What’s Public and How Do I Get It?

Miranda Spivack
Independent Journalist; Fellow, Brechner Center for Freedom of Information
mirandaspivack@yahoo.com
301-275-2092 @mirandareporter
Secrecy during the coronavirus:

Check your state open records law here:
https://projects.jsonline.com/apps/state-secrets/,

Bring back face-to-face beat reporting!
Basic beat reporting: get to know the record keepers. They can help you target your request. And they may just give you what you need without a formal request. Ask!
Get a tour, ask what is generally available, get schedule of record retention schedule
Find out what the fees are. Can they be waived because you are reporting in the public interest? Stress that you have no commercial gain from the request.
Ask about state/local reports weekly, monthly, annually required by state or federal government. How are these reports recorded and stored?

Stymied? Ask the feds for state records, and the state/localities for communications with the feds

HIPAA – Often cited but generally does not give them a reason to hold back info. You can ask for anonymous information – names of nursing homes with sick clients, and how many, not the names of the clients who are ill

Sample request letters
•http://www.foiadvocates.com/samples/1.html
•http://nsarchive2.gwu.edu//IMG/SampleFOIAletter.pdf
•https://www.muckrock.com/questions/is-there-a-good-fbi-foia-request-sample-letter-603/
•https://firstamendmentcoalition.org/public-records-2/foia-sample-request-letter/

What’s out there already:
Federal agencies’ reading rooms, where frequently requested records are posted. Lisa DeLuca at Seton Hall University has links to federal reading rooms.
Monitor FOIA logs to see others’ requests
USAspending.gov
Find out if the government agency proactively releases records

Some records you can request:
Accident-Injury Reports; Administrative Files; Air quality records: Audit Reports; Budget Files; Check Payments; Conflict of Interest Form; Contracts; Grants; Discrimination and Harassment Complaints; Draft Contracts; Family Medical Leave Act Records; General Correspondence; Medical Information Office Expenditure Documents Payables (Invoices/ Vendors) Payroll Reports/ Timecards & Related Documents; Personnel Files (Depends on the state) Policies/Procedures Purchase Orders; RFA, RFP, RFQ(s) and related records; Receipt/Deposits; Travel Request; Work Orders; Worker's Compensation Records

FOIA wiki: https://foia.wiki/wiki/Main_Page

Free or inexpensive legal help
• Reporters Committee for Freedom of the Press has created a FOIA generator. If you fill out a few questions, it will create a request, appeal and complaint for you to print, sign and mail.
• National Freedom of Information Coalition has more sample letters for FOIA and Privacy Act requests, appeals and amendments.
• Student Press Law Center provides a generator for state open records law requests.
• Federal agency FOIA offices provides a comprehensive list of federal FOIA offices.
• Reporters Committee for Freedom of the Press may be able to litigate your FOI cases. By phone: 1-800-336-4243; hotline@rcfp.org
• Muckrock has knowledgeable people on staff who can offer advice.
• First Amendment Coalition, a California-based organization https://firstamendmentcoalition.org/legal-hotline/
• State affiliates of American Civil Liberties Union, whose protections for the Bill of Rights include extensive litigation and support for the First Amendment. https://www.aclu.org/about/affiliates
• Local bar association can refer you to a pro bono lawyer with expertise in public records
• Some states have state ombudsmen or open government officers who can help