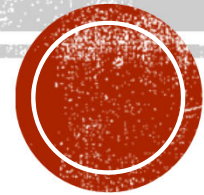


SAVING FOIA

CAMBRIDGE UNIVERSITY PRESS (2021)

Margaret B. Kwoka



FEDERAL FOIA FEE PROVISIONS

5 USC § 552(a)(4)(A)

(ii) Such agency regulations shall provide that—

- (I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;
- (II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and
- (III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.



NEWS MEDIA DEFINITION

In this clause, the term “a representative of the news media” means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term “news” means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of “news”) who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.



FEE EXCEPTIONS

5 USC § 552(a)(4)(A)

(iv) No fee may be charged by any agency under this section—

- (I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or
- (II) for any request described in clause (ii) (II) or (III) [noncommercial] of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

5 USC § 552(a)(4)(A)

- (vii)(I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph [news media], duplication fees) under this subparagraph if the agency has failed to comply with any time limit under paragraph (6).

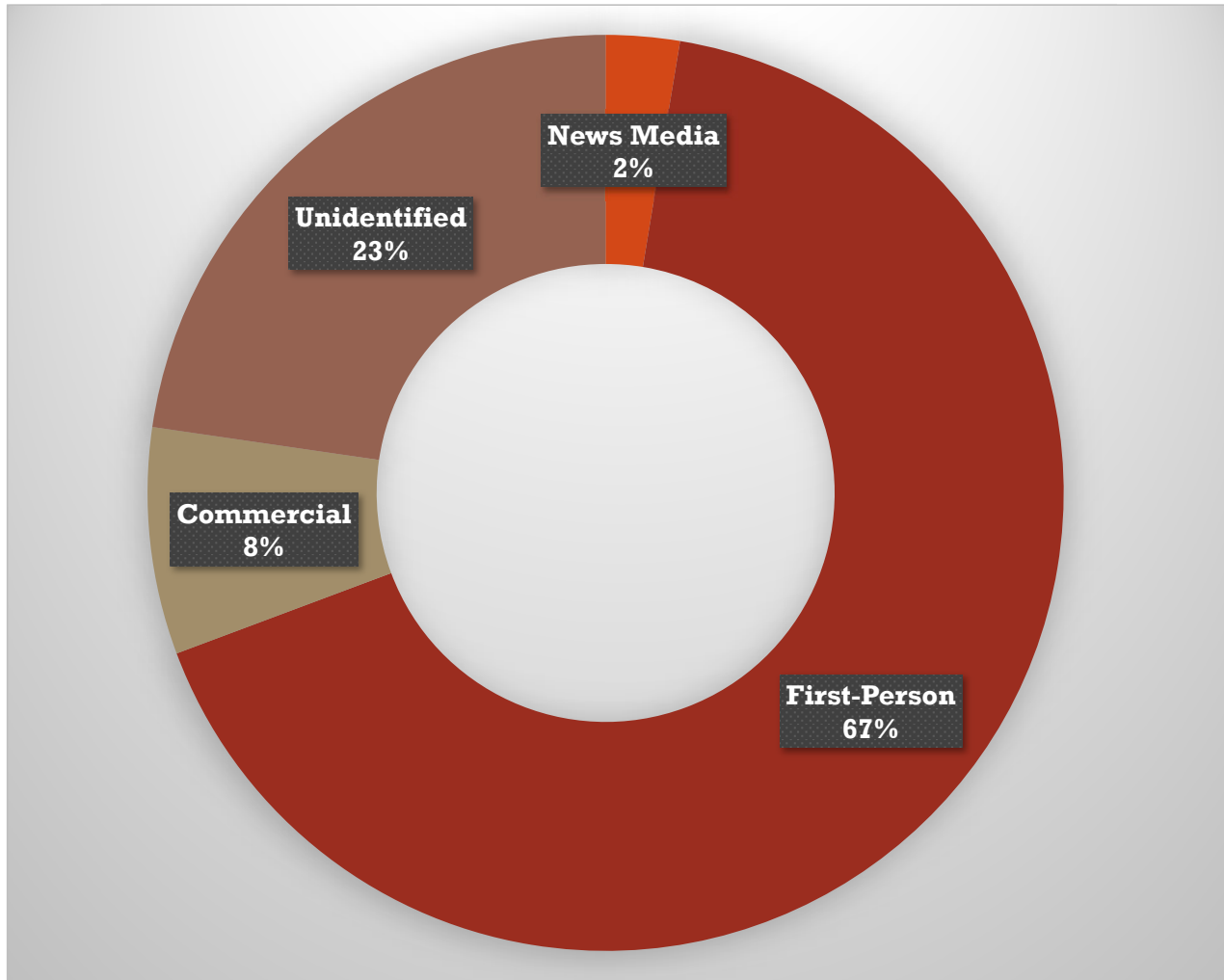


FEE WAIVER

5 USC § 552(a)(4)(A)

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.





REQUESTS MADE BY CATEGORY

- Data includes 60 agencies
- These agencies together received 577,892 requests in FY 2016
- These agencies together received 73% of the federal government's total FOIA requests in FY 2016



IMMIGRATION REQUESTS

Department of Homeland Security

- US Citizenship and Immigration Services
- Immigration and Customs Enforcement
- Customs and Border Protection
- Office of Biometric Identify Management

(roughly 96% of 400,000 = 384,000)

Other Departments

- DOJ: Executive Office for Immigration Review (55,000)
- State (66% of 30,000 = 20,000)
- DOL: Employment and Training Administration (majority of 1,500)
- HHS: Administration for Children and Families (65% of 500 = 325)

(roughly 77,000)

Rough total first-person immigration requests per year: 461,000/860,000 or 54%



AGENCIES AS...

Enforcement

- EEOC
- IRS

Benefits Administrators

- FEMA
- SBA
- SSA
- PBGC

Health Care Providers

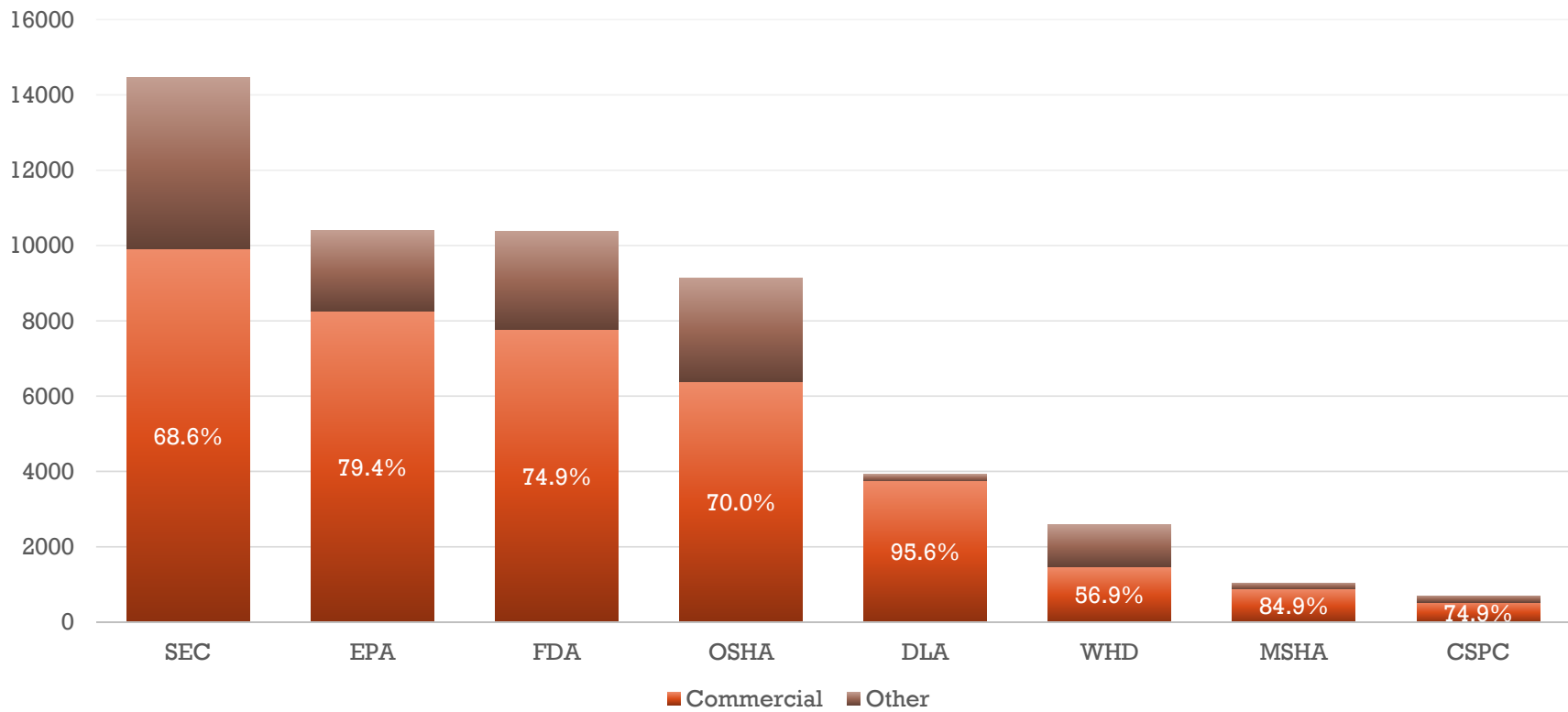
- VHA
- BOP

Archives

- SSA
- BOP
- Census Bureau



COMMERCIAL REQUESTERS



CORRUPTION

E&E NEWS

[<< Back to E&E News index page.](#)

EPA

Big spike in security spending for Pruitt

Kevin Bogardus, E&E News reporter

Published: Wednesday, July 5, 2017



Personal security costs for U.S. EPA Administrator Scott Pruitt have been much higher than his predecessors during his first months in office, according to records obtained by E&E News under the Freedom of Information Act. U.S.

[EPA/Facebook](#)

Costs for U.S. EPA Administrator Scott Pruitt's personal security detail during his first months in office have been close to double those for his predecessors during the Obama administration.

Documents obtained by E&E News under the Freedom of Information Act show EPA has spent substantially more on Pruitt's security detail during roughly his first three months as EPA chief than past administrators Lisa Jackson and Gina McCarthy during comparable time periods.

LOOK LISTEN **UNDARK** MENU

BURDENS OF PROOF

FDA Documents Reveal Internal Rancor Over Approval Process

An internal email argues that the agency's director of experts in greenlighting a new drug.

Visual: Public Domain

IN SOME WAYS, it reads less like the product of a novel. Compelled by a lawsuit, the Food and Drug Administration's never-before-seen documents regarding the approval process these documents are beginning to reveal the agency torn apart by conflicting loyalties.

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Racial Justice Immigration Health Care Education More... Series Video

The Trump Appointee Behind the Move to Add a Citizenship Question to the Census

The initial author of a key Justice Department letter wasn't revealed — until today.

by Justin Elliott, March 7, 2018, 5:10 p.m. EST

INFLUENCE





'This Man Will Almost Certainly Die'

Dozens of men have died in disturbing circumstances in privatized, immigrant-only prisons. The Bureau of Prisons itself says there's a problem. And yet the privatization scheme continues.

By Seth Freed Wessler

JANUARY 28, 2016

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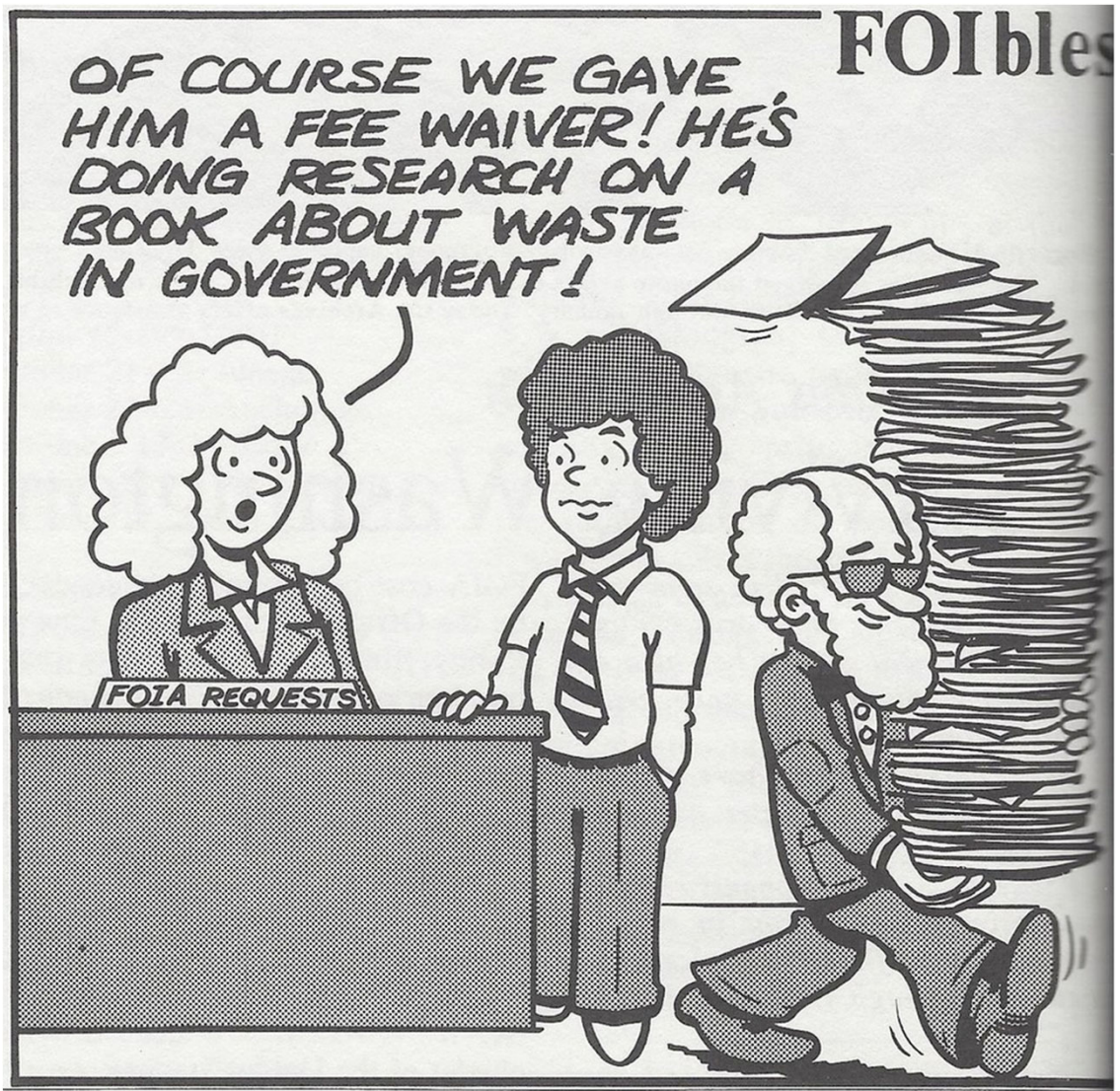


NATIONAL SECURITY

Percentage of requests from news media

- DOD Office of Secretary.....30%
- Secret Service.....21%
- TSA.....13%
- NRC.....12%





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Vol II, No 1, Fall 1980.
Artist: Jon Enten?

