



## NOTES FROM THE FIELD: THE ART OF CRAFTING A FOIA REQUEST

BY STEVE SWISDAK

The Freedom of Information Act (FOIA) is yet more proof of the adage “no good deed goes unpunished.” Though intended to facilitate greater transparency in government, as those who have submitted a FOIA request can attest, the process can be maddeningly opaque.

### The Foundation

Enacted in 1966, FOIA (5 U.S.C. § 552) established the public’s statutory right of access to federal government information. Getting it passed took 12 years and the concerted efforts of a little-known California congressman, John E. Moss, who railed against government secrecy. Ironically, Moss’s FBI file—obtained through FOIA after his death—returned a stack of documents two inches thick.

Since then, “FOIA” has become not just an acronym but a noun (“I submitted a FOIA for that information”) and even a verb (“should we FOIA that?”). Over the years, though, FOIA has brought to light

many noteworthy records, including the release of DOT records on the safety of the Ford Pinto, photographs of flag-draped cof-



Lisa Benson Editorial Cartoon © Lisa Benson. Used with the permission of Lisa Benson, the Washington Post Writers Group and the Cartoonist Group. All rights reserved.

films returning from Iraq, and even the CIA’s recent disclosure of the existence of Area 51. At History Associates, we understand the proverbial nuts and bolts of FOIA and have learned over the years the art of a properly crafted FOIA request.

### The Nuts and Bolts

The federal government’s FOIA (and similar state “sunshine laws”) enable the public to gain access to government records, with federal agencies only allowed to deny access in the case of ten specific exemptions (e.g., national security, personal privacy, and proprietary business information).

Although agencies must respond to FOIA requests within 20 business days, a “response” can merely mean acknowledgment of your request, with the actual fulfillment taking much longer. Thus, is it common for some agencies to take months or even years to respond to certain FOIA requests. According to statistics available on [FOIA.gov](http://FOIA.gov), the federal government had a backlog of almost 72,000 FOIA requests as of the end of FY 2012.

To help the public navigate the FOIA process, Congress passed the Openness Promotes Effectiveness in our National (OPEN) Government Act of 2007, which established

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## LONG-TERM DIGITAL STORAGE: SIMPLE STEPS TO GET STARTED

BY NATE SCHEIBLE AND JESSICA SCOTT

Preserving digital files for long-term access is a difficult issue for many organizations; the files can quickly become inaccessible due to media and hardware obsolescence and they are subject to degradation. With the sheer volume of digital information produced on a regular basis, this task might seem overwhelming, but digital preservation does not always have to involve detailed workflows and inflated budgets. Not all digital information will need to be preserved for long-term access, so an initial appraisal of what needs to be saved will help to clarify the

scope of the project. Once this has been defined, there are some relatively easy, proactive steps you can take to begin preserving your digital materials.

One critical first step is to remove files from external storage media and place them on a more stable and reliable storage system. Common examples of external storage media include CDs, USB flash drives, and 3.5” floppy disks. Such external storage media are typically not recommended for the long-term storage of digital files because of their short life expectancy and accessibility issues due to media and hardware obsolescence. Depending on their age and usage, finding a

means of accessing files on these media can be challenging. CD/DVD disk drives are still found in most contemporary computers. However, it may be more difficult to locate disk drives for older storage media such as ZIP disks. Being aware of your organization’s capability to access certain media will help prioritize which types to transfer first and which can be addressed as budget or necessity permit.

The next step is to decide what storage system to use. A variety of options exists, which can be evaluated based on the size of the organization’s data, budget, and need

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## JOIN US AT THE ABA SECTION OF ENVIRONMENT, ENERGY AND RESOURCES 21<sup>ST</sup> FALL CONFERENCE OCT 9-12, HILTON BALTIMORE, BALTIMORE, MD

On Friday, October 11, senior historian Steve Swisdak will be presenting a Technical Roundtable on the historical uses of Trichloroethylene (TCE) and related records that can be useful in TCE-related legal matters.

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the Office of Government Information Services (OGIS). OGIS acts as the “federal FOIA ombudsman,” facilitating communication between FOIA requesters and federal agencies and mediating FOIA disputes. When FOIA requesters believe that agencies have wrongfully withheld certain records or have been uncommunicative in responding to a request, they can solicit help from OGIS.

Agencies can charge fees for the processing of FOIA requests, including fees for search, review time, and duplication costs. While costs are typically less than \$500, they can go much higher, depending on the scope and nature of the request.

#### The Art

In our experience, the best time to submit a FOIA request is after you have thoroughly exhausted other research avenues and determined that information of interest is not available elsewhere. Once you have decided to submit a request, you need to determine which agencies might maintain information of interest and then provide the appropriate FOIA offices with as much information as possible to guide their search. In doing so, think of yourself as a modern-day Geppetto—a puppeteer of sorts guiding agency records officers as they search for records of interest to you.

Remember that in a FOIA request you are basically asking an agency records officer, who probably knows little about your topic, to conduct research on your behalf into their agency’s records. The most effective FOIA requests, then, are as specific as possible about the information of interest, without being so focused that they preclude the release of potentially useful information. Helpful information in FOIA requests can include a list of agency offices that likely created records of interest, or specific accessions, boxes, or folders of interest stored in the federal records system. In short, the more information you can provide in your request, the more likely you are to get relevant records.

At History Associates, we have developed in-house resources that enable us to



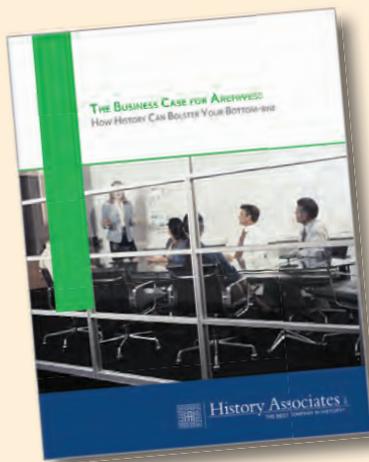
*The CIA’s declassified map of Groom Lake / Area 51, obtained through FOIA request. Map published with the permission of the National Security Archive.*

create targeted FOIA requests. For example, with respect to Department of Defense (DoD) requests, we have compiled a database that contains summary information on all significant DoD contract actions since FY 1966. Through the use of this database, we can craft FOIA requests to DoD agencies that identify specific contracts and/or contractors of interest.

#### The Need for Patience

Finally, after conducting careful research and submitting a well-crafted letter, it’s good practice to follow up with agency officials and to keep a record of your interactions with them; it may take time and require additional clarification with FOIA officials before your request is fulfilled. While the FOIA process can be time-consuming, and even frustrating, it can also be an invaluable means of obtaining government information.

*Steve Swisdak is a senior historian and deputy director of the Litigation Research Division at History Associates. Contact Steve at 301-279-9697 or by e-mail at [sswisdak@historyassociates.com](mailto:sswisdak@historyassociates.com).*



### MAKE YOUR CASE FOR A CORPORATE ARCHIVES PROGRAM

Developing an archival program can often be a daunting task—especially when the concept of “archives” is often equated with “storing old files.”

History Associates has assisted numerous companies in kick-starting their archival programs, and we have devised a number of resources to help.

Download our free report, “**The Business Case for Archives: How History Can Bolster Your Bottom-Line**” for a handy

summary of the best business reasons for starting an archives program.

To download the free PDF, go to:

[historyassociates.com/business-case-for-archives](http://historyassociates.com/business-case-for-archives)



## STAFF HIGHLIGHTS: JASON GART



Jason recalls being fascinated by his grandfather's World War II photo album, and the passion for history never left. He majored in history and politics at Drexel University, undecided on a career path until a professor handed him a pamphlet describing careers in history. "I didn't know people could be professional historians," he said. Jason took on freelance historical consulting jobs while working on masters and Ph.D. degrees at Arizona State University, even launching a website, AskAHistorian.com, as a grad student. At History Associates he is thoroughly in his element. "As a Ph.D., you specialize in one very narrow subject area...But since I've been at History Associates, I've investigated, maybe thirty to forty different topics," he said, adding he's enjoyed the intellectual challenge of researching subjects ranging from the history of a Canadian accounting firm, to English portraiture paintings, to unmanned aerial vehicles (UAVs). "Once you understand the methodology, you can apply it to anything. I see myself as a generalist and it's a lot of fun."

## LONG-TERM DIGITAL STORAGE: SIMPLE STEPS TO GET STARTED

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for quick accessibility. Options include hard disk drives, solid disk drives, cloud storage, and magnetic tape. Regardless of which option you choose, it is best practice to maintain two complete copies of the files on different media, ideally in two different geographic locations.

Nothing in the digital preservation world offers a *permanent* solution, but anticipating potential issues goes a long way to ensuring digital file preservation as technology evolves. Removing files from external storage media to a more stable storage system will put you in a better position to address more complex preservation issues as needed. If you are responsible for the long-

term maintenance of electronic data and need help getting started, consulting services are available to help you survey and assess your digital collections, getting you on track to deal with these complex preservation issues before they lead to data loss. At History Associates, our trained digital archivists can

help you map out an appropriate plan of action for your organization.

*Nate Scheible and Jessica Scott conduct archival projects for a variety of clients, from large government agencies to small private companies. Contact Nate or Jessica at 301-279-9697.*

## WE MADE THE LIST!

History Associates is pleased to announce that for the second year in a row, we've made the Inc. 500|5000 list—the magazine's annual exclusive ranking of the nation's fastest-growing private companies.



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provided records management training for NCCAM staff.

### NAVAL HISTORY AND HERITAGE COMMAND / IMMERSION

completed the capture of metadata from NHHC electronic oral history collection.

### H.E. BUTT FOUNDATION

completed archival needs assessment of the Foundation's historical materials in their digital records environment.

### GRAND LODGE OF THE DISTRICT OF COLUMBIA

completed a data migration project to import catalog records into PastPerfect, requiring the development of nomenclature, data standardization, and data mapping.

### LITIGATION RESEARCH

continued to research and analyze documents in federal, state, and local records repositories in California, Connecticut, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Washington, D.C., and Washington state.



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# TEST YOUR KNOWLEDGE OF BASEBALL

“Take me out to the ballgame . . .” Can you identify these historic baseball parks?

<p>A.</p> 	<p>B.</p> 	<p>C.</p> 
<p><i>Photo courtesy Wikimedia Commons</i></p>	<p><i>Photo courtesy Library of Congress, Prints &amp; Photographs Division</i></p>	<p><i>Photo courtesy Library of Congress, Prints &amp; Photographs Division</i></p>

E-mail your answers along with your contact information to Anne Strong at [astrong@historyassociates.com](mailto:astrong@historyassociates.com) by October 6, 2013. Correct responses will be entered into a drawing for a \$50 Amazon gift card! See past quiz questions and answers online at [www.historyassociates.com/newsletter](http://www.historyassociates.com/newsletter)

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**HISTORY ASSOCIATES INC.**  
 300 N. STONESTREET AVE.  
 ROCKVILLE, MARYLAND 20850  
 T 301.279.9697  
 F 301.279.9224  
[WWW.HISTORYASSOCIATES.COM](http://WWW.HISTORYASSOCIATES.COM)

