



FY15

**ANIMAL RIGHTS
FOIA REQUESTS**

nabr

National Association for
Biomedical Research

A Review of Animal Rights FOIA Requests FY 2015

Overview of the Freedom of Information Act

The Federal Freedom of Information Act, commonly known as the FOIA, governs access to records in the possession of federal agencies, such as the USDA, NIH, and FDA. FOIA was enacted in 1966 to promote transparency and ensure accountability of government officials and agencies. In many cases, FOIA enhances democracy by allowing the public to hold elected officials accountable.

However, animal rights activists have increasingly turned to FOIA to acquire information about biomedical research in order to request investigations, issue misleading press releases and ask for enforcement actions for alleged issues involving noncompliance. One significant tactical change during the last year involved animal rights activists submitting broadly worded FOIA requests seeking information for all research institutions with an Animal Welfare Assurance in a given state. This change resulted in an almost tripling in the total number of institutions for which information was requested and presumably released. This tactic also served to obscure the identity of a targeted institution by making it one of many unnamed institutions, rather than singling it out.

In addition to the misuse of FOIA by activists, the financial costs agencies incur to provide this information has continued to increase. In FY 2015 alone, direct FOIA expenses were nearly \$480 million, which is a 4% increase from FY 2014. At just APHIS and NIH, 52 individuals were counted as “full-time FOIA staff” and FOIA costs exceeded \$5.4 million. While the goals of promoting transparency and ensuring accountability are laudable, it is important to recognize funds used for this purpose cannot be used for research grants or by the agencies to fulfill their missions.

I. APHIS

A. Analysis of FOIA Requests Submitted to USDA During FY 2015

A compilation of the FOIA Logs for FY 2015 shows that the U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) received 889 requests for information under FOIA which is down slightly from FY 2014. Approximately 30 percent (265) of the FOIA requests, which is a 23% increase from last year, could be identified as submitted by animal rights/animal interest organizations, or individuals that appeared to be associated with such groups. It is important to recognize that the number of requests alone does not necessarily correspond to the volume of information released. Some requests were made for individual documents, while others were broadly worded requests encompassing hundreds or even thousands of pages of records associated with multiple research institutions.

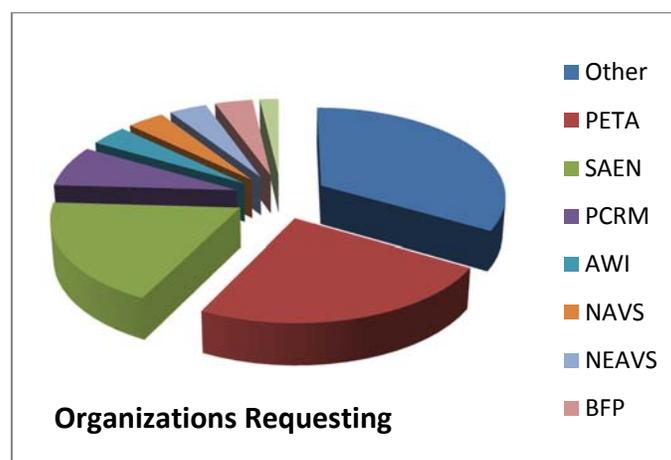
The table below shows the breakdown of the requests described above.

Requesting Party	Number of Requests
People for the Ethical Treatment of Animals (PETA)	165
Humane Society of the United States (HSUS)	19
American Society for the Prevention of Cruelty to Animals (ASPCA)	13
Stop Animal Exploitation Now (SAEN)/Michael Budkie	11
Animal Legal Defense Fund	5
Animal Welfare Institute (AWI)	5
Animal Defense Fund	5
Physicians Committee for Responsible Research (PCRM)	4
New England Anti-vivisectionist Society (NEAVS)	4
Other Organizations or Individuals	34
Total	265

B. Frequently Requested Information

Animal rights organizations most frequently requested information about exhibitors, actions related to horses and wildlife, dealers and research facilities. Approximately 54 of the 265 requests, or 20% were related to research facilities, which is an increase from last year. Requests for information about complaints and breeders/dealers were also frequently sought.

Approximately 70% (38) of the requests that involved research facilities were identified as being filed by representatives of national animal rights groups with an additional 30% (16) identified as being filed by individuals. When reviewing only the requests seeking information about research facilities, the picture of the most active animal rights organizations has changed since 2014 with PETA being the most frequent requestors and SAEN a close second. The largest number of requests were made by individuals who either were not identified or could not be identified as being associated with a national group. The animal rights organizations requesting such information are depicted in the chart below.



The most frequently requested information about research facilities related to APHIS inspections of specific institutions. These requests were often broadly worded, seeking actual reports as well as any supporting documentation, such as photographs, videos and reproduced documents.

Information related to complaints and results of subsequent investigations and information pertaining to annual reports were the next most commonly requested type of information. While many of these requests sought information on specific cases and specific institutions, some sought very broad information on all ongoing enforcement activity. There were some interesting requests that could have potential impact for every registered research facilities including: a list of registered research facilities along with the corresponding official USDA tag number (for use in identifying animals) assigned to the institution by the USDA; all final determinations made by Animal Care in the Animal Welfare Act inspection appeals process; and all records related to "teachable moments."

C. Costs to the Agency/Taxpayers

In addition to the potential to misrepresent the quality of an animal care program, the federal FOIA entails significant costs to both the agency and the research facility whose information is requested. As animal rights activists routinely mischaracterize the information obtained using FOIA, a research institution often must expend a significant amount of time attempting to correct the record.

FOIA authorizes federal agencies to recoup some of the costs of searching for and copying documents released to requestors. However, federal agencies appear to rarely charge requestors the authorized fees.

In FY 2015, the most recent year for which cost data is available, USDA reported the following information:

APHIS Personnel			Costs		
Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
21	0	21	\$ 1,786,896.28	\$50,000.00	\$ 1,836,896.28

APHIS	Total Amount of Fees Collected	Percentage of Total Costs
	\$0.00	0.0%

II. NIH

A. Analysis of FOIA Requests Submitted to the NIH During FY 2015

During Fiscal Year 2015, the National Institutes of Health (NIH) received a total of 1,273 FOIA requests. Approximately 10% (128) of the requests were submitted by animal rights/animal interest organizations, or individuals identified as being associated with such groups. As with requests submitted to the USDA, it is important to note that number of requests alone does not necessarily correspond to the volume of information released. Some requests were for individual documents, while others were broadly worded requests encompassing hundreds or even thousands of pages of records associated with numerous research institutions.

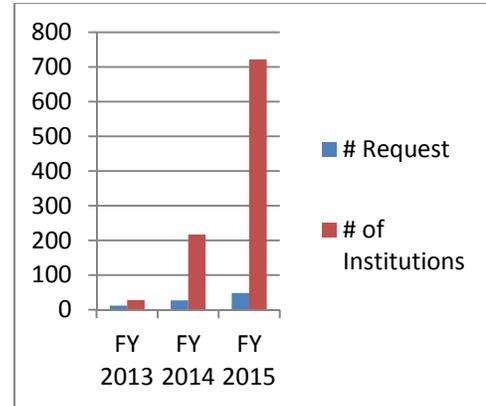
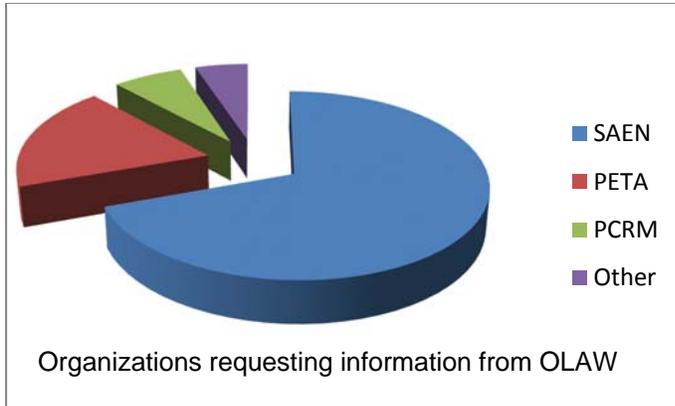
The table below shows the number of requests submitted by animal rights organization. As noted above, many requestors sought information very similar to the types requested by animal rights groups, however they did not identify an organizational affiliation.

Requesting Party	Number of Requests
Stop Animal Exploitation Now (SAEN)/Michael Budkie	41
People for the Ethical Treatment of Animals (PETA)	24
Physicians Committee for Responsible Research (PCRM)	22
New England Anti-vivisectionist Society (NEAVS)	12
Humane Society of the United States (HSUS)	11
Animal Legal Defense Fund	4
Beagle Freedom Project	2
National Antivivisectionist Society	2
Other Organizations or Individuals	10
Total	128

B. Frequently Requested Information

While animal rights organizations continued to request information related to specific grant applications, the most frequent requests in terms of numbers and certainly in terms of information requested involved OLAW. Of the 128 cells of the spreadsheet of animal rights/interest groups filing FOIA requests with NIH, 48 or 38% were for information from OLAW involving 722 institutions. Some of the institutions involved in the requests were identified, but others were part of requests for a specified number of unidentified institutions while others were included in requests for of the assured institutions in a given state. The next most frequently requested type of information involved nonhuman primates. Information on specific site visits was also frequently requested.

Almost all of the 123 requests filed by animal rights groups sought information related to research and research organizations. The animal rights groups requesting information from OLAW in FY 2015 and the number of request for information from OLAW are depicted in the charts below.



C. Costs to the Agency/Taxpayers

In FY 2015, the most recent year for which cost data is available, NIH reported the following information:

NIH Personnel			Costs		
Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
19	12	31	\$3,616,813.27	\$4,704.88	\$3,621,518.15

NIH	Total Amount of Fees Collected	Percentage of Total Costs
	\$33,385.05	0.92%

III. Summary

In FY 2015, animal rights activists continued to heavily rely on FOIA to obtain information about research institutions. Both APHIS and the NIH received a significant number of requests from activists, diverting the agencies' time and resources away from their missions. In total, the agencies received 393 requests from animal rights activists (a 27% increase over FY 2014) and spent more than \$5,458,414.43 responding to all requests. Due to the broad nature of many of the requests submitted by animal rights activists, it is likely that the agencies' costs of responding to each request far exceeded the cost of responding to the average request. However, even assuming the average request by an activist required the agency to expend the same resources as responding to any other request, providing information to animal rights activists cost APHIS and NIH more than \$913,221.

As the agencies recover so little of the costs involved in providing information, NABR believes activists will continue to submit a significant number of broad requests for large amounts of data about research facilities. NABR will continue to monitor FOIA requests submitted to federal agencies and, when possible, attempt to alert members when their information is requested. Research facilities should carefully review any information submitted to a federal agency to ensure it is FOIA Ready,¹ and be aware that their information may be released at any time.

The use of this document is for NABR members only.
Spring 2016 Edition -
copyright © 2016 the National Association for Biomedical Research.
All Rights Reserved
1100 Vermont Ave., NW
Washington, DC 20005
202-857-0540
www.NABR.org

¹ For more information about FOIA Ready documents, please see NABR's Members Only On-Demand webinar on the topic at: <http://www.nabr.org/are-you-foia-ready-best-practices-for-responding-to-foia-and-state-open-records-requests/>.