

Data Collection and Dissemination

Ensuring public access to data collected by the federal government

The federal government collects and disseminates data about public health, the environment, consumer and workplace safety, the economy, and so much more. Recently, and increasingly, public access to such data is being restricted, and on some contentious issues, data collection is being curtailed or abandoned. This hinders scientific progress, makes decisionmaking more difficult, and diminishes the government's accountability to the American people. The administration should reverse this dangerous trend and institute new safeguards to ensure the continued collection, dissemination, and preservation of data, and to protect against its improper removal. These recommendations have strong support from science, public health, human rights, environmental, and good-government organizations.

Background

The federal government has a long history of collecting data and making it available to the public. These efforts include conducting surveys and intervention studies, and collecting enforcement data and information from corporations and nonprofit institutions. The government's collection and dissemination of data are critical not only to scientific endeavors but also to public trust and government accountability.

Disturbing recent trends threaten long-standing agency practices regarding data collection and dissemination. Agencies have stopped collecting information on critical matters such as *wages* and *methane production* and have removed information about *climate change*, *animal abuse*, and *tax policy* from their websites. Additionally, there have been *reports* of lengthy delays in the processing of Freedom of Information Act (FOIA) requests and the insertion of political appointees into the FOIA response process.

To ensure that the scientific community and the public continue to have access to these valuable sources of information, agencies must recommit to collecting data, as well as guaranteeing public access to it and ensuring it is preserved for future access and usability. To that end, agencies must

establish standard procedures for the collection, disclosure, and maintenance of data.

Recommendations for the Next Presidential Term

Collection and Access

1. Direct agencies to establish standard procedures for the collection, disclosure, and maintenance of data. (first 30 days)

The president should specify that research and data that are digitally formatted and in the public domain are to be made available online and freely accessible to the general public, to the extent permitted by law and with protections for intellectual property rights and other proprietary interests and for the confidentiality of individuals about whom data has been collected.¹

- To the extent permitted by law, open data formats should be used that are nonproprietary and publicly available, with only the minimal necessary restrictions upon their use.
- Full public access to government-supported publications' metadata should be ensured without charge upon first publication.
- Federal agencies should encourage technical and legal interoperability to facilitate international sharing of government-supported scientific data, using compatible, publicly available, open-source formats.

2. Issue an executive order affirming a presumption of disclosure for FOIA requests regarding data. (first 30 days)

The president should specify that the presumption of disclosure for data is intended to increase access to

documents, and reaffirm the prohibition on withholdings not explicitly required by FOIA. The executive order should direct agencies to allocate sufficient resources to substantively respond to FOIA requests in the time frames mandated by law, develop technology to streamline the FOIA process, and rescind rules that authorize the involvement of political appointees in the FOIA response process.

The president should also affirm that news media, educational, and scientific requesters intending to use the data for noncommercial means are not commercial-use requesters, particularly for purposes of fees.

- Creating an enforcement mechanism to ensure compliance with public access requirements, along with remedies for noncompliance (for example, disclosure and restoration of the improperly withheld information, as well as penalties).³

Additional Resources

- Forthcoming Brennan Center for Justice report on executive actions (Summer 2020 release expected)
- *Presidential Recommendations for 2020* (2020 report from the Union of Concerned Scientists)
- *Proposals for Reform Volume II: National Task Force on Rule of Law & Democracy* (2019 report from the Brennan Center for Justice)

Endnotes

1. Protections can include recognizing proprietary interests and business confidential information, as well as anonymizing or aggregating data that includes identifiable information about individuals (e.g., in health survey data).
2. The life cycle of information extends from its creation or collection through processing, dissemination, use, storage, and permanent preservation or scheduled disposition.
3. Penalties could include cost-shifting and discipline for responsible agency personnel, depending on the magnitude of, and motive for, noncompliance.

Preservation/Protection

3. Issue a memorandum requiring federal agencies to ensure the management of scientific data throughout its life cycle², to determine which scientific data should be preserved and made accessible, and to ensure scientific data is sufficiently described to enable its use. (first 30 days)

The memorandum should set forth standards and requirements such as:

- Requiring agencies to establish safeguards against the removal of government research and data, including (as required by statute) giving the archivist of the United States *advance notice* of planned data removal.

ENDORSED BY

Brennan Center for Justice / Californians for Pesticide Reform / Center for Biological Diversity / Center for Reproductive Rights / Citizens for Responsibility and Ethics in Washington (CREW) / Environmental Protection Network / Equity Forward / The Expanding Medication Abortion Care (EMAA) Project / FracTracker Alliance / Friends of the Earth / Government Accountability Project / Government Information Watch / Greenpeace USA / Inland Ocean Coalition / Jacobs Institute of Women's Health / Milwaukee Riverkeeper / National Center for Health Research / National Children's Campaign / National Federation of Federal Employees / National Freedom of Information Coalition / National Nurses United / National Parks Conservation Association / National Sustainable Agriculture Coalition / National Women's Health Network / Ocean Conservation Research / Oceana / Oceanic Preservation Society / Open the Government / Pesticide Action Network / Power to Decide / Public Citizen / Public Employees for Environmental Responsibility / Revolving Door Project / Society of Professional Journalists / United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) / Union of Concerned Scientists / Virginia Association of Biological Farming