

Sunshine Week column 2026

The Document Divide: Why public record laws are failing average Americans, and what to do about it

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Freedom of information should be freedom of information for all.

It is not.

As we approach the 60th anniversary of the U.S. Freedom of Information Act (FOIA), and celebrate national Sunshine Week March 15-21, we look back at the [signing](#) of the law by Lyndon B. Johnson on July 4, 1966: “I signed this measure with a deep sense of pride that the United States is an open society in which the people’s right to know is cherished and guarded.”

Great words, and I wish they were true. On paper, all of us are equal in FOIA law, but it turns out that some of us are more equal than others. The reality is that FOIA is a convoluted, intimidating, expensive and legalistic system that favors the educated, rich, white, male, aged and liberal.

How do we know this? My colleague, A.Jay Wagner of Marquette University, and I [surveyed 330 Americans](#) who have requested public records at the local, state and federal levels, and found that they represent a skewed slice of the U.S. population:

Demographic	Requesters	U.S. Population *
Male	62%	50%
White	88%	73%
Hispanic	6%	19%
BA or higher degree	88%	25%
Income	68% over \$80,000	\$50,145 average
Median age	55	42
Liberal	60%	25%

* U.S. Census, 2022 (same year the survey was conducted)

We shouldn’t be surprised. We know that most public records requests are [submitted by commercial enterprises](#), and that the corporate world has [lobbied hard](#) for access to information while also pushing for exemptions to hide its own behavior. Other heavy users of public record laws, such as lawyers and journalists, are highly educated, and many are skilled in the art of access.

We also know from research that copy fees [discourage average people](#) from pursuing public records. The average copy fee, when charged in Florida, is [\\$1,650](#). What average person will pay that?

Government agencies also have been found to discriminate against those in less prestigious rungs of society, such as [marginalized minority populations](#). One study showed that government custodians sometimes [“Google” requester names](#) and are more likely to respond to requests coming from a university professor than those coming from a doorman or “cleaning lady.”

The law itself – and how government describes it – scares the average person away. The Department of Justice [description](#) of FOIA goes like this: “The FOIA contains thirteen main subsections, the first of which establishes certain categories of information that must be proactively disclosed by federal agencies. Subsection (a)(1) of the FOIA requires disclosure through publication in the Federal Register of general agency information such as descriptions of agency organization, functions, and rules of procedure; substantive agency rules; and statements of general agency policy.”

Zzzzzzzzzzzzzzzzzzzzz.

Before one accuses us academic eggheads of promoting a woke agenda, we should point out that our study found that those most likely to use public record laws lean left. Political conservatives, particularly those in rural areas, have just as much a right to information as coastal liberal elites. This isn’t about politics. It’s about good governance, and better lives for everyone.

Because, we know, access to public records matters. Studies have shown that public record laws lead to cleaner [drinking water](#), safer [restaurants](#), and [lower taxes](#). Those skilled in acquiring public records can buy a home with confidence, background babysitters, keep tabs on their local government, and find the [best schools](#) for their children.

Those in power in society are best equipped to acquire information – to further their power, both economic and social – and the rest are left behind, widening the document divide. So, what do we do about it?

- Government should invest in technology to make the public records system seamless, simple, and understandable. The Department of Justice’s “[FOIA Wizard](#)” is a good start, using artificial intelligence to help people identify records that might help them.
- Agencies should proactively post information that is most requested by average people – nobody should have to ask for it. That *doesn’t* mean heaping tons of data online without explanation. One study found that can actually [turn people off](#) to information.
- People shouldn’t be charged exorbitant fees to get information they already paid for with their taxes. Accessing government information is a civic act – like voting, attending city council meetings and speaking to elected officials.
- We shouldn’t have to hire a lawyer and go to court to enforce public record laws. States and the federal government should create independent enforcement agencies that can force agencies to cough up records for free, or nearly free, as they have in [Connecticut, Ohio, Pennsylvania](#) and more than 50 nations. Such [“transparency guardians”](#) should also be empowered to deem some requests as “vexatious,” and allow agencies to ignore them.

- Educators should integrate public records education in K-12 curriculum and university general education, as basic civics. If they can [require that](#) in Sinaloa, Mexico, why not here?
- Philanthropic individuals and foundations should aid in the creation of nonprofit coalitions for open government in every state, as started by the [National Freedom of Information Coalition](#), to aid the public in acquiring government records, and ensure those nonprofits can become self-sustaining for generations to come.
- Government and civil society should double down on educating the public through public service advertising, such as this inspirational [video in India](#) showing the power of transparency.

To be sure, national [Sunshine Week](#), celebrated every March since 2005, has helped promote the public's right to know, but until serious initiatives are implemented by the government and civil society, federal and state public record laws will fail to reach their promised potential.

It's time to invest in democracy, and the power of information.

It's time to put the "us" back into U.S. FOIA.

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