mfrs.

- **2002**  Scott Armstrong, National Security Archive, uses FOIA to prevent Pres. Clinton from destroying Iran Contra records.

- **2002**  Federal Judge issues injunction.
Legal Disclaimer; Learn Basics

- Materials referenced in this webinar are intended for reference use only and do not constitute legal advice.
- That’s because we are librarians, not lawyers.
FOIA dynamics: Where does your request land?

- Accountability
- Privacy
- Overreach
- Protection
Access Vs. Privacy

- Why FOIA
- FOIA in the news
- Jurisdiction and agency
- Who’s not covered by FOIA?
- Exemptions
Why FOIA?

- Search Depository Library collections
- Search online for government information
- Search or browse FOIA reading rooms
- Simply ask the agency for the information
FOIA in the news

- SeaWorld
- Commander of Nazi SS-led unit living in Minnesota
SeaWorld, OSHA, and FOIA

● Killer whale attack in 2010
● Documentary filmmaker seeking footage from OSHA

THE MAGAZINE
Killer Whales Strike Back at SeaWorld
By DAVID BROWNE Oct 2013
A new documentary exposes SeaWorld’s deadly business.

As it turns out, Shamu holds a grudge. Airing this month on CNN, the documentary 'Blackfish' examines why captive orcas—popularly known as killer whales—are killing and injuring trainers at aquatic parks like SeaWorld. The movie opens with the 2010 death of SeaWorld trainer Dawn Brancheau, 40, who was repeatedly pulled underwater by Tilikum—a 32-year-old, 12,000-pound orca—before dying of blunt force trauma to the head and neck and drowning. As director Gabriela

FOIA request by AP; access to Karkoc’s Army Intelligence File

AP: A leader of Nazi SS-led unit that massacred civilians, Michael Karkoc, has been in U.S. since 1949

- Retired clinical Pharmacologist in London informed the AP about a former Nazi commander potentially living in MN
- FOIA request went to the National Archives

Awareness of Jurisdiction & Agency

- Federal vs. State
  - MN
    - IPAD, [http://www.ipad.state.mn.us/](http://www.ipad.state.mn.us/)

- Know your agency
Who’s Not Covered by FOIA?

- Legislative branch
- Judicial branch

The FOIA applies to all federal agencies, which means it does not apply to:

The Judicial Branch and Federal Courts

For records and more information on the Federal Court System, please visit: www.uscourts.gov

The Legislative Branch and Congress

For records and more information on both houses of Congress, please contact your local House Representative or Senator. You may also visit www.house.gov, www.senate.gov, or www.congress.gov for additional information on the legislative branch.

State Governments and Courts

For records and more information on State or local agencies, and courts, please contact those entities directly.

Exemptions and Exclusions

- Health records
- Critical Infrastructure Information Act of 2002
- Common denials
Life Cycle of a Request

● Every agency must respond to a request within 20 working days of receipt.
● Response ≠ Release
● Actual release of the information should happen “promptly” afterwards.
  ○ Tip: Each agency’s FOIA Annual Report mentions the average length of time before information is released.

Note: “FOIA does not require agencies to do research for you, answer written questions, or in any other way create records (such as lists or statistics) in order to respond to a request.” ([http://foia.state.gov/Learn/FOIA.aspx](http://foia.state.gov/Learn/FOIA.aspx).)
What’s our role as librarians in promoting access to FOIA?

- Advocating for FOIA improvements
  - Advocacy groups:
    - National Freedom of Information Coalition (NFOIC)
    - National Security Archive (NSA)
    - MN Coalition on Government Information (MNCOGI)

- Library guides
  - UW-Milwaukee - [http://www4.uwm.edu/libraries/guides/foia.cfm](http://www4.uwm.edu/libraries/guides/foia.cfm)
Questions?

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Learn more: http://z.umn.edu/gf8