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# The Freedom of Information Act (FOIA)

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Dear Reader:

The following document was created from the CTAS website ([ctas.tennessee.edu](http://ctas.tennessee.edu)). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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# The Freedom of Information Act (FOIA)

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During the “atomic age” following WWII, a strong movement began on the state and federal level to allow the public access to information about what the government was doing and to files that the government had collected about individual citizens. This push resulted in the passage of “open records” laws in many states during the 1950s and culminated in the passage of the Freedom of Information Act at the federal government level<sup>[1]</sup>. Tennessee was among those states passing an open records law in the 1950s.<sup>[2]</sup> The specifics of our state laws will be discussed shortly, but first it is useful to make a few brief points about the Freedom of Information Act. “The Freedom of Information Act (FOIA)<sup>[3]</sup> was passed by Congress in 1966 and amended in 1974. Based on the premise argued by Madison and Hamilton that openness in government will assist citizens in making the informed choices necessary to a democracy, FOIA creates procedures whereby any member of the public may obtain the records of the agencies of the federal government.”<sup>[4]</sup>

The main thing county officials need to know about the FOIA is that it applies to *agencies of the federal government*.<sup>[5]</sup> The Freedom of Information Act does NOT apply to county governments. As a county records custodian, you need to be aware of the FOIA because citizens may try to assert their rights to county government records under that act due to confusion as to which laws apply. Different policies and procedures apply to federal offices under the Freedom of Information Act that are not included in the Tennessee public records statutes that apply to your office. Under the FOIA, citizens may request a federal agency covered by the act to perform searches of its records to locate certain information and then disclose the information, providing copies to the person making the request (subject to certain fees). As will be seen, Tennessee statutes allow broad access to public records, but they do not generally require local officials to perform searches or create new reports or responses to requests if those reports are not already a part of the office records.

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[1] *Using the Freedom of Information Act, a Step-by-Step Guide*, an American Civil Liberties Union Publication.

[2] T.C.A. § 10-7-503, which makes most state and local government records in Tennessee public, passed in 1957.

[3] 5 U.S.C.A. § 552(a).

[4] *Using the Freedom of Information Act, a Step-by-Step Guide*, an American Civil Liberties Union Publication.

[5] 5 U.S.C.A. § 552(f).

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