MIDDLE EAST REPORT

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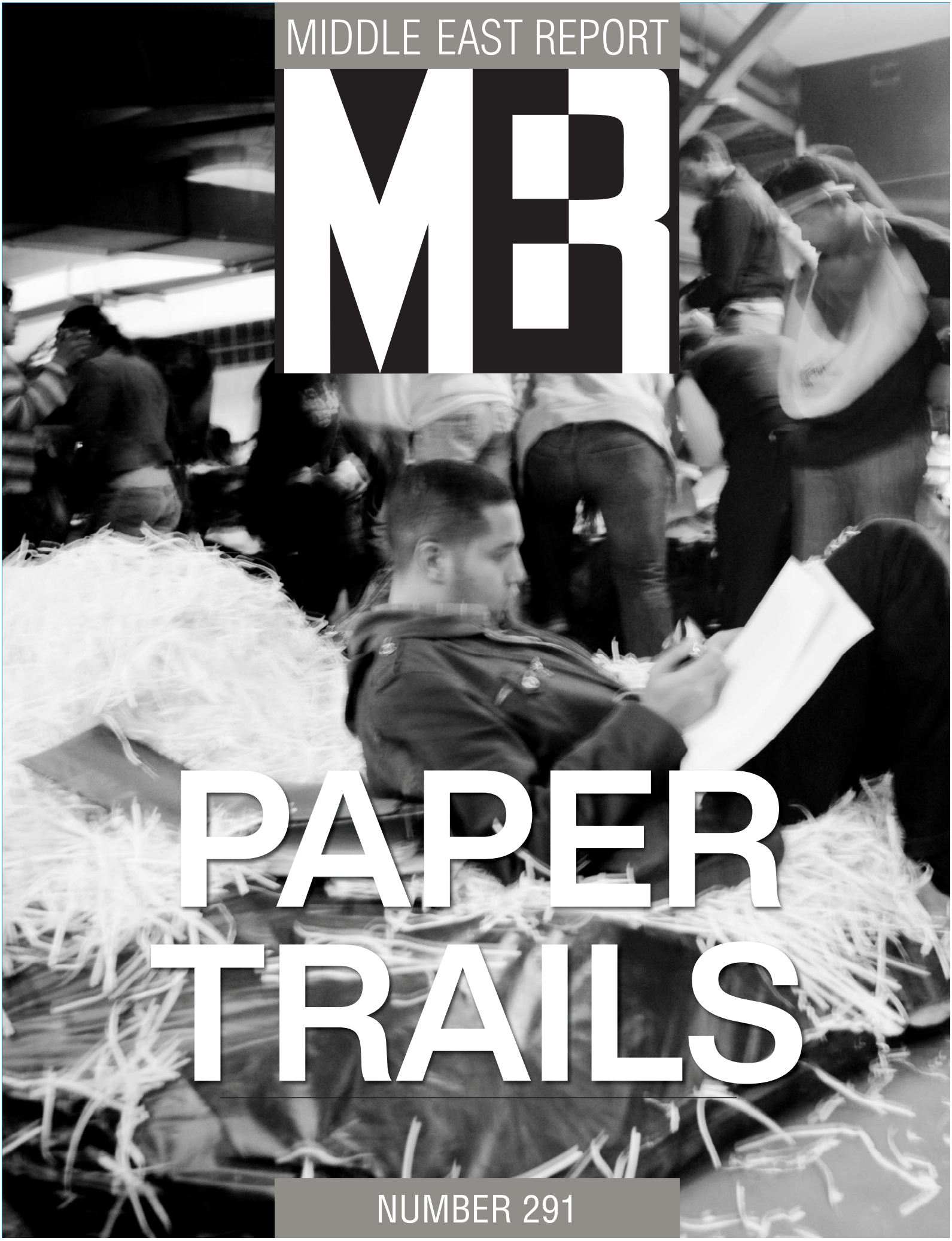

PAPER TRAILS

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Revealing State Secrets through FOIA Research

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Making FOIA requests for classified government documents can be a powerful way to breach the wall of secrecy regarding state actions that would otherwise stay secret or await future historians to uncover. The basics of filing a FOIA request are simple and learning how to press for unredacted or withheld documents can sometimes bear fruit.

One obstacle to critical scholarship is that the documents needed to demonstrate a particular government's actions or motivations are typically, and often intentionally, inaccessible when such information could bring a public response. Scholars may accurately understand the behind-the-scenes political machinations of the present, but unless someone leaks the documentary proof, it is left for historians to unearth it later, long after the information could influence the course of events.

Governments around the world routinely use their power to limit transparency and accountability—and limiting access to documents is a common method of inhibiting the rise of popular opposition. While not removing this roadblock, the Freedom of Information Act (FOIA) can in some cases temporarily shift it aside, helping release US government documents years before they might otherwise be made available or destroyed.

I have used FOIA to declassify and release tens of thousands of pages of CIA, FBI, Pentagon and State Department documents. I requested most of these documents as part of ongoing research examining how these agencies monitored anthropologists and other academics—sometimes to support them and other times to harass them.

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While the Middle East is not the primary focus of my FOIA research, my work has, for example, led to the release of material like the prominent Palestinian-American intellectual Edward Said's FBI file, which documented that the agency secretly monitored his activities as early as 1971. This file also revealed FBI infiltration of meetings of the Association of Arab-American University Graduates and the Palestine American Congress, reports on which the FBI later shared with a foreign government agency that appears to be Israel's Mossad.

Other records I've uncovered under FOIA include anthropologist Elizabeth Bacon's accounts of CIA recruitment of Middle East scholars following World War II, Donald Wilber's CIA report on the 1953 Iranian coup and summaries of the machinations of the Princeton Group, which used academics to secretly advise the CIA. Clearly, a wealth of documents related to Middle East research are awaiting discovery under FOIA—documents that might illuminate new dimensions of US empire, unknown alliances with regional powers and unexposed illicit details of the US global terror war.

FOIA research breaches a wall of secrecy, a political wall designed to maintain power and order in the present. As political scientist Otto Kirchheimer observed over a half-century ago, we could "define a revolution by the willingness of

the regime to open the archives of its predecessor's political police. Measured by this yardstick, few revolutions have taken place in modern history." The ebb and flow of FOIA restrictions bears out this point, with the least impeded access to FBI and CIA documents occurring under the Ford and Carter administrations in the years immediately following Watergate, followed by fluctuations in access under subsequent administrations. Under the Trump administration, it remains possible to obtain important historical documents—but efforts to limit the release of contemporary documents are also intensifying.

Even with its limitations, FOIA research is a vital tool for investigating not just US policy, but also many other topics of inquiry. No matter the nature of their research, most scholars could benefit from combining FOIA research with ongoing fieldwork or archival research.

The basics of filing a FOIA request are simple. First, researchers must identify the US federal agency they believed has records of interest. Next, using e-mail, web-based FOIA request sites or a letter, they must request records on the individual or group of interest. There is no need to go into great detail describing the request's subject but researchers should supply enough to differentiate the subject from others with similar names. If there are several government agencies that might have records, it is important to file individual requests with each agency. It is important to request a waiver of search and processing fees—it usually suffices to cite one's status as a scholar or journalist undertaking research in the public interest.

Then it is time to wait. The wait can last anywhere from six months to seven years or more. When the agency releases the records, it may have withheld or redacted portions of the documents. The government must specify (using numeric codes in document margins) why it has withheld information, citing FOIA exemptions like the Privacy Act, which protects identities, or national security exemptions. Requesters may file an in-house appeal if they believe the agency should have released the records unredacted; if the appeal fails, they may file suit against the agency in the nearest federal court, paying the filing fees. There are good how-to explainers about FOIA requests online.[1] Several government agencies have online FOIA document libraries where researchers can enter keywords to search for already released documents. The CIA's FOIA Electronic Reading Room has thousands of pages of declassified documents relating to the Middle East.[2]

There are many ways for federal agencies to limit the release of documents requested under FOIA. Some of these are based in law; others are raw political acts designed to protect the past from present scrutiny. Because the Privacy Act protects the distribution of government records held on individuals, government agencies will not release records identifying living individuals without their consent. Legal expectations of privacy end with death, however, so with proof of death (such as an obituary), one can make FOIA requests. Groups or organizations have no such right to privacy, so researchers can request on these subjects with no restrictions, though the agency generally redacts identities of living individuals identified in these records as well.

Agencies vary in how responsive or cooperative they are in fulfilling requests. The CIA and NSA are notorious for rejecting most requests on grounds of national security exemptions, while agencies like the FBI or Departments of Energy or State tend to release most things within a reasonable time.

Any given administration will be politically motivated to guard records from scrutiny, but the passage of time generally makes it easier to get even sensitive documents under FOIA. Given the built-in delays, there is no time like the present to start submitting FOIA requests. Any scholar working on a project with historical dimensions should consider filing FOIA requests with the State Department, Defense Department and other agencies in order to obtain US government records that could reveal important information or previously secret documents that might also lead to further research. The process is simple and is itself a political act. With each request, scholars extend the spirit of Kirchheimer's observation: with each document we discover, we push our present understanding one step closer to an intellectual regime change. ■

Endnotes

1 See: https://www.foia.gov/how-to.html.

2 See: https://www.cia.gov/library/readingroom/home.