



History of FOIA

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FOIA REQUESTS

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The Freedom of Information Act ([5 USC § 552](#)) (FOIA) is one of the most important legal tools citizens and reporters have for furthering government transparency in the United States. And yet, history shows that empowering the citizenry as a check on the government has worried many members of the executive branch, including presidents of both parties, and reminds us that citizens must be constantly vigilant to protect hard-earned transparency rights.

FOIA was originally championed by Democratic Congressman [John Moss](#) from California in 1955 after a series of proposals during the Cold War led to a steep rise in government secrecy. Moss found support from newspaper editors and journalists, but he could not find Republican co-sponsors until years later. During the Kennedy and Johnson administrations, he received support from a young Representative named Donald Rumsfeld.

Unfortunately, President Lyndon B. Johnson, a fellow Democrat, opposed the bill—in fact, every federal agency and department at the time opposed it. However, when the Senate passed its version of the bill, it became clear that government transparency was going to win out in the end. Moss issued one final report that clarified rules and exemptions for the government agencies, and the House passed the bill soon after (with a vote of 307-0).

With the finalized FOIA bill now on his desk, President Johnson still had his own concerns. On the 4th of July, 1966, Johnson decided not to hold a public event for the signing—which he did for other major bills. Instead, he [issued a signing statement](#) when making the bill a law, in which he attempted to undercut the law by focusing on exemptions for national security and FOIA's room for interpretation. Yet the last sentence of his signing statement is the one that endures: “I sign this measure with a deep sense of pride that the United States is an open society.”

Though the 1966 bill was a huge step towards government transparency, FOIA lacked the teeth necessary to force government agencies to comply. It wasn't until 1974, after the [Watergate scandal](#) and the tight-lipped Nixon administration, that Congress amended FOIA to become the bill it is today. The Senate and the House introduced many new requirements, timeframes, sanctions for wrongly withheld information, and necessary language waiving fees for journalists and public interest groups.

President Gerald Ford's chief of staff, Donald Rumsfeld, an early supporter of the original FOIA, and the head of the Justice Department's Office of Legal Counsel, Antonin Scalia, pushed the president to veto the FOIA amendments. Ultimately, Ford agreed. In his [veto message](#), Ford called the bill unconstitutional, felt that national secrets were at risk, and thought the ten-day deadline was too burdensome.

The House and Senate would have nothing of this, however, and overrode his veto.

FOIA was further amended in 1976 through the Government in the Sunshine Act to clarify terms and exemptions, and again in 1986 through the Anti-Drug Abuse Act.

In 1982, President Ronald Reagan issued Executive Order 12356, which created new classification rules that made withholding potentially sensitive government information as a response to FOIA requests much easier. A few years later, Reagan's attorney general, Edwin Meese, wrote [a memorandum](#) asserting that the government could deny the existence of requested memos, though thankfully, this measure was never adopted.

Many of Reagan's tight restrictions were reversed, or at least loosened, the following decade when President Bill Clinton released many classified documents from the Cold War era for historical and archival purposes.

In 1996, President Clinton signed into law the Electronic Freedom of Information Act Amendments. In his signing statement, Clinton [acknowledged](#) how new technologies, including the Internet, would allow for greater transparency: the amendments required agencies to make documents available in electronic formats and digitally distributed. The response timeframe was also extended from ten to twenty days, though in practice this change had little effect.

But after September 11, 2001, government transparency saw a number of restrictions. President George W. Bush issued Executive Order 13233, which limited access to former presidential records, drawing ire especially from archivists and librarians. Soon after, FOIA was amended to limit access to governmental records from foreign governments through the Intelligence Authorization Act of 2002.

In 2007, President Bush did sign the OPEN Government Act of 2007, [lauded the law](#), which extended crucial services to alternative journalists and bloggers, defining them as members of the news media. (Journalists get cheaper access to records.) It also established the Office of Government Information Services, which oversees government compliance with FOIA. However, the Bush administration's compliance with FOIA was sharply criticized by open government groups, and was widely regarded as the most secretive administration in history.

In 2016, 50 years after FOIA first became law, President Barack Obama signed the FOIA Improvement Act. The law contained modest FOIA reforms, including codifying the Obama administration's "presumption of disclosure," which specifically limits agency discretion to withhold records under FOIA. It's unclear what impact the presumption of disclosure will have on increasing transparency. Obama had included similar language in a memorandum on FOIA reform he issued on his first day in office in 2009, but the laudatory language did not translate into greater records disclosure. In fact, during the Obama administration, government became more secretive.

The FOIA Improvement Act also required federal agencies to create a central online portal that will allow anyone to file a request with any government agency. The law also required agencies to update their FOIA regulations, as many agencies had not done so since passage of the OPEN Government Act in 2007. Additionally, the law put a 25-year limit on the ability for any federal agency to withhold documents under the deliberative process privilege, preventing agencies from withholding records that describe historic agency decision-making.

For an in-depth legislative history of FOIA with congressional records, check out GWU's [National Security Archive](#) page.

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