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Hot Doc: Freedom of Information Day and Club Henderson's newest exhibit

March 1, 2013

The Freedom of Information Act (FOIA) was enacted into law in 1966. This significant legislation gives the public access to Executive Branch information except under certain pre-defined exemptions, such as: "records which are specifically authorized under criteria established by an Executive Order to be kept secret in interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order"; "Trade secrets and commercial or financial information obtained from a person that is privileged or confidential"; and "personnel, medical, and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy"; etc. This act is enforceable in the court of law, and is used to keep a check on executive powers by concerned individuals and groups.

Currently [one hundred federal](#) agencies make information available through the FOIA. These institutions include: United States Department of Agriculture, Department of Homeland Security, Department of Justice, Department of the Treasury, Environmental Protection Agency, NASA, Social Security Administration, Small Business Administration, State Department, Department of Interior, Nuclear Regulatory Commission, Labor Department, and many others. For a full list of government agencies that submit FOIA information check out [FOIA.gov](#).

"The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed" (NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214, 242 (1978)). As President Obama said in a [memorandum](#) on January 21, 2009 for the heads of executive departments and agencies "The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears" (Federal Register Vol. 74, No. 15 Monday, January 26, 2009).

Any item that is obtainable under the FOIA, and is requested on more than two occasions is generally made readily available in an online format on the agency's website. One of the great things about the Electronic Freedom of Information Act of 1996 is that it helped to establish "electronic reading rooms" on the FOIA portion of many agencies' websites. This has helped to decrease backlogs and wasted time for processing multiples of the same requests. People are encouraged to check these reading rooms before submitting a FOIA request because information sought might already be available online.

President Obama has encouraged agencies to "actively seek out and identify records which, while not falling into one of the four subsection (a) (2) categories...are nonetheless of sufficient public interest to warrant automatic disclosure on an agency's website" ([Proactive Disclosures pg. 19](#)). The President has also asked executive branch agencies to "take affirmative steps to make information public' without waiting for specific requests, and, to 'use modern technology to inform citizens about what is known and done by their Government'" ([Proactive Disclosures pg. 9](#)).

It is important to bear in mind that certain entities that are "neither chartered by the federal government [n]or controlled by it" ([Procedural Requirements pg. 27](#)) are not subject to FOIA requests. These include state and local governments, foreign governments, municipal entities, the courts, other entities in the Judicial Branch, Congress, private citizens and corporations, and presidential transition teams.

In 2011 there were a total of 644,165 FOIA requests received of which 236,474 were released in full and only 30,369 requests were denied. The likelihood that a FOIA request submitted by any user will be granted in full or part is fairly high.

"As a general rule, when documents are within FOIA's disclosure provisions, citizens should not be required to explain why they seek the information" ([NARA v. Allan J. Favish. 541 U.S. 157 \(2004\)](#)). There are only two requirements for an access request. These are "each agency, upon request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed" ([5 U.S.C. section 552 \(a\)\(3\)\(A\) \(2006\)](#)). After a FOIA request is received, an agency has twenty days upon which to make its decision regarding access, unless there is a backlog of requests. If a backlog exists then item requests are done on a first come, first served basis and judged by their ease of processing. It is important to remember that FOIA requests need to be very specific in what is being requested.

So, you might ask, why is the Freedom of Information Act important to me? The short answer is that the Freedom of Information Act provides a means by which you can be an informed and engaged citizen of our great republic. The FOIA allows you to inquire into any aspect of the executive branch of government and to pressure them for answers on tough questions. This does not guarantee that you will be answered, because, as stated earlier, there are certain restrictions that allow the government to withhold granting a request. It is important to remember the invaluable words of former Supreme Court Justice Louis D. Brandeis who said "If the broad light of day could be let in upon men's actions, it would purify them as the sun disinfects."

To share the value of the Freedom of Information Act, Henderson Library is celebrating this year's FOI Day, held annually on March 16th in honor of James Madison's birthday, with an exhibition on the second floor of the library next to the Browsing collection. The FOIA exhibit will be up throughout the month of March. One of the most notable items in the display is the White House beer recipes. These were subject to a FOIA request, and were released by the White House. The exhibit also includes examples of cases involving FOIA requests currently under debate, an example of how to write a FOIA request, a response to a FOIA request, and books available at the library.

An online Freedom of Information Act exhibit is also available in the form of a [Libguide](#). LibGuides is a new library service powered by Springshare, which provides interactive pathfinders on topics, subjects or events for use by students, faculty and the community. These online LibGuides exhibits may contain photographs, videos, transcripts, general and subject-specific catalog and database search boxes, chat "widgets", social media, important files, web-links, and much more. The FOI LibGuide is an invaluable resource for anyone looking to further their research and understanding of the Freedom of Information Act in time for this year's FOI Day and Sunshine Week. We hope students, faculty, and the community will utilize this information to further understand how their government works, and continue the process of being an active and engaged citizenry.

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