

**Agenda**  
**Access to Records and Meetings**

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**Part I. The stories**

1. Document-driven story ideas
  - Handout: FOI laws in action
  - Handout: FOI classic top 5 stories
  - Handout: Great records, from A to Z
2. Document-driven reporting
  - Handout: Creating a document state of mind
  - Handout: Doing FOI when you're SOL
3. Brainstorming session

**Part II. The method**

1. Review of public records law
2. Tips and strategies for a successful request
  - Handout: Planning your FOI request
  - Handout: Sample letters (friendly, neutral, threatening)
2. Overcoming denials
  - Handout: How to handle denials
  - Handout: Lowering copy fees
  - Handout: Soft tactics and principled negotiation
  - Handout: Hard tactics
4. Dealing with data
  - Handout: Posting data online
  - Handout: Data ethics checklist
5. Open meeting laws
  - Handout: Top-10 open meetings red flags
6. News you can use
  - Handout: Access resources

## FOI laws in action

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### Stories using state records laws

- **Government waste:** The Los Angeles Times won the Pulitzer in 2011 for exposing corrupt officials in the small town of Bell, Calif., where the city manager was making \$1.5 million a year in total compensation.
- **Property insurance:** The Sarasota Herald-Tribune, a 66,000-circulation daily newspaper in Florida, won the 2011 Pulitzer in investigative reporting for examining state property insurance system records, finding insurers demanding more money from homeowners despite no hurricane in five years.
- **Recession-proof government:** In March 2010, the Syracuse Post-Standard examined New York state payroll records to find that the state hired more than 51,000 employees at a cost of \$1 billion despite the governor calling for a hiring freeze.
- **Criminal cabbies:** Using driving and criminal records obtained under Georgia Open Records Laws, the Atlanta Journal-Constitution found that 72 percent of taxicab drivers had a serious violation on his or her personal or professional driving record, ranging from excessive speed to DUI. Over seven years, 622 taxicab drivers have had their licenses suspended, including 94 who currently had a suspended driver's license. What's more, the investigation found 63 taxicab drivers with criminal records in Georgia, including 10 who had spent time in prison. The charges included armed robbery, child molestation and kidnapping.
- **Drivers of death:** In April 2002, KIRO-TV in Seattle reported that a public transportation program for the disabled had covered up fatal accidents. The reporters managed to obtain documents revealing the flaws in the system -- incident reports, autopsy reports, wrongful death lawsuits, trip reimbursement vouchers, etc. Another finding is that many of the van drivers had extensive felony records.
- **Campus sexual assaults.** In February 2010, the Center for Public Integrity and a consortium of non-profit investigative reporting organizations gleaned federal and local data to find that universities routinely underreport sexual assault statistics and fail to adequately pursue cases.

### Stories using the federal Freedom of Information Act (FOIA)

- **Unsafe bridges:** Using a database Inventory of Bridges from the Federal Highway Administration in 2000, the Boston Globe found that the rate of problem bridges - with structural defects or with design flaws that make them too narrow, poorly aligned with roadways or unable to carry larger vehicles - is the third worst in the country. Nearly 40 percent of the 4,995 bridges in

Massachusetts rate low enough to qualify for federal repair funds - a situation that state officials said posed a threat to public safety.

- **Vulnerable airports:** After the 9/11 terrorist attacks, CNN.com used a Federal Aviation Administration Enforcement database to find that the three airports where the terrorist attacks originated had the first, third and fourth lowest weapons detection rates among the 25 largest U.S. airports.
- **Rape in the military:** In 1995, the Dayton (Ohio) Daily News used the Act to learn that women in the military endured cavalier responses to charges of rape brought against enlisted men and officers, many of whom had faced multiple charges. In 1993, that newspaper perused Occupational Safety and Health Administration databases obtained through the Act to identify the most dangerous work places in the country.
- **Radiation victims:** After the Albuquerque Tribune filed requests for information on victims of governmental radiation experiments in the early 1990s, Department of Energy Secretary Hazel O Leary began a departmental program to identify and make public widespread abuses of past radiation experimentation.
- **Night accidents:** In the late 1980s, an Orange County (Calif.) Register reporter showed that hundreds of servicemen were killed or seriously injured in accidents relating to their government-issued night vision goggles, with the Pentagon attributing the accidents to "pilot error."
- **Workplace health risks:** In 1985, the Public Citizen Health Research Group used the Act to find that government had identified 250,000 workers in 249 work places who faced increased risks of cancer, heart disease and other illnesses because of their work environment - but that it had not notified the workers of the risks.
- **Government waste:** Other reporters have used the Act to identify wasteful government spending. In the early 1990s, a request by an Associated Press reporter led to a story about a little known \$200 million federal program to advertise U.S. food and drink overseas. Monies were going to companies such as McDonald s, Burger King, Pillsbury, Dole, M&M-Mars and Jim Beam - all of whom had substantial advertising budgets of their own to draw on.

## **FOI classic top 5 stories**

**By Joel Campbell**

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1. **Bus drivers.** Get a list of bus drivers from your local school district and compare the list to driving records or court records at your county courthouse. While driver licenses are now off limits because of federal law, many states still allow access to driving records including DUI arrests. DUI convictions may also be available through local court records. Or, get a list of all the sex offenders in your state and match the list with school bus drivers. This kind of story can be done with just about any list of public employees that are entrusted with children or other vulnerable populations (e.g., daycare workers, nursing-home workers). Often, public agencies don't do background checks on new hires, even if they are supposed to by law.
2. **Settlements.** Check on claims and out-of-court settlements at City Hall. Most claims and litigation with local governments never make it to court. You should look at the kinds of settlements that your local city is making with citizens. It's usually surprising the kind of money cities and towns spend each year on claims for accidents and injuries. Some pretty good stories are usually buried in the information, i.e. a woman fell through an open manhole or a child was seriously injured at a playground.
3. **Budgets.** Get a copy of the budget for the last five years. Whether it is a school district, county or city budget, uncovering the largest increases and decreases in budgets can lead to some great stories. What's tied to the 50 percent increase in the police budget or what effect has a decrease in human service programs had in your area?
4. **Crime.** Get a copy of local crime statistics reports. Each year, police agencies have to compile crime statistics. Take a tough look at increases and decreases in crime. This record should lead to some stories and trends, budgets and resources.
5. **Salaries.** Ask for the salaries of all employees and officials in the local county or city government. You might be surprised what you find, including high-paid political contributors and poorly qualified people in top jobs. Stories about salaries and outside contracts of top college coaches also make good stories.

## **Great records, from A to Z**

**Prepared by David Cuillier**

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Below are just a few of the thousands of different public records you can access from your local, state or federal governments. Some are available online, but many you have to actively request. In some states, some of these records are secret. Consult your law or an attorney to make sure, or simply request the records and let the agency prove to you that a law makes the record exempt. When agencies are mentioned below, you can look up their contact information through Google.

- **Abandoned buildings.** Identify trends in deteriorating neighborhoods.
- **Air quality.** Air quality violators are fined by county and state air quality departments.
- **Airplanes.** To identify airplane crash trends and find pilots and plane owners. The Federal Aviation Administration accident and incident reports are available at [http://www.faa.gov/data\\_statistics/](http://www.faa.gov/data_statistics/). Also, the FAA Aircraft Registry includes owner name and pilot information at [landings.com](http://www.landings.com/): [http://www.landings.com/evird.acgi\\$pass\\*98655654!\\_h-www.landings.com/\\_landings/pages/search.html](http://www.landings.com/evird.acgi$pass*98655654!_h-www.landings.com/_landings/pages/search.html).
- **Airport noise.** Airports track noise complaints from neighbors when jets fly low or are particularly noisy. Ask to see airport noise maps and flight pattern maps.
- **Arrest reports.** Verify the arrest of a specific person in connection with a specific event. Available at local law enforcement offices, usually from a public information officer or officer in charge. If the case is still under investigation (someone's still on the loose or they haven't forwarded the information to the prosecutor yet for potential charges), then policy may keep some of the information secret if it would harm the investigation.
- **Arrest warrants.** To ensure fairness in the arrest of suspects and get a lead on potential big busts. An arrest warrant is signed by a judge authorizing the arrest of someone for probable cause. It usually allows police to barge into a house and make an arrest when there is reason to believe the person has committed a crime (drug house, homicide, etc.). Often, warrants have a lot of information because police are trying to justify to a judge the need to arrest the person. These are similar to search warrants, which also require justification and approval by a judge. Warrants are usually made public once the person is served (arrested or searched), or when it appears it won't be able to be served (the person skipped the country).
- **Audits.** To monitor problems in government agencies, particularly financial woes. Look carefully to find any irregularities – often clouded by vague terms and wishy-washy language. Ask to get more details.
- **Autopsy reports.** Confirm cause of death or circumstances of a person's death and evaluate the quality of medical examiners. Might be closed in connection with pending criminal investigations or to protect personal privacy.

- **Bankruptcy files.** To identify trends in bankruptcies, spot fraud, and find people with unfortunate financial pasts. Chapter 7 is a straight bankruptcy and Chapter 11 is a reorganization that usually allows them to stay in business. Businesses in bankruptcy lose a fair amount of privacy as the files list assets, how they got into trouble and what they intend to do to get back on their feet.
- **Birth certificates.** To verify the identity, birth date and birthplace of someone.
- **Boat registration.** Find trends in boating and owners of watercraft.
- **Boating accidents.** To analyze boating accident trends. Check with the U.S. Coast Guard, which maintains that information nationwide.
- **Bridge inspections.** To assess the safety of bridges in the community. Inspection records are maintained by states and the Federal Highway Administration (<http://www.fhwa.dot.gov/bridge/britab.htm> - click on "Download NBI ASCII files").
- **Broadcaster files.** The Federal Communications Commission requires broadcasters to keep records available to the public, including educational programming they are required to air. Should be available at the station.
- **Budgets.** Detailed budgets are available before and after approval. Can be helpful to see what departments are getting more money over time and what areas are getting less funding. Get them from the agency's budget officer.
- **Calendars.** To find out how top officials are spending their time. Look at their calendars, or day schedules, to see whom they are meeting with and the extent of their workload. Should also be able to get travel expenses. Request from the office you are interested in, such as the mayor's office if you want to see the mayor's calendar.
- **Campus crime.** To find out serious incidents happening on campus. It must be released by campus police because of the federal Clery Act. Get police logs and incident reports at the campus police department. Also can get statistics online for all universities and compare nationally at <http://www.securityoncampus.org/crimestats/index.html> or at the Department of Education at [http://www.fbi.gov/ucr/05cius/data/table\\_09.html](http://www.fbi.gov/ucr/05cius/data/table_09.html). Note, studies have shown universities under-report their violent crimes.
- **Census.** Demographic data available down to the block group level and over time can be used to analyze shifts in community demographics, including in migration, income, race, education, gender and age. Challenging to burrow through the Census Web site ([www.census.gov](http://www.census.gov)), but it's all there.
- **Charities.** To learn whether someone asking for money is registered with the state.
- **Child-care complaints.** To assess how well child-care (daycare) is handled in your community and how well the government monitors child-care.
- **Civil lawsuits.** To make sure civil cases are handled equitably and disputes resolved fairly. When a person sues another person, the case ends up in civil court. Examples of civil cases include malpractice, child support, divorce, libel, paternity, property rights, restraining orders and breach of contract.

- **Claims.** When people believe a government agency owes them compensation for damages (slipping on a sidewalk, hit by police car, etc.), they often file a claim before filing a lawsuit. Check with the risk management officer or attorney for the agency.
- **Code enforcement.** To examine trends and fairness in applying local nuisance laws. Code enforcement records detail noise violations, illegal businesses in residential zones, illegal dumping, huge signs, and other problems.
- **Concealed weapon permits.** To see who is packing heat. However, in many states, these are closed.
- **Contracts.** Allows you to learn who is benefiting from government projects. Should include the amount agreed upon, the amount paid (often more), who the money went to, etc. Contact an agency's business office.
- **Corporate records.** To spot connections between public companies and identify key officers. The federal Securities and Exchange Commission provides a wealth of information on public companies online, including initial public offering files (Form S-1), quarterly reports (Form 10-Q), annual reports (Form 10-K), and top officer information (Form DEF 14A). Can search the clunky Web site [www.sec.gov](http://www.sec.gov) or also search EDGAR ([www.sec.gov/cgi-bin/srch-edgar](http://www.sec.gov/cgi-bin/srch-edgar)) and enforcement records for folks who got in trouble ([www.sec.gov/cgi-bin/txt-srch-sec](http://www.sec.gov/cgi-bin/txt-srch-sec)).
- **Crime log.** A barebones list of incidents, usually including address, time/date, one-word description, and disposition. Also called a "police blotter."
- **Criminal records.** To find trends in crime, monitor the criminal justice system, and find backgrounds of individuals. Compilations of criminal histories are closed in many other states, but you can get court records from individual courthouses and piece together a history.
- **Coroners reports.** Generally open to inspection to see the cause of an unusual death.
- **Court records.** To find if someone has a criminal background or has been sued in civil court. Also to monitor trends in a variety of criminal justice issues, including crime, sentencing, racial profiling (speeding tickets), and judge performance. In general, court records are public unless they have been sealed by a judge for a specific reason.
- **Death certificates.** To explain causes of death.
- **Development.** To identify development trends and potential building that could impact the community or a neighborhood. Find out what permits for development have been submitted and approved for an area. Go to the city planning and development department to see development plans.
- **Divorce cases.** To see if men and women are treated equally in divorces and to examine backgrounds of prominent individuals. Available at the courthouse.
- **Driving records.** To examine the safety record of individuals or a group of drivers, such as cabbies or bus drivers. While personal driver's license information is generally not public (except for special access through contracts with commercial companies), it is usually possible to find driving violations.

- **Drug houses.** Find location of homes that were once used as meth labs or other clandestine drug labs. To identify trends in drug houses. Can also see if any homes in your neighborhood had drug problems (or a house you are thinking of buying). Provided by the U.S. Drug Enforcement Administration.
- **Educational records.** FERPA closes student education records, except for directory information, including name, year, home address, phone number, date of birth etc. (unless the parent or adult student wishes the information to not be disclosed). See <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>. Also, serious criminal incidents are public.
- **Email.** To monitor government function and make sure business that should be conducted in public isn't being handled secretly via email.
- **Elections.** To see who is funding candidates and campaigns. Federal records are kept by the Federal Elections Commission.
- **Employees.** To identify cronyism and find former employees. Request employee names, titles and salaries. Employee home addresses and home phone numbers, however, are generally not public.
- **Environmental.** Toxic release inventory information provides what bad stuff different companies and industry release in your community. A good site to find that EPA information is at the Right to Know Web site: <http://data.rtknet.org/tri/>. Government also monitors other environmental hazards, such as leaking underground gas tanks.
- **Expense reports.** To monitor government spending and see if government employees are cheating the system. Check with the business office of an agency. Can ask for credit-card logs as well.
- **Fire incident reports.** To monitor fire departments and spot trends, such as arson, dangerous homes, public buildings that are hazards, etc. Check with the fire agency to examine incident reports.
- **Foreclosures.** To spot trends in home foreclosures (particularly nowadays). Can identify areas that are hardest hit and types of people losing their homes. These are civil court files held at the county Courthouse. Also, check out home mortgage lending trends (and whether minorities are denied home loans more often than whites, called "red lining"), by examining Home Mortgage Disclosure Act data (<http://www.ffiec.gov/hmda/>).
- **Gas-pump inspections.** To make sure gas stations aren't ripping off consumers.
- **Graffiti.** Track decaying neighborhoods and hooliganism.
- **Hospitals.** While medical records are usually not public, you should be able to get financial records about public hospitals. Non-profit hospitals file tax returns, which are public (see Non-profits).
- **Income taxes.** Individual and corporate income tax returns are private. However, income tax returns for nonprofits are public (see Nonprofits). Also, when a taxpayer wants to challenge the IRS it does so in U.S. Tax Court, and those records are public (see <http://apps.irs.gov/news/efoia/determine.html>).
- **Incorporation records.** To find out who owns a business. Look up city business licenses at the finance department at City Hall. Find state incorporation records at the Secretary of State's Office.
- **Jail records.** The jail log is a list of people booked in the jail, including name, time/date, and charge. More detailed information can be found in the booking sheets. Also can get jail mugs and examine

budgets, jail population statistics, and overtime to monitor operations.

- **Juvenile records.** To monitor the juvenile justice system to make sure it's working well.
- **Lawyer discipline.** To find lawyers who have been disciplined and monitor the oversight of attorneys.
- **Legislative records.** To examine the voting records of legislators, bill wording, legislators' attendance, and find people who testify on issues.
- **Liquor licenses.** To identify bars and restaurants that are nuisances (have a lot of bar fights and problems for neighbors) and not following liquor laws.
- **Licensing.** The state monitors a variety of professionals, including barbers, beauticians, accountants, appraisers, chiropractors, nurses, Realtors, etc. See if a person is licensed or has had a license revoked..
- **Lottery winners.** To make sure the lottery is being handled fairly (and that the employees' friends and families aren't winning). Also to see how sales are affecting different parts of a community. Often can get winner name, date, amount, and retail outlet where ticket was sold. Should be able to get lottery ticket sales and payouts by retail outlet as well.
- **Marriage licenses.** To monitor marriage statistics and find current and ex-spouses.
- **Medical devices.** To identify medical devices that have failed, how they failed and the manufacturer. The "MAUDE" database is maintained by the U.S. Food and Drug Administration. Also maintains the Adverse Event Reporting system that flags safety issues regarding pharmaceutical drugs. Check out <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfMAUDE/search.cfm>
- **Medical records.** In general, individual medical record information is not public information. State statutes and HIPAA make most medical information private. Disciplinary records against doctors often are public.
- **Meeting minutes.** To monitor city councils, school boards and other government bodies. Meeting notices, agendas and minutes are almost always public. Check with the clerk's office at the respective agency.
- **Name change.** To see if someone is hiding under a new identity. Records are held by the courthouse.
- **911 Logs.** To spot trends in crime, medical calls and response times by police officers and fire trucks. They typically list time/date, location, call type and responding units.
- **Nonprofit 990 forms.** To make sure nonprofits are actually not out to make a profit and just using 501c(3) status to avoid paying taxes. Also can find a variety of information about nonprofits' income, expenses and officers through the 990 forms they file annually. To see 990 forms, go to [www.guidestar.com](http://www.guidestar.com). You have to register, but most of the site is free.
- **Nursing home inspections.** To identify unsafe nursing homes. Can get comparisons nationally by Medicare at <http://www.medicare.gov/NHCompare/Include/DataSection/Questions/SearchCriteria.asp?version=default&browser=IE%7C7%7CWinXP&language=English&defaultstatus=0&pagelist=Home&CookiesEnabledStatus=True>.

- **Odor complaints.** Most municipal sewage treatment plants track complaints of their sewage stink, which enables people to identify trends and know where not to buy a house.
- **Parking tickets.** To identify parking scofflaws and trends and fairness in ticketing (any special persons get their tickets waived?).
- **Personnel records.** Confirm whether someone is a public employee and identify bad workers through disciplinary records. Not always public in all states, so can be difficult to get, such as disciplinary actions against teachers. Easier to get for high-ranking officials because a greater public interest. Performance evaluations are public in many states.
- **Pet licenses.** To examine trends in pet ownership and dog bites. Includes information about licensed animals (name, breed, last rabies shot, etc.), as well as name of owner, address and phone number.
- **Price-scanning inspections.** To assess which stores might be ripping off consumers. Find it at your state office of weights and measures.
- **Probate.** To make sure possessions are disbursed fairly and find family members of the deceased. When someone dies and leaves property or doesn't have a will, it goes through probate – the government has to figure out how to fairly divvy up the goods. Check the courthouse.
- **Product recalls.** To monitor the safety of consumer products, including food and medicine (FDA), consumer products (CPSC), meat (USDA), cars (NHTSA), pesticides (EPA) and boating safety (Coast Guard). Check out recalled products for all these agencies at <http://www.recalls.gov/search.html>.
- **Property taxes.** To assess whether everyone is paying their fair share of property taxes and also to find who is buying what in the community. Property tax records are public at county courthouses. You can find out how much homes in your neighborhood are worth, what they sold for, along with details, such as the homes' square footage and number of bedrooms.
- **Public records requests.** To find what public records are being requested by businesses, citizens, government employees and journalists. Request from the public records officer copies of the public records request and any log used to track requests.
- **Restaurant inspections.** To make sure the public is protected from unsanitary conditions at restaurants and other venues.
- **Retention schedules.** To find out what records an agency keeps and when it purges them. Most public agencies have established retention schedules to determine how long they will keep different records and when they can get rid of them. Check with the individual agency to find its retention schedule, usually held by a clerk or records officer.
- **Salaries.** To find cronyism and disparity in pay. Names, titles and salaries of public employees are almost always available. Also, get overtime pay and actual pay (not just budgeted salary) to find janitors who make more than the mayor. Also, a good way to find former employees.
- **School test scores.** To identify poorly performing schools. Check with individual schools, school districts or the state board of education.

- **Sex offenders.** To find if sex offenders live close to vulnerable populations. Note that a variety of studies have found registries to be relatively inaccurate, so the person may or may not actually live where the registry says the person lives.
- **Stolen vehicles.** To identify trends in vehicle theft. Request stolen vehicle data to analyze popular makes, models and locations of car thieves.
- **Street maintenance.** Examine trends in bad streets and who gets them fixed and who doesn't. Check with your local street department.
- **Tax refunds.** To find whether someone is scamming the system by setting up dummy corporations to get bogus property tax refunds. The Washington Post analyzed Washington, D.C., tax refunds in 2007 to find that nearly \$32 million had been refunded illegally to government employees and their friends, including to a fictitious company they established called "Bilkemor LLC."  
(<http://www.washingtonpost.com/wp-dyn/content/article/2007/11/13/AR2007111302394.html?referrer%3Demail%26article%26sub=AR>).
- **Taxi inspections.** To assess the safety of taxis, check with the local licensing agency.
- **Telephone records.** Telephone records of public employees on their work phones, including cell phone records, can identify corruption and questionable connections by listing who the employee talked to along with the time and date. In some states, such as Texas and Oklahoma, messages regarding work topics of public officials are open even when sent on personal cell phones and Blackberry devices.
- **Traffic accident reports.** To find out dangerous intersections and stretches of roads. You can analyze the federal Fatality Analysis Reporting System data for every fatal accident in the nation going back to 1975 (<http://www-fars.nhtsa.dot.gov/Main/index.aspx>).
- **Train wreck data.** To identify the most dangerous train-road intersection in the community. The Federal Railroad Administration provides train wreck data back to 1975 online for downloading and analysis  
(<http://www.safetydata.fra.dot.gov/officeofsafety/Downloads>). Click on "Accident data on demand" then choose "Highway Rail Accidents." Choose a year, your state and a format (Excel).
- **Tribal records.** American Indian tribes are considered sovereign nations and not agencies subject to FOIA or state public records laws. If a federal agency holds tribal documents, those should be public if you request them from the federal agency that has them (as per U.S. Supreme Court case *Dept. of Interior v. Klamath*). For more information about access to tribal information, see the Reporter's Guide to American Indian Law by the Reporters Committee for Freedom of the Press (<http://www.rcfp.org/americanindian/index.html>).
- **Truck accidents.** To identify trouble spots in the community where semi-trucks tend to crash and burn (particularly on interstate highways). The U.S. Department of Transportation collects accident reports involving commercial trucks over 10,000 pounds. The agency now keeps secret hazardous waste information, citing national security reasons, so we don't know what stuff is traveling on our freeways or how dangerous it is if the trucks crash. Get federal data from the U.S. Department of Transportation Federal Highway Administration.

- **Unclaimed property.** To see what property and funds are owed to citizens by the government (and has gone unclaimed). Request records from the state Department of Revenue.
- **Uniform Commercial Code.** To find what loans someone has for property, yachts, etc.
- **University records.** Student educational records are secret (FERPA), but operational records and statistical information about students is public.
- **Use of force.** Look at how police use – or overuse – force during arrests. Each time an officer uses a chokehold, gun, taser, police dog, baton or other use of force, a form is filled out.
- **Utility bills.** Personal use of electricity, water and other utilities generally isn't public, even though it might be of public interest to know the big users of public water.
- **Voter registration.** To see whether people, particularly candidates, have voted or lived in a community. Also to prevent voter fraud (can check to see if dead people are voting). Voter registration records include name, address, year of birth, party affiliation, and whether a person voted in previous election (but not how they voted).
- **Weather.** To examine trends in climate change in the community and compare weather conditions in one neighborhood to another (weather can vary among different parts of town because of elevation, topography and pavement effects). The National Climatic Data Center provides tons of data summarizing temperatures, rain, wind and other conditions for each individual monitoring station going back more than 100 years. The agency also has a database of storms, including tornadoes, hurricanes, snowstorms, flash floods and drought. See <http://www.ncdc.noaa.gov/oa/ncdc.html>
- **Worker safety.** To identify dangerous workplaces and trends in workplace accidents. Look at the Occupational Safety and Health Administration records at <http://www.osha.gov/oshstats/index.html>.
- **Zoning.** To analyze growth planning and find who is benefiting by development. Find out how land is zoned and what development is possible. Also look at comprehensive plans, which map out the general future of a community.

## ***Creating a document state of mind***

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- 1. Follow the money.** Ask for the detailed line-item budget, maybe as an Excel file, that details all spending, not just total expenses and total revenues. Look for other documents that might outline the details. Where is that money going?
- 2. Map the activities.** Now, map the agency to find out what it does. Look on their websites and you'll often find organizational charts that can help jump-start this process. What sorts of documents might be generated by the activities of this office? The mayor is awarding a \$100,000 grant to a local arts group. What questions does that raise in your documents-driven mind? Look at blank forms that people fill out to get a sense of what is kept.
- 3. Circle of light.** If you are backgrounding a person, write the person's name in the middle of paper or a white board. Around the name, write down roles the person has in life (e.g., married person, business owner, driver, pet owner, property owner, pilot). Then write for each role the records available.
- 4. Look at records lists.** Many public offices maintain an index of records or retention schedule – a master list of documents routinely filed. Also, ask for a log of previous public records requests. You'll get a sense for what kinds of records the agency keeps.
- 5. Train the agency.** Get the agency used to you asking for records. Ask for tame records, such as reports, expenses and contracts. Ask for emails of the mayor for the past week. Then work up from there. When you find you really need those email records, they'll be accustomed to providing that kind of information.
- 6. Blend in.** Each week, take a few hours to go to your agency and talk to workers. Ask what they do, what they are working on, and what records they keep.
- 7. FOI First on Fridays.** Every Friday (or whatever day of the week works best for you), submit a public records request. Track your requests in a notebook and follow up. Get in the habit of doing it.
- 8. Explain to the public.** Get in the habit of explaining what records your information is based on and how people can get them on their own. Create a "Doc Box" for each story explaining the basics of the record, what's in it, and where to get it.

### ***Backgrounding government***

Here are a few examples of how to background your local government agencies to find out what documents they have that can help you:

Go to the city and ask for the master index or retention schedule. Here's a sample list of records in San Francisco's index:

- Administration
- Accident-Injury Reports
- Administrative Files
- Audit Reports
- Budget Files
- Check Payments
- Conflict of Interest Form 700
- Contracts & Grants
- Discrimination and Harassment Complaints
- Draft Contracts
- Family Medical Leave Act Records
- General Correspondences
- Medical Information
- Office Expenditure Documents
- Payables (Invoices/ Vendors)
- Payroll Reports/ Timecards & Related Documents
- Personnel Files
- Policies/Procedures
- Purchase Orders (copy)
- RFA, RFP, RFQ(s) & Records
- Receipt/Deposits
- Travel Request (copy)
- Work Orders
- Worker's Compensation Record

Just think for a minute about how many stories lie in this data!

Now that is thinking documents-first!

- 1. Surprise yourself.** Look at public records as birthday presents. Because turnaround on requests can take days, weeks or months, (and sometimes years), submit requests for documents that could yield a good follow-up story or project. Then when you get a box in the mail three months later, it will be like opening a present. Squeeze those record-based projects around the daily work.
- 2. Minimum story.** When you submit a public records request, always have a "minimum" story in mind – something you might be able to produce fast, or a launching pad for a project. No use fishing for stories with random records requests. That can waste time.
- 3. Keep request forms handy.** Carry request forms and a copy of your state open records law in your bag. Fill out requests on the spot if you are at a city council meeting or at the police station.
- 4. Tracking system.** Develop a good system for tracking requests. It can be as simple as a binder with a sheet of paper for each request. Some reporters use Excel. Every time something new happens with the request (response from agency, your response back, etc.), note the date, to whom you talked, and what was said. Always agree to changes in your request in writing, such as through email exchanges.
- 5. Team up.** Find someone else you can work with and team up. Sometimes splitting the work can make things happen. Use Google Documents or other similar programs to share work and update notes.
- 6. Build credibility.** If you complete some record-based projects, then your boss is more likely to cut you more time to take on bigger projects.
- 7. Get inspired.** During lunch, visit FOI websites (see Access Resources at end of handouts) to see the great work other journalists are doing with documents. See the challenges they face. Even though it seems like your readers and sources might not seem to care about access, know that you aren't alone. There are others out there like you.

## ***Planning your FOI request***

**By Charles Davis and David Cuillier**

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### **Learn the law**

Public records laws require government agencies to provide anyone the right to look at a record (or pay for a copy) that is held by a government agency subject to the law.

You can become fairly knowledgeable by reading a summary of the state public records law provided by the Reporters Committee for Freedom of the Press at: [www.rcfp.org/ogg](http://www.rcfp.org/ogg). See the resources listed at the end of these handouts for guides in your state.

Here are some basics of access law:

- No law requires an official to talk to you, but records laws require agencies to let you see documents or data.
- "Record" generally includes any format of recorded material, including paper, audio tapes, video, data, email, and even the electronically embedded properties information in a Word file. Be creative.
- Federal executive agencies (e.g., FBI, but not the Supreme Court or Congress) are subject to the federal Freedom of Information Act. State executive agencies, cities, school districts and other local public agencies are subject state public records law. Be sure to know the name of your state law, and don't ask for a record from your local school district based on federal FOIA.
- Other laws may apply, such as the Family and Educational Rights and Privacy Act for protecting educational records or the Health Insurance Portability and Accountability Act for medical records.
- Some records may be kept secret if there is a law that says the record may be kept secret, usually to protect national security, privacy invasion, etc.
- Some laws and agencies require a written request.
- Agencies are required by law to respond within a certain amount of time. They may provide the records, deny them in whole or in part (legal reason in writing), or say they need more time.
- Most laws are discretionary, which means an agency can give out the information even if an exemption allows them to keep it secret.
- Denials may be appealed to the agency. A requester can also sue, in some states, recouping his or her legal fees by substantially prevailing in court.
- When in doubt, ask for the record. It is up to the agency to prove it is secret, not for you to prove it is public.

## **Know the record**

Identify exactly what you want to the best of your ability. Here are some tips for finding the existence of records:

- Check the agency's website and see if the record is provided online. Or perhaps information is provided online about the specific record.
- Visit or call the agency and talk to a clerk or person who would know what records are kept that would have the information you need.
- Look for original blank forms that the agency keeps. This tells you what kind of information is kept and how it is kept.
- Look at an agency's retention schedules or records indexes to find what kinds of records are kept.
- Ask to see the log of public records requests to see what other people have requested.

## **Request the record**

- **Avoid fishing.** Try to limit your request to what you really want. If you simply ask for "all files relating to" a particular subject, you may give the agency an excuse to delay its response, and you risk needlessly running up search and copying costs. Do your homework. Go talk to the agency first.
- **Get specific.** Cite relevant newspaper clips, articles, congressional reports, etc. If the records have already been released, let the agency know the date, release number, and name of the original requester. If you are asking for a database, talk with the techies ahead of time to know exactly what data you are requesting and in what format. Tour the agency office and ask about what they are working on and specific documents they maintain.
- **Ask verbally.** Ask for the record verbally in person first if possible.
- **Be polite but persistent.** The people on the other side of the counter don't come to work with horns and cloven hooves. They are people, too, and they are more likely to get you what you want faster if you are nice about it, especially at the beginning.
- **Prioritize.** Let the agency know if you'd like to receive information in a particular order. Materials could be reviewed and released to you in chronological or geographical order - or you may simply not want to wait for all the records to be reviewed before any are released.
- **Submit a written request.** If you anticipate balking, bluffing, or being passed around or put off, simply submit a public records request letter, which starts the clock ticking and requires them to act and stop passing you around or delaying. On the following pages, see a sample state public records request letter.

- **Choose your tone.** Note the last paragraph of the request letter that threatens litigation. Threaten to sue only if you are prepared to do so and if they've indicated they will not cooperate. Also, consider whether the wording may create defensiveness or hostility that undermines your request (e.g., delays). Sometimes it's better to attract flies with honey than vinegar. But at other times, coming in strongly and quoting the law can demonstrate you are serious and know what you are talking about (research indicates the threatening letter gets more agencies to respond).
- **Decide on your own transparency.** Legally, you don't have to say who you are or why you want the documents. As a practical matter, you'll probably have to tell them your name and provide a phone number so they can contact you. Also, some states have different standards for commercial users, so you might have to sign a statement saying you aren't a commercial user (they don't consider journalists as commercial users). If you don't care if the agency knows why you want the information, feel free to tell them. It's likely to speed the process and they might offer other information that you didn't request. But if that would jeopardize your investigation, then don't tell them. If they ask, "Why do you want that information? Are you going to write something negative?" Just tell them, "I don't know what I'm going to write until I gather all the facts," which is true.
- **Go to the top.** Sometimes going straight to the agency's lawyers or top officials speeds things up. Clerks sometimes deny requests or stall as they try to make sure they don't release something that will get them in trouble. Once the agency attorneys look at it and see it should be released, it often is.
- **Keep records of records.** Keep track of every step of your different requests. Keep dates, contact names, phone numbers and try to correspond by email so you can have written records of what was said to whom. Some requests can last years, so keeping track of details can help.
- **Follow through.** After you submit a request, always follow it through to the end, especially if they provide the records, even if months after you need it. Also, if denied initially, don't skulk away cowed. If you have a legal right to the information keep at it. How you treat requests and denials will affect how agencies treat requests in the future. Educate officials and get them in the habit of providing information to you and the public. It's part of their job.

**Sample request letter: Friendly version**

Nov. 10, 2011  
Carbon School District  
251 West 400 North  
Price, Utah 84501

RE: Public records request

To whom it may concern,

I know you are busy, but I want to thank you in advance for helping me gather some public records regarding superintendents and high school coaching salaries. I am writing to request a copy of the contract for the district superintendent, including pay and any other compensation he or she might receive. Also, if your district has a paid high school head football coach, or several head coaches, I would like a copy of that person (or persons') contract, including pay and any other compensation they receive for their duties.

I would be happy to pay copying and postage fees and help in any way I can, but if the cost is more than \$5, please contact me and let me know. If the files are available electronically and would be more convenient to copy and email, then that would great too.

I would very much appreciate a response by the end of the month, and if there is information that I am not entitled to, please let me know. I understand that sometimes some information doesn't warrant disclosure for statutory reasons, and might need to be blotted out while releasing the public part.

If there is anything I can do to help with the request, please do not hesitate to let me know (email is the fastest way to reach me).

Thanks again for your help!

Sincerely,

Jane Jones  
1212 Main St.  
Price, Utah 84501  
435-555-1111  
jones@email.com

**Sample request letter: Authoritative version**

This letter is provided by Joey Senat, Ph.D., Oklahoma State University School of Media & Strategic Communications, available at <http://journalism.okstate.edu/faculty/jsenat/foioklahoma/requestletter.html>

DATE

NAME OF OFFICIAL  
TITLE  
AGENCY  
ADDRESS

Dear \_\_\_\_\_:

Under the Oklahoma Open Records Act, Title 51, Sections 24A.1-29, I am requesting that any and all records related to [NAME OF RECORDS / GENERAL DESCRIPTION] be made available to me for inspection. These records should include, but not be limited to, the following:

[DETAILED LISTING OF RECORDS]

I acknowledge that not all government-held information is open to the public. However, the Oklahoma Supreme Court has said the party claiming non-disclosure carries the burden to prove that an exemption applies. The Court also has said government officials must consider in ruling on records requests that "disclosure is to be favored over a finding of exemption." If all or some portion of my request is denied, please cite in writing the specific statutory exemption being claimed.

Please note that I am asking to inspect these records. I reserve, however, the right to request copies when the records are examined.

The Oklahoma Open Records Act prohibits the charging of a search fee when the release of the "documents is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants." [EXPLAIN YOUR IDENTITY & PURPOSE IN TERMS THAT FIT THE PROVISION] My request clearly falls within this provision of the Open Records Act and no search fee should be charged for this request.

The Oklahoma Open Records Act requires that public bodies provide "prompt, reasonable access to its records," which Attorney General Drew Edmondson in 1999 defined as meaning "only the time required to locate and compile the public records." Please respond to this request by no later than [DATE].

If you have any questions about the nature or scope of this request, please contact me. Thank you for your cooperation.

Sincerely,

[YOUR NAME, TITLE AND CONTACT INFORMATION, INCLUDING ADDRESS, PHONE NUMBER AND E-MAIL ADDRESS]

**Sample request letter: Neutral version**

This letter is based on the Reporters Committee for Freedom of the Press online generator, available at [www.rcfp.org/foialetter/index.php](http://www.rcfp.org/foialetter/index.php)

Nov. 10, 2011  
Carbon School District  
251 West 400 North  
Price, Utah 84501

RE: Public records request

To whom it may concern:

Pursuant to the state open records act, I request access to and copies of the contract for the district superintendent, including pay and any other compensation he or she might receive. Also, if your district has a paid high school head football coach, or several head coaches, I would like a copy of that person (or persons') contract, including pay and any other compensation they receive for their duties.

I agree to pay reasonable duplication fees for the processing of this request.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act.

Thank you for your assistance.

Sincerely,

Jane Jones  
1212 Main St.  
Price, Utah 84501  
435-555-1111  
jones@email.com

**Sample request letter: Legalistic threatening version**

This letter is based on the Student Press Law Center letter available at [www.splc.org/foiletter.asp](http://www.splc.org/foiletter.asp). You might remove the threatening paragraph toward the end.

Nov. 10, 2011  
Carbon School District  
251 West 400 North  
Price, Utah 84501

RE: Public records request

To whom it may concern:

Pursuant to the state open records law, Utah Code Ann. Secs. 63G-2-101 to 63-2-909, I write to request access to and a copy of the contract for the district superintendent, including pay and any other compensation he or she might receive. Also, if your district has a paid high school head football coach, or several head coaches, I would like a copy of that person (or persons') contract, including pay and any other compensation they receive for their duties.

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address.

I agree to pay any reasonable copying and postage fees of not more than \$5. If the cost would be greater than this amount, please notify me. Please provide a receipt indicating the charges for each document.

As provided by the open records law, I will expect your expedited response within five (5) business days. I am seeking the information for publication or broadcast to the general public. See Utah Code Ann. Sec. 63-2-204(3)(a).

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. Also, please provide all segregable portions of otherwise exempt material.

Please be advised that I am prepared to pursue whatever legal remedy necessary to obtain access to the requested records. I would note that violation of the open records law is a Class B misdemeanor, which can result in a fine of up to \$1,000 and the award of litigation costs and reasonable attorney fees. See Utah Code Ann. Secs. 63-2-801(3) and 63-2-802(2).

Thank you for your assistance.

Sincerely,

Jane Jones  
1212 Main St.  
Price, Utah 84501  
435-555-1111  
jones@email.com

## *How to handle denials*

By Charles Davis and David Cuillier

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### **IF THE AGENCY SAYS...**

#### **"YOUR DESCRIPTION OF THE RECORD IS INADEQUATE"**

This means you probably did not give enough specific identifying information. Give the agency the benefit of the doubt and rewrite your request. You can try to call or make an appointment with the official processing your request to get more help.

#### **"THE RECORD DOES NOT EXIST"**

If you are reasonably certain the records you've requested do exist, and if your request letter was clear and informative, you should try to do more research. Are there news reports, congressional hearings or court records that describe the information you want more clearly?

Rewrite your request, giving the agency more guidelines and clues for where they might find it. Try to be as patient and understanding as you can; some agencies are short staffed or have disorganized data systems.

#### **"SOME OF THE INFORMATION IS EXEMPT FROM DISCLOSURE, SO WE WON'T GIVE YOU ANY OF IT"**

The agency can't withhold an entire document or file because some portion(s) of it is exempt from disclosure. The agency must release any non-exempt material that can be reasonably extracted from the exempt portion(s).

#### **"WE CAN'T GIVE IT TO YOU BECAUSE AN EXEMPTION SAYS WE HAVE TO KEEP IT SECRET"**

FOIA exemptions are generally discretionary, not mandatory – an agency is not required to withhold all information. Agency officials can choose to waive the exemptions and release the material, unless another statute specifically restricts that disclosure. One exception is FERPA, but note that FERPA doesn't cover everything and they can release the records if identifying information of a student is blotted out.

#### **"OUR PROPRIETARY SOFTWARE DOESN'T ALLOW US TO COPY DATA"**

I don't know of any software that can't copy or export data. Maybe it exists, but it must be rare. Usually the person saying that is unfamiliar with the software and needs to confer with the agency computer technicians. If, after talking to their techies, they still stick to that story, find out the software maker and call them up. No

doubt the company will want everyone to know how useful and versatile the software is and explain how to copy the data.

**"COPYING THE DATA WITH FIELDS REDACTED WOULD CREATE A NEW RECORD, AND WE ARE NOT REQUIRED BY LAW TO DO THAT"**

It is true that most laws do not require government agencies to create new records, only let you see or copy existing records. But you aren't asking for a new record – just a copy of their existing records with some information redacted. It's no different from getting a copy of a paper file with some information (fields) redacted with a black pen. Just because they blot out a name on a piece of paper doesn't mean it's a new record. Same theory applies to data. Copying data with some fields redacted, or even combining fields from different databases, is not creating a new record. It's copying existing data.

**"OK, OK. HERE IS YOUR PILE OF RECORDS. THAT WILL BE \$1 MILLION, PLEASE."**

Make them justify the expenses with a line-by-line explanation. You might be able to narrow your request to get fewer documents that would still serve your purposes. Arm yourself with what other agencies charge for copies, including for computer programming time. If many other agencies charge nothing or very little, then make that known, including by writing a story about it.

Look at the agency's FOI logs to find out if others have been receiving the same records. Ask for an extra copy. Ask for a backup copy of their data if they make backups. Get an outside expert to scrutinize their time estimates. The estimates are usually inflated and unreasonable. See the handout on Lowering Copy Fees for more tips on reducing copy costs.

**"WE ONLY PROVIDE THIS INFORMATION TO RESEARCHERS. YOU CAN HAVE IT IF YOU SIGN THIS CONTRACT WITH US."**

Some agencies give information to researchers provided they sign a contract with use restrictions, such as prohibiting identification of individuals in the records. Few reporters are willing to sign such agreements. The problem is you might want to use the information for something else later and won't be able to. Also, fundamentally it designates journalists as above average citizens with special access, and it creates a new category of "public information." Either it's public or not. Some journalists advise only considering such agreements when the information is clearly not public but the agency is willing to release it for your story.

**"WE DON'T KNOW WHY YOU WANT IT OR HOW YOU MIGHT USE IT. YOU MIGHT USE IT IN A WAY WE DON'T LIKE."**

Tough noogies. In most states a records request cannot be denied based on who the requester is or how the information will be used (except in the case of commercial mailing lists in some states). If they ask why you want the information you can tell them: "I wouldn't want to determine the story before I have all my facts. I'm just doing my job at gathering information." If you request records routinely from an agency (weekly), then it will be no big deal and they are less likely to question you.

**"WE JUST DON'T WANT TO GIVE IT TO YOU"**

The agency must explain its reasons, usually in writing, for determining that an exemption applies to any particular information.

- You have the right to contest any exemption claim.
- The exemptions must be narrowly applied, since the FOIA was created to maximize public access to agency records
- You can file an administrative appeal to a higher agency official. And if this fails, you can file a lawsuit. The federal court must conduct a full judicial review of the agency's claims and it is up to the agency to justify its denial of your request.
- Even if the agency releases substantial portions of the material you've requested, you can appeal the decision to "sanitize" the rest. You can also request a detailed justification for each deletion.
- You can ask the state public records ombudsman to step in and try to mediate. The ombudsman has the authority to look at records behind closed doors to see if the agency is following the law (although the ombudsman has no enforcement authority).
- While you are haggling with the agency, try to get the information from another agency. Some records are kept by multiple agencies (for example, boating accident data kept by state agencies and the Coast Guard).
- Use principled negotiation and hard tactics, as detailed on the following pages.

**Lowering Copy Fees**  
**By David Cuillier**

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Here are some tips for lowering or eliminating unreasonable fees:

1. Don't ask for copies. Look at the documents for free. In most states, an agency can't charge for search fees, only for copies.
2. Narrow the request to just the few pages that you really need.
3. Ask for a fee waiver as a researcher using the information for the public good (federal FOIA provides waivers for journalists).
4. Take photos or use a portable scanner (about \$100).
5. Ask for electronic files on CD or emailed for free.
6. Ask the agency for an itemized list of expenses to justify the costs. Here is what I consider reasonable: Add paper (.7 cents per page based on a box of paper from Office Depot), machine depreciation (.2 cents per page based on a Xerox WorkCentre 5225 that costs \$4,299 and produces 75,000 copies a month), and toner (.6 cents per page), and you get 1.5 cents per page. Call it an even 2 cents per page.
7. Question high staff search fees – \$100 per hour is equivalent to paying someone \$208,000 a year to make copies.
8. Request to see a copy of the contract the agency has with a copy company. My employer pays a company less than a penny (.9 cents) per page to provide the machine, service it and refill the toner.
9. Survey local agencies to compare costs and expose the unreasonable.
10. Survey citizens to find out what they consider reasonable. Most people will say 10 or 15 cents per page copy.
11. If the unreasonable charge is for computer programming, call the company that makes the software and ask them if copying data should be time-consuming. They often say it takes a few minutes.
12. Publicize the unreasonable copy fees. Find out if an agency provides free copies to lawyers or commercial requesters but overcharges citizens. Contact elected officials. Write about it.
13. Team with other requesters to share the bill. Request the request logs to see who else gets records frequently from the agency.
14. Ask an ombudsman or attorney general to talk to the agency.
15. Sue or lobby for laws specifying reasonable fees.

## ***Soft tactics and principled negotiation***

**By David Cuillier**

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Below are tips for getting sources to comply with requests, based on the theories and application of "principled negotiation." These techniques are advocated by such experts as William Ury, co-founder of the Harvard's Program on Negotiation and author of "Getting to Yes." I suggest reporters always approach their sources in this frame of mind. With enough practice, you'll get a lot of agencies to comply without threats of litigation.

### **Argue interests, not positions**

Argue for your interest (I wish to analyze ambulance response times to find trouble spots), not positions (I want your database). If the agency understands why you want the information they are more likely to be cooperative. Of course, you are not obligated by law to explain that and you might not want to tip them off. But in reality they can figure it out most of the time so being up front is a good option. Then, they can argue their interest (we don't want to invade anyone's privacy). You can work out a solution when you understand interests. Positions cause both sides to dig in.

### **Allow face saving**

If you box an official into a corner early on they might feel like they have to stick to their guns no matter the cost, especially if they denied the information in front of their superiors and subordinates. Talking with the person informally first, before they commit to an action, gives the person more leeway to agree to your request. Or, suggest the legal department examine the issue and let them make the decision – that will relieve the official of the shame of changing his or her mind (e.g., "sorry folks, I had to say yes because the attorneys said I had to release it.")

### **Use people skills**

Allow officials to vent. Listen first, then repeat what you heard (whether you agree with it or not). Use "I" statements, not "You" statements. Talk to people informally side-by-side, not facing across a counter, creating psychological "opposition."

### **Apply negotiation jujitsu**

Bend like the willow, don't break like the oak. Invite criticism and advice for how to analyze the information. If they say the record is a waste of time then ask what record would be a better use of time. Use questions instead of statements. Use silence after an unreasonable attack. Invent different options and alternatives, and end conversations with a compliment.

## **Hard tactics**

**By David Cuillier**

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Sometimes you apply the techniques of principled negotiation but an agency just doesn't want to play ball, or purposely chooses not to play fair. Then it's open season and time to apply hard tactics. Below are tips for getting sources to comply with requests, based on the six elements of persuasion by Robert Cialdini of Arizona State University. Also, other strategies are provided for pressuring an agency to release records. Do not use these techniques for evil. Only good.

### **1. Reciprocation**

- **Rejection-then-retreat:** Ask for a lot, then cut it in half. "Can I see all your expenses in database format for the past 20 years? OK, how about starting with just the expense reports for the past five years?" The clerk will appreciate you for simplifying the request and may reciprocate by working faster and being more helpful. Request information that you can give up later, such as social security numbers. If it lands in court a judge might want you to concede something anyway. When it appears you are giving them something then they are more likely to reciprocate.
- **Get-to-know-you stories:** Don't ignore newsworthy positive stories. Occasionally government actually does something right. It's often useful to do a harmless newsworthy project first to get to know people and build trust (e.g., analyze pet license data for a feature on most popular dog breeds/names), then work from there. When you do something positive to someone, psychologically they feel obligated to reciprocate and help you out even more. But don't make up stories or get buddy-buddy. Readers come first.
- **Be a helper:** Check in frequently after the request is filed and offer to help to make their jobs easier. Offer to help copy data or provide CDs for copying. They might not take you up on it but they might appreciate the gesture.

### **2. Commitment and Consistency**

- **Everyone happy:** Ask, "How are you doing today?" When the person says fine, then he or she is more likely to help you. People don't want to appear stingy when they are fine and you are not.
- **Commitment:** Once commitment is made, people try to stick to it. Get commitment verbally: "Do we have an agreement?"
- **Ratcheting (low-balling):** Get a commitment for something small, then it opens the door for getting a "yes" on something bigger. This is the opposite of the reciprocation techniques. "How about if I could see a copy of what a police report looks like. OK, do you have what a case file would look like? What does it look like in your computer system? Any chance I could

just get an electronic copy of your reports in Excel for the past year?"

### 3. Social Proof

- **Peer pressure:** We follow what we see everyone else doing (e.g., canned laughter). This is most effective when people are uncertain and when the reporter is similar to the person. "Boy, all the other towns in the county provide this information. I wonder why it isn't open here?"
- **Patriotism:** Focus on the importance of what they have to offer to the community. That it's their duty as Americans to keep government open and transparent, and the community will appreciate it.

### 4. Liking

- **Looks:** As much as we hate to admit, people often make decisions based on how a requester looks. Dressing well helps; looking shady usually raises suspicions and increases denials.
- **Similarity:** Dress like your sources. Act like your sources. Talk about similar interests.
- **Compliments** that are sincere help.
- **Association:** Disassociate yourself with negative media and people who use information irresponsibly (spammers, identity thieves). Go to lunch with people for a positive association with you and food.

### 5. Authority

- **Bigger gets better responses.** Journalists from bigger media have more "authority" and tend to get calls returned faster. If you work for a smaller organization, consider teaming up with reporters from other organizations. Cooperative requests can increase pressure for release and serve everyone's interests.
- **Titles have authority.** Have the request letter co-signed by the managing editor or, depending on the importance of the information, the publisher. Or have the organization's attorney send it.
- **Government allies.** Get people in government on your side to back you up. Get to know the state attorney general, your state records ombudsman, or others who might be respected in government.
- **Shallow but effective.** Symbols of authority are effective: titles, clothing, automobiles. Even height conveys authority.
- **Cite the law.** The law is authoritative, particularly if it has penalties for noncompliance. Include the citations in your requests and e-mails when you want to exert authority.

## 6. Scarcity

- **For a limited time only.** What you are offering is limited. "I don't have time to wait until next week for you to check with the attorneys on this. My deadline is in six hours. Either I get the information or I'm going to have to write a story for tomorrow morning's paper explaining that your agency is withholding it. I would hate for you all to look like you are hiding something and are bad officials when I know you aren't. The public will appreciate it."

## 7. Pound lawbreakers into submission

Sometimes you run across a few bad apples in public service (just like there are some bad apples in journalism) who deliberately act in bad faith and deny valid public records requests to hide corruption or embarrassing facts. Remind them who's boss (the public):

- **Go to the top.** Go to the elected officials and ask them why the agency is hiding information. Sometimes elected officials, especially during an election year, would rather avoid a public battle with journalists.
- **Write about it.** Some journalists say it's inside baseball but that's hooey. When an agency says "no" to you, they aren't saying "no" to you. They are saying "no" to the thousands or millions of people in your community. Tell those people. Quote access experts and show why the agency is breaking the law. You would write a story if the agency broke other laws, right?
- **Wave the flag.** Use patriotism as leverage. Communists and Nazis favor secrecy, not god-fearing Americans. Are your officials pinkos and hate America, or are they good citizens?
- **Expose the deviant.** Get the same information from other agencies then ask the secretive officials why they are deviant. Nobody wants to be an outlier.
- **Rally allies.** Find people and groups who want the information and go tell them about the secrecy. It's even better if they are influential business owners, contributors or active citizens. When officials see it isn't a media issue, and they fear the wrath of constituents, they yield.
- **Heads on pikes.** Put together a list of all the other agencies in your state or elsewhere that lost public records battles and had to pay tens of thousands of dollars in lawyer fees (including the requesters' fees). Show them the news articles that made the agencies look bad. When officials see the very real drawbacks of secrecy (heads on pikes), they might wave the white flag.
- **Bury them.** If they deny your valid request and are being stubborn, flood them with more requests. If they are trying to hide one record, you can tell them that you wonder what else they are trying to hide. Make it much more work to deny you records than to comply. Wear them down.

- **Release the hounds (lawyers).** Have your attorney write a terse letter citing the relevant law. The letter, while perhaps unbudgeted, can demonstrate you are serious and will pay off down the road with more records.
- **Sue.** Sometimes all it takes is filing a lawsuit and an agency will cough up the information. In many situations you can recoup your attorney fees, even if you don't go to court. Check out the new NFOIC litigation fund (<http://www.nfoic.org/>) that will cover litigation to fight for records.

## ***Posting data online***

**By David Cuillier**

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Here are some programs you can check out for posting data online for the public, from the simple, cheap and easy, to the complicated and expensive:

### **1. Google Fusion Tables**

<http://www.google.com/fusiontables/>

This is a free service for posting data online and making it look fancy through maps and other visualization techniques. You can upload data, share it, and allow people to update it if you want.

### **2. Socrata**

<http://www.socrata.com/>

This is cheap and easy, and is used by the White House. For no cost you can post online fast and share it with the world. The databases are kept on the Socrata server, though, and it is limited in space.

### **3. Tablesorter**

<http://tablesorter.com/>

This program gives you a little more control over your content and looks professional. It's also free (they ask for a donation if you like it). The downside is you have to know html to be able to integrate it into your website, but any Web person should be able to work with it.

### **4. Caspio**

<http://www.caspio.com/>

This is a really nice program, and it even uses point-and-click interface for ease of use. It's very slick and has some great features. It can be a little more expensive, though. It ranges from \$39.95 per month for the "value" package to \$349.95 per month for the corporate package.

### **5. Django**

<http://www.djangoproject.com/>

This is a high-end program that requires a person to know Python programming language. It appears to be growing in popularity.

### **6. Other programs**

Other programs that you can check out include DataGrid, DataTables, Tableau public, Simile exhibit, and Tablesetter (open-source software created by ProPublica).

## **Data ethics checklist**

**By David Cuillier**

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Here is a checklist to review when dealing with data (also, see the SPJ Code of Ethics, <http://www.spj.org/ethicscode.asp>):

### **1. Is the database accurate?**

Often an agency will provide data that have been compiled in a hurry, changed from year to year, or just garbled. Take an excerpt of the data and verify it is accurate. Clean it up. Some people say it's OK to take post government databases online raw, and if there are inaccuracies it is the government's fault. That is true, legally, but journalists have an ethical duty to verify and publish the truth.

### **2. Did I analyze the numbers right?**

When you get your findings, run them past the agency to see whether they find errors. You want to give them the chance to reply, and they can't prevent you from publishing it. Don't provide the entire story to an agency before publication, but it doesn't hurt to present key findings.

### **3. Should I withhold some of the data from the public?**

Just because we have a legal right to acquire public data doesn't mean we have to publish everything. We might get databases that include home addresses. In some situations that might be important to publish online (sex offender data). In other situations the harm in publication might outweigh the benefits (database of child beauty pageant winners).

### **4. What would my mom/aunt/grandma/neighbor/child think?**

Apply the sniff test to determine whether publication of the data might evoke a public backlash that could lead to closure of the records. This has happened many times around the country, particularly when data include home addresses (concealed weapons permits) or other sensitive information (911 recordings). People worry about privacy invasion and will call for blanket closure of records. That doesn't mean we don't publish data if they have any whiff of personal privacy. But if we do, we must have a clear and defensible reason that we explain up front.

### **5. Am I pursuing data aggressively in the public's interest?**

A lot of journalists don't write about denials because they say it's inside baseball, or a conflict of interest. However, it is the ethical responsibility of journalists to fight for records on behalf of the public. Agencies aren't saying "no" to you – they are saying no to the thousands or millions of fellow citizens. When government breaks the law (including the state public records law), tell people.

## **Top-10 open meetings red flags**

**By Joel Campbell**

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1. **Retreats.** Just because a public body wants to meet at the beach for a retreat doesn't mean the open meetings law doesn't apply.
2. **Attorney-client privilege.** Some public bodies try to skirt the open meetings act by claiming attorney-client privilege, calling the attorney into executive session when they want secrecy. Question such ploys.
3. **Stealth agendas.** If the agenda says minutes, old business, new business, begin challenging the public body for more information. If the agenda says the public body is closing the meeting to discuss "personnel" ask for specific details about the meeting closure.
4. **Boilerplate closures.** In some states, city councils include an "executive session" on their agenda as a matter or practice whether they really need it or not. This encourages closed meetings and violates the spirit of open meeting laws.
5. **Electronic meetings.** Some states allow meetings to be conducted over the telephone or via video or audio conference. However, such meetings usually require that journalists and the public can listen or watch. Also watch for agencies conducting public business via e-mail.
6. **No votes for executive sessions.** Laws sometimes require that a majority vote be taken to go into closed session. Keep public officials honest and demand votes be taken.
7. **Work meetings or committee of the whole.** In some places, public bodies hold regular "work sessions," "committee of the whole meetings" or "work meetings" before their regular meetings. These often are designed to discuss matters informally and line up votes.
8. **Vague times and locations.** Some boards have attempted to approve closed meetings for a non-specific time and location in the future. In some cases these have been used to bring in candidates for job interviews. Object to such tactics.
9. **Get the meeting documents.** Ask for the same information packets the members of the board or council receive. These are public documents and can help you be more thorough in your reporting.
10. **Diffuse the open meetings bomb.** If a discussion scheduled for a closed meeting looks like it might violate the law, make a phone call before the meeting and try to persuade public officials to discuss the agenda item in question in the open. Some states have FOI hotline attorneys who may be consulted.

## **Access resources**

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### **Society of Professional Journalists Project Sunshine**

<http://www.spj.org/sunshine.asp>

Lists access resources for each state, including access experts you can call to quote for stories.

### **Reporters Committee Open Government Guide**

[www.rcfp.org/ogg](http://www.rcfp.org/ogg)

A great guide to the public records law and open meetings law in each state by the Reporters Committee for Freedom of the Press. It describes the different pieces of the law in plain English.

### **NFOIC**

<http://www.nfoic.org>

More resources for each state, provided by the National Freedom of Information Coalition.

### **Society of Professional Journalists**

- FOI FYI, <http://www.spj.org/blog/blogs/foifyi/>
- FOI resources, <http://www.spj.org/foi.asp>  
Sunshine Chair in your state.
- Linda Petersen, FOI Committee chair, [linda@valleyjournals.com](mailto:linda@valleyjournals.com)
- David Cuillier, former FOI Committee chair, [cuillier@email.arizona.edu](mailto:cuillier@email.arizona.edu), 520-626-9694

### **The Art of Access blog**

<http://www.theartofaccess.com>

The blog, by David Cuillier and Charles Davis, provides more tips and story ideas on accessing public records, as well as resources for requesters and teaching FOI.

### **Access Across America tip list**

[http://blogs.spjnetwork.org/aaa/?page\\_id=2](http://blogs.spjnetwork.org/aaa/?page_id=2)

In 2010 David Cuillier drove for 45 days around the country, visiting 33 states and talking to more than 1,000 people about access. He posted 57 tips that he picked up along the way.

### **iDig Answers**

<http://www.idiganswers.com>

"Hit records" provides hundreds of document ideas for stories and tips, by records expert and Florida journalist Joe Adams.

### **The National Security Archives**

<http://www.gwu.edu/~nsarchiv/>

Tips for accessing public records through FOIA, as well as tons of federal records.

### **Center for Investigative Reporting**

<http://centerforinvestigativereporting.org>

Story blog with great ideas for document-based stories.

**Investigative Reporters and Editors**

[www.ire.org](http://www.ire.org)

This group has an online resource center (for members) that includes a searchable database of more than 20,000 investigative stories and a searchable database of 2,000 tip sheets. Also check out the Extra! Extra! daily stories:  
<http://www.ire.org/extraextra/>

**Student Press Law Center**

<http://www.splc.org/>

This nonprofit center provides free legal assistance to student journalists. Check out the Web site for the publications and searchable database on a variety of student media law issues. It also includes a super FOIA letter generator that caters to each state.

**Society of Environmental Journalists**

[www.sej.org](http://www.sej.org)

Environmental story archive that provides great ideas for data and FOIA requests.

**Freedom of Information Center**

<http://www.nfoic.org/foi-center>

Information about access in all the states, including a listing of public records audits and studies. Out of the University of Missouri – Columbia.

**WikiFOIA**

<http://sunshinereview.org/index.php/Portal:WikiFOIA>

Provides information and news about access issues nationally.

**Alltop Freedom of Information**

<http://freedom-of-information.alltop.com/>

A compilation of FOIA blogs with top stories and postings.

**State Sunshine blog**

<http://openrecords.wordpress.com/>

State Sunshine blog with news about FOIA issues nationally. A good list of links.

**Office of Government Information Services**

<http://www.archives.gov/ogis/>

The federal agency, started in fall 2009, is the federal ombudsman for FOIA. Have a problem with an agency? Contact them and see if they can help.

**OpenTheGovernment.org**

<http://www.openthegovernment.org/>

An advocacy group with news and reports about access to federal records.

**Sunshine in Government Initiative**

<http://www.sunshineingovernment.org/>

Check the FOIA files for hundreds of stories produced with public records.

**Google News Alerts**

<http://news.google.com>

Go to Google News, click on "News Alerts" then set up alerts with keywords such as "public records request" and "freedom of information" and Google will send you links to stories that contain those keywords.

**Document-driven story idea sites**

Web sites with great document-driven ideas you can use in your own community

- SPJ Open Doors, records A-Z:  
<http://www.spj.org/opendoors.asp>
- IRE Extra! Extra! daily stories:  
<http://www.ire.org/extraextra/>
- Society of Environmental Journalists story archive:  
[www.sej.org](http://www.sej.org)
- Center for Investigative Reporting blog:  
<http://centerforinvestigativereporting.org>
- iDig Answers "hit records": <http://www.idiganswers.com>
- Google News Alerts: <http://news.google.com>
- WikiFoia blog (interviews with activists),  
<http://openrecords.wordpress.com/>
- The Art of Access: <http://www.theartofaccess.com>