

Unlocking the Power of Public Records



Access Across America tour

Society of Professional Journalists, Sigma Delta Chi Foundation
and the National Freedom of Information Coalition

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www.spj.org/aaa.asp

About the tour and presenter

Access Across America is a 45-day national tour to provide training in accessing public records for SPJ chapters, newsrooms and open government coalitions, funded through SPJ's Sigma Delta Chi Foundation, the National Freedom of Information Coalition and the University of Arizona School of Journalism. Sessions are based on SPJ's newsroom training program, developed by Charles Davis, Joel Campbell and David Cuillier (<http://www.spj.org/bbtraining.asp>).

Trainer David Cuillier, Ph.D., is chairman of the SPJ Freedom of Information Committee and has been an SPJ newsroom trainer for five years. He is an assistant professor of journalism at the University of Arizona in Tucson, where he teaches public affairs reporting, computer-assisted reporting and access to public records. Before entering academia he was a public affairs reporter and city editor for a dozen years at daily newspapers in the Pacific Northwest. He is co-author with Charles Davis of *The Art of Access: Strategies for Acquiring Public Records* and researches the psychology of access. He provides news and tips about FOI at www.theartofaccess.com and <http://blogs.spjnetwork.org/foi/>, and he can be reached at 520-626-9694 or cuillier@email.arizona.edu.

Agenda: Unlocking the Power of Public Records

Part I. The stories

1. FOI laws in action.....	3
2. Records for everyday life.....	5
Backgrounding your date	
Public hazards	
Buying a house	
Consumer awareness	
Holding government accountable	
3. Creating a document state of mind.....	14

Part II. Strategies for accessing records

1. Flow chart.....	15
2. Planning your FOI request.....	16
Learn the law	
Know the record	
Request the record	
3. Sample request letters.....	19
4. Overcoming denials	22
5. Lowering copy fees.....	25
6. Soft tactics and principled negotiation.....	26
7. Hard tactics.....	27
8. Doing FOI when you are SOL.....	30
9. Top-10 meeting red flags	31
10. Access resources.....	32

Part I: FOI laws in action

Stories using state records laws:

- **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 have 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.
- **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.
- **Drivers of death:** In April 2002 KIRO-TV in Seattle reported that a public transportation program for the disabled has 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.

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

- **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.
- **Airline safety:** In 1996 when a ValuJet crash in the Everglades killed 110 persons, the Cleveland Plain Dealer had documents in hand showing what the government knew about safety problems at the airline. It had just completed a series of articles on safety problems at small airlines, a series that relied significantly upon records received through FOI requests to the Federal Aviation Administration.
- **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-issue 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.

Records for everyday life

Below are just a few of the thousands of different public records you can access from your local, state or federal governments to help you in everyday life. Some are available online but many you have to actively request. 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.

Backgrounding your date

1. **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. Go to your nearest U.S. bankruptcy court (<http://www.uscourts.gov/bankruptcycourts.html>).

2. **Birth certificates**

To verify the identity, birth date and birthplace of someone. Some states charge for these records and some states don't provide them to anyone other than relatives or the person they are about. Check your state health department.

3. **Civil lawsuits**

When a person sues another person, the case ends up in civil court. Examples of civil cases include malpractice, divorce, libel, property rights, restraining orders and breach of contract. In most states, superior court handles big cases and district or municipal courts (small-claims) handle the little things (like you see on *Judge Judy*). Check your city or county courthouse.

4. **Commercial Web sites**

A variety of commercial vendors acquire large databases of public records and boil down the information for a fee, and some for free. Some Web sites have a lot of information that might be helpful, based on a mixture of government records and other information collected voluntarily or otherwise. Here are some Web sites (put your own name in them to see how accurate they are):

- **www.zabasearch.com.** Finds previous addresses, phone numbers and possible relatives for free, and more for a fee.
- **www.pipl.com.** This Web site is much more thorough (my favorite), including pictures it finds of the people online, high school, job titles, news articles, blog postings, and even date of birth sometimes (date of birth of everyone is out there – no way to put the toothpaste back in the tube).
- **www.pretrieve.com.** Provides age, relatives for free. For \$1 you can get address, phone and date of birth. For \$15 you can get searches on criminal and property records, and for \$40 you can information about liens, aliases, marriage, divorce, bankruptcy, etc.
- **www.zoominfo.com.** This site will provide professional affiliations of people.
- **www.facebook.com.** It's amazing what people will put on Facebook for anyone to see.
- **www.classmates.com.** Requires you to register, but you can find a lot about where people went to school.

- **www.whitepages.com.** Basic phonebook information, including address and people living in the household. Also can access a reverse directory so if you have a phone number you can see who it is assigned to.
 - **www.archive.org.** The Wayback Machine let's you check previous versions of Web sites.
5. **Criminal records**
To find criminal backgrounds of individuals. Can look up court cases at your city or county courthouse. Some states provide basic information online as well. Look for records outlining the charges and also the disposition. The person might have been innocent!
 6. **Divorce**
Available at your local city or county courthouse. Basic information is usually found in uncontested divorces. If the divorce went to trial or got more complicated (child support, spousal support, etc.), then you might for more details about the person. Sometimes prominent people try to have their divorce files sealed.
 7. **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 or private investigators), it is usually possible to find driving violations, such as speeding. Check your local courts for driving infractions – sometimes it is posted online at a state courts Web site.
 8. **Income taxes**
Individual and corporate income tax returns are private. However, when a taxpayer wants to challenge the IRS it does so in U.S. Tax Court, and those records are public.
 9. **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 usually get jail mugs and examine budgets, jail population statistics, and overtime to monitor operations. See your local city or county jail, or state prison. Many jurisdictions now provide lists of people incarcerated on their Web sites. Federal jail information, including mugs, however, is often kept secret in most parts of the country because of federal interpretations of privacy laws.
 10. **Juvenile records**
Juvenile criminal records, including arrest records and disposition hearing summaries, are public in more than a dozen states. Don't assume those records are always secret, particularly if the crimes were felonious.
 11. **Licensing**
States monitor 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. Go to your state government Web site and look for licensing pages.
 12. **Marriage licenses**
To find current and former spouses. Marriage licenses are usually kept by local county courthouses, although it depends on the state. Contact a local genealogical society if you have problems getting them (along with other vital records, such as birth certificates).
 13. **Name change**
To see if someone is hiding under a new identity. Records are usually kept at county courthouses.
 14. **Parking tickets**
Want to see if your date is forgetful or a rebel, racking up 70 parking tickets in a year? Check your municipal court. Some state court systems provide an online look-up for these kinds of violations (you'll find online a parking ticket I got in downtown Tucson).
 15. **Personnel records**
Confirm whether someone is a public employee and identify bad workers through disciplinary records. Not always public in every state, but easier to get for high-ranking officials because a greater public interest. Sometimes personnel disputes are litigated, so check the courts, too.

16. Pilot licenses

The Federal Aviation Administration Aircraft Registry includes owner name and pilot information at landings.com: http://www.landings.com/evird.acgi?pass*147452239!_h-www.landings.com/_landings/pages/search/search_namd_full.html.

17. Probate

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. Probate records are usually kept in city or county courthouses.

18. Property records

See if your date owns a home. In many counties, this information can be found online with a keyword search (including name). Find address, year purchased, assessed value, square footage, number of bathrooms, previous building permits or expansions, etc.

19. School directories

If the person is a current student at a public university then you can request directory information. Sometimes it's provided online at the university Web site, or published in a phone book. Includes name, address, phone, and university e-mail.

20. Uniform Commercial Code (big loans)

To find what loans someone has for property, yachts, etc. You can often search by debtor name on state agency Web sites, often the secretary of state's office.

21. Voter registration

To see whether people, particularly candidates, have voted or lived in a community. Voter registration records include name, address, year of birth, party affiliation, and whether a person voted in previous election (but not how they voted). These records are usually available from your local county elections office.

Looking out for public hazards

1. 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, and are public in most states (911 tapes are also public in all but a handful of states).

2. Air quality

Air quality violators are fined by county and state air quality departments. Check environmental agencies to find emissions violations, dust complaints, etc.

3. Arrest reports

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 police may keep some of the information secret IF it would harm the investigation, Police sometimes don't apply that balancing test and say everything is secret if it's still under investigation, but they are supposed to be able to demonstrate that the information would hurt the investigation.

4. Arrest warrants

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). Warrants are typically kept in criminal files at the court clerk's office.

5. Bridge problems

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.cfm> - click on "Download NBI ASCII files").

6. **Campus crime information**

Thanks to the federal Clery Act (a.k.a. Campus Security Act), if there are serious crimes happening on a campus that information has to be made available to the public. If you're wondering who got arrested at that fraternity date dash last weekend, but no one's talking, you can go to the city or campus police department and put in a request for an incident report or check out the crime log. You can also look up statistics for universities around the nation by searching this U.S. Department of Education Web site: <http://www.ope.ed.gov/security/>

7. **Code enforcement**

Code enforcement records detail noise violations, illegal businesses in residential zones, illegal dumping, huge signs and other problems. Check with your city code enforcement agency.

8. **Crime log**

A barebones list of incidents, usually including address, time/date, one-word description, and disposition. Also called a "police blotter." Basic crime records and statistics, as well as traffic accident information by intersection, are often put online by police. The FBI keeps crime statistics (Uniform Crime Reports) for all cities, and provides data online for cities over 100,000.

9. **Disease control**

County health departments often keep epidemiology reports documenting outbreaks of disease.

10. **Environmental hazards**

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/>. State governments also monitor other environmental hazards, such as leaking underground gas tanks and groundwater contamination.

11. **Fire incident reports**

To monitor fire departments and spot trends, such as arson, dangerous homes, public buildings that are hazards, etc. Check with your fire agency.

12. **Hotel room inspections**

County or city health departments often inspect hotel rooms to make sure that the towels and sheets are changed, and that the other parts are cleaned well. Check inspection reports for your favorite hotel.

13. **Pool inspections**

County health departments inspect public pools and spas to make sure they are safe (chlorination levels, fencing, etc.).

14. **Restaurant inspections**

To make sure the public is protected from unsanitary conditions at restaurants and other venues. Find the worst restaurants, as well as any other public eatery, such as grocery store delis. Check your city or county health department.

15. **Sex offenders**

In most states it's easy to look up sex offenders (the most dangerous ones, usually level 2 & 3) online. Just Google your state and "sex offender registry" and you should be able to find your state's site, which typically allows you to find sex offenders by zip code or other search functions. 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. For registries: <http://www.publicrecordfinder.com/criminal.html>.

16. **Stolen vehicles**

Request stolen vehicle data to analyze popular makes, models and locations of car thieves. Some states even provide an online searchable database where you can put in a license plate number to see if the car has been reported stolen (if you see a car abandoned on your block).

17. Train wrecks

To identify the most dangerous train-road intersection in the community and other trends. The Federal Railroad Administration provides train wreck data back to 1975 online for downloading and analysis (<http://safetydata.fra.dot.gov/officeofsafety/>). Click under "Downloads" on the toolbar, "Accident data on demand" then choose "Highway Rail Accidents." Choose a year, your state and a format (Excel).

18. 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. Can also get federal data from the U.S. Department of Transportation Federal Highway Administration.

19. Water quality

Counties and cities measure drinking water quality and provides those results in reports.

20. 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>

Buying a house

1. Abandoned buildings

In most cities it is illegal to have a building vacant and boarded up for more than a certain amount of time, and cities often track abandoned buildings, as well as housing code violations, junk cars, and other neighborhood nuisances.

2. Airport noise

Airports track noise complaints from neighbors when jets fly low or are particularly noisy. Often sound maps are provided online that will let you see where the noise is worst, as well as flight paths to see if your prospective house is within a busy flight corridor.

3. 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), but it's all there.

4. 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.

5. Dog bites

City and county animal control agencies often track dog bites. Find out if there is a chompy puppy in your neighborhood.

6. Drug houses

See if any homes in your neighborhood had drug problems. Provided by the U.S. Drug Enforcement Administration at <http://www.dea.gov/seizures/>

7. 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. Request liquor licenses and suspensions from your state liquor control board. Cities often keep records of special events and existing licenses as well.

8. Neighborhood newsletters

A lot of cities have offices to coordinate neighborhood associations, so you might be able to get copies of newsletters and other information about the area you are thinking of moving to. These newsletters are a wealth of information to find out about the past and current problems and issues in the area, as well as active residents who might be good to talk to.

9. 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.

10. Park plans

Find out if there are any plans for additional parks or trails near the house. Check your city or county parks department.

11. Party violations

Find out if you have a party house next door. Some cities “tag” houses (literally with a red tag) that have excessive parties.

12. Property taxes

Identify your neighbors, previous owners of the house you are considering buying, and see what other properties are worth. Property tax records are usually public at county courthouses, and are often put online.

13. Road plans

Check with your city or county transportation plans to find out major road building plans in your area. You might find a major highway is planned in your backyard.

14. School information

Most state departments of education provide test scores online for individual schools. You also can get from the school a breakdown of weapons incidents and percentage of students on free or reduced lunch (an indicator of the demographics of the area). Anything related to the education of a specific identifiable student is secret because of FERPA, except for directory information, including name, year, home address, phone number, date of birth, etc. See <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html> or the Society of Professional Journalists’ Reporter’s Guide to FERPA, <http://www.spj.org/ferpa.asp>.

15. Street maintenance

Street departments often track pothole complaints and other problems. Find out if any street work is planned for your home.

16. Traffic accidents

To find dangerous intersections and stretches of roads. Sometimes data and traffic wreck maps are provided online by local police. Also, 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>).

17. 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. Go to the city planning and development department to find zoning maps, comprehensive plans and development plans.

Consumer awareness

1. Bank records

To examine the saliency of your bank. While an individual’s bank records are secret, as well as most state banking department records, many documents filed by enterprises with regulatory agencies are public.

2. 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. Request complaints about TV shows, collected by the FCC.

3. **Charities**

To find out whether someone asking for money is registered with the state. Secretaries of state or attorneys general collect information about charitable organizations. For more detailed information about non-profit charities, see the entry on "non-profits" below.

4. **Child-care complaints**

To assess how well child-care (daycare) is handled in your daycare. Check with your local health department or state health department.

5. **Doctor discipline**

Disciplinary records against doctors are usually public, provided by a state licensing board.

6. **Gas-pump inspections**

To make sure gas stations aren't ripping off consumers. Check your state office of weights and measures for gas pump inspection data, as well as many other types of consumer measuring products that are inspected (e.g., store pricing scanners).

7. **Incorporation records**

To find out who owns a business. Look up city business licenses at the finance department of your city, or state articles of incorporation at the secretary of state. This is helpful if you are trying to figure out who is really behind a business name.

8. **Lawyer discipline**

To find lawyers who have been disciplined. The state Bar often provides online a lawyer locator online and reports for each year detailing lawyers that have been reprimanded, suspended, disbarred and reinstated.

9. **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>

10. **Non-profit 990 forms**

To make sure non-profits 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 non-profits' income, expenses and officers through the 990 forms they file annually. To see 990 forms, go to www.guidestar.com. You have to register but most of the site is free for basic information.

11. **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>.

12. **Price-scanning inspections**

To assess which stores might be ripping off consumers. Most state departments of weights and measures inspect store pricing scanners to make sure they are accurate.

13. **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>.

14. **Professor course evaluations**

Some public universities provide course evaluation data online that students fill out. Or, request grade distribution of each class to find the easy profs/majors and the hard ones, or identify grade inflation over time.

15. **Salaries**

Names, titles and salaries of public employees are available nearly everywhere. Also, get overtime pay and actual pay (not just budgeted salary) to find janitors who make more than the mayor.

16. Taxi inspections

To assess the safety of taxis. Check the regulatory agency in your state that monitors taxis.

17. Unclaimed property

To see what property and funds are owed to citizens by the government (and has gone unclaimed). Request records from your state department of revenue.

Holding government accountable

1. Appeals

When someone objects to a decision a government agency makes, they often are able to make an appeal. Some agencies have formal appeal procedures, depending on the issue. Check with the agency's attorney.

2. Audits

To monitor problems in government agencies, particularly financial woes. Check with your state auditor's office. Look carefully to find any irregularities – often clouded by vague terms and wishy-washy language. Ask to get more details.

3. 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.

4. Calendars

To find out how top officials are spending their time. Look at their calendars, or day schedules, to see who 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.

5. Claims

If someone feels 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.

6. Contracts

Allows you to find out 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.

7. 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 EDGAR, <http://www.sec.gov/cgi-bin/srch-edgar>. To find owners and incorporation dates for companies see your state's secretary of state or city offices.

8. Discrimination

To track trends in discrimination. Agency equal opportunity programs enforce equity policy for the city to make sure employees aren't discriminating based on race, age and other factors. While identities might not be public, general description and trends should be available.

9. E-mail

To monitor government function and make sure business that should be conducted in public isn't being handled secretly via e-mail. Work e-mail for public employees is considered public in most states.

10. **Elections**

To see who is funding candidates and campaigns. Campaign finance records for local candidates are available at local election offices, and state campaign data is kept by the secretary of state. Federal candidate information is maintained by the Federal Election Commission (<http://www.fec.gov/>). National data also are kept by Project Vote Smart (<http://www.vote-smart.org/>) and the Center for Responsive Politics (<http://www.opensecrets.org/>).
11. **Employees**

To identify cronyism and find former employees. Can request records of employee names, titles and salaries. Employee home addresses and home phone numbers, however, are generally not public.
12. **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.
13. **Legislative records**

To examine the voting records of legislators, bill wording, legislators' attendance, and find people who testify on issues. Find bill and vote information online. In some states, legislatures are subject to their state public records law, but most legislatures have exempted themselves (as Congress did for FOIA).
14. **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.
15. **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.
16. **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. Check with the individual agency to find its retention schedule, usually held by a clerk or records officer.
17. **Property tax refunds**

To find whether someone is scamming the system by setting up dummy corporations to get bogus property tax refunds. Check with you county assessor's office for assessment appeals, or the treasurer's office for refunds.
18. **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, courts are ruling that messages regarding work topics of public officials are open, even when sent on personal cell phones.
19. **Use of force**

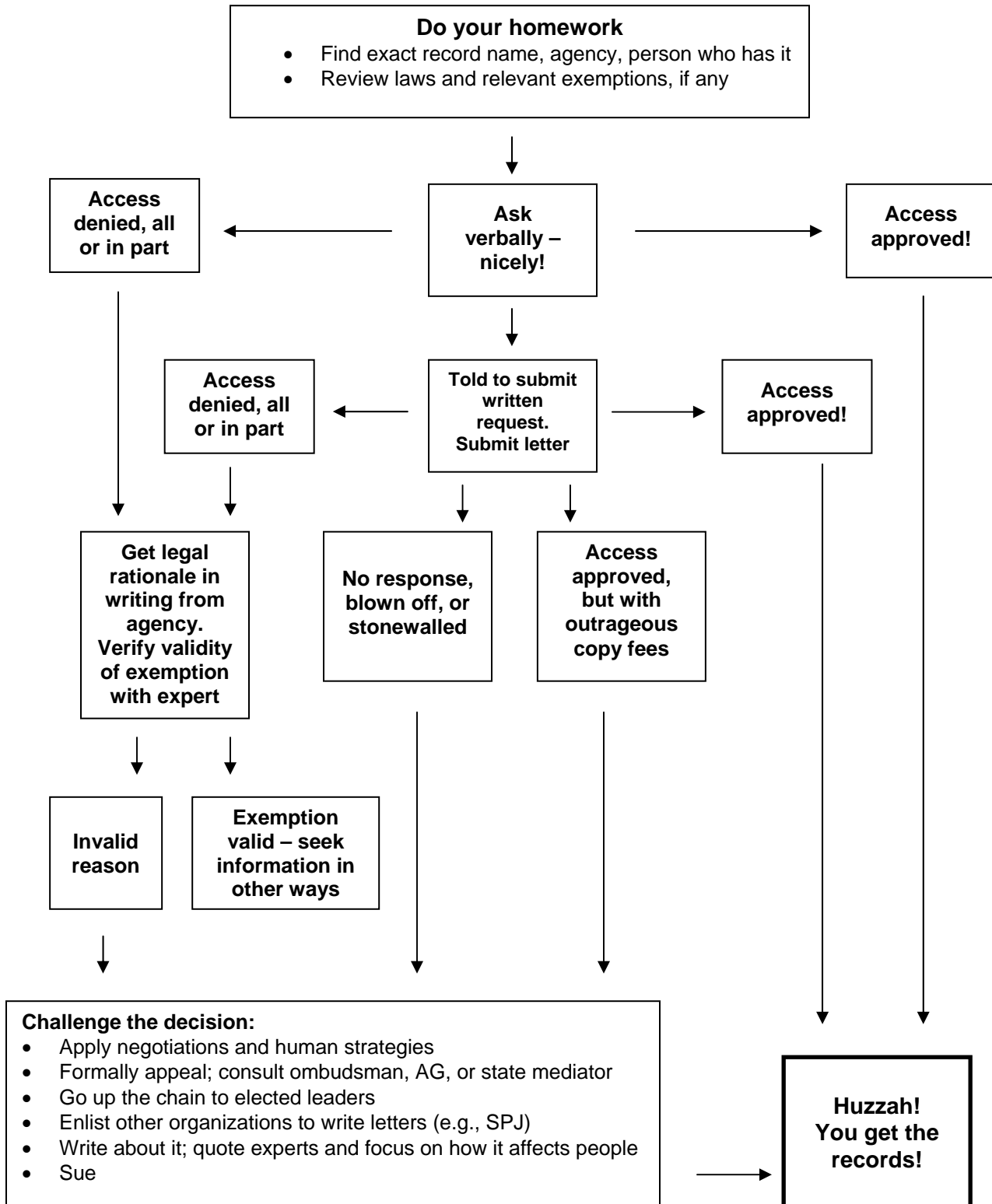
Look at how police use – or overuse – force during arrests. Each time an officer uses a choke hold, gun, taser, police dog, baton or other use of force a form is filled out. Get them from the police department.

Creating a document state of mind

Creating a document state of mind requires a new way of thinking of stories. Here are some tips for exercising your document muscles:

- 1. Follow the money.** Get thyself a budget. Ask for the detailed line-item budget, maybe as an Excel file, that details all spending, not just total expenses and total revenues. Look at all those different expenses and revenues and think of the 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 web sites 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, get a sheet of paper or a white board and write the person's name in the middle. Around the name write down different roles the person has in life (e.g., married person, business owner, driver, pet owner, property owner, pilot). Then write down for each role the records available regarding those roles.
- 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 e-mails of the mayor for the past week. Then work up from there. When you find you really need those e-mail records they'll be accustomed to giving out that kind of information. Train the agency to respond to records requests.
- 6. Go native.** 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 routinely.
- 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.

Part II: Strategies for accessing records



Planning your FOI request

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 your state public records law provided by the Reporters Committee for Freedom of the Press at: www.rcfp.org/ogg. Also, check your state open government coalition or press association for guides they might put out.

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, e-mail, 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 to records requests within a certain amount of time, depending on the law. 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.
- See the Access Resources (page 32) for more helpful guides and information.

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 Web site 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 to know what kinds 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 generated from online request letter generators.

- **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 hostile undermining of 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

Sept. 2, 2010
Cactus School District
450 West 6th St.
Prickly, AZ 85364

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,

John Jones
1212 Main St.
Needles, AZ 85745
520-555-1111
jones@email.com

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

Sept. 2, 2010
Cactus School District
450 West 6th St.
Prickly, AZ 85364

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,

John Jones
1212 Main St.
Needles, AZ 85745
520-555-1111
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. You might remove the threatening paragraph toward the end.

Sept. 2, 2010
Cactus School District
450 West 6th St.
Prickly, AZ 85364

RE: Public records request

To whom it may concern:

Pursuant to the state open records law, Ariz. Rev. Stat. Ann. Secs. 39-121 to 39-126, 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.

I would request your response within ten (10) business days.

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 willful violation of the open records law can result in the award of legal costs, including damages and reasonable attorney fees. See Ariz. Rev. Stat. Sec. 39-121.02.

Thank you for your assistance.

Sincerely,

John Jones
1212 Main St.
Needles, AZ 85745
520-555-1111
jones@email.com

Overcoming denials

If the agency denies your request, check with experts to see if the agency has a right to keep the documents secret. Here are some common agency denials and how to respond:

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 page 25 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.
- 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

Sometimes agencies want to charge exorbitant fees for copies of records, which might be justified or it might be a revenue enhancement stream. 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 (check your state law).
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, researchers, etc.).
4. Take photos or use a portable scanner (about \$100).
5. Ask for electronic files on CD or e-mailed 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 and the agency is still making a 25 percent profit margin.
7. Question high staff search fees, if in a state where that is charged – \$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. It's all in a contract, which is public.
9. Survey local agencies to compare typical 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. If a profit-oriented store can charge that, then surely a non-profit public agency can charge less.
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. Blog about it.
13. Team with other requesters to share the bill. Request the request logs to see who else requests records frequently from the agency.
14. Ask an ombudsman or state attorney general to talk sense into the agency.
15. Sue or lobby for laws specifying reasonable fees.

Soft tactics and principled negotiation

Access laws are essential, but sometimes officials thumb their noses at them and suing is the only answer. But if you can get the records by persuasion, even better. 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 or hard tactics.

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.” You want to look like the good, reasonable person. Let them look like the jerks.

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. Ultimately, if you find yourself getting angry or are denied, calmly write down what is said, thank the person, and say you need to do some more research. Leave and figure it out, then come back and discuss further.

Hard Tactics

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.

Doing FOI when you're SOL

Accessing public records can be done by anyone, even when the pressures of daily life, Web site posting, and taking on extra responsibilities seem to overwhelm efforts in digging for documents. Here are some tips that might come in handy for people stretched thin:

- 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. Think FOI FIRST.** The first thing every Monday or Friday morning block out everything, including e-mail, and spend your first 20 minutes on FOI, whether it's drafting a request, checking up on request, or reading through documents. Then attend to e-mail and stories that suck the time (and life) from your day and week. Put a Post-It Note on your computer terminal reminding you: FOI FIRST. Come in an hour early before anyone else is around.
- 4. 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.
- 5. 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, who you talked to, and what was said. Always agree to changes in your request in writing, such as through e-mail exchanges.
- 6. 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 your work and update notes.
- 7. 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.
- 8. Get inspired.** During lunch, visit FOI Web sites (see Access Resources, page 32) 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.

Top-10 meeting red flags

1. **Retreats.** Just because a public body wants to meet at the beach or mountains for a retreat doesn't mean the open meetings law doesn't apply.
2. **Attorney-client privilege.** Some public bodies try to get around the open meetings act by claiming attorney-client privilege, calling the attorney into executive session anytime 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 that members go on the record with specific details about meeting closure. Some states' laws demand "reasonable specificity" on the agenda.
4. **Boilerplate closures.** In some states, the Municipal League has encouraged city councils to include an "executive session" on their agenda as a matter of practice whether they really need it or not. Such a practice may encourage more closed meetings and violates the spirit of most open meetings 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 be aware of the emerging trend to conduct public business via e-mail. Make sure the public bodies you cover aren't engaged in e-mail conversations about public business.
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. In most cases, these are meetings to discuss matters informally and line up votes. These are still public meetings no matter what they are called.
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 strongly to such tactics to get around open meetings laws.
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 and accurate 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

Society of Professional Journalists

<http://www.spj.org/foi.asp?>

This group provides information about freedom of information, including a blog and resources. The “Open Doors” publication has document-based story ideas, check the guide to FERPA, and see the Sunshine Network with experts for each state.

State coalitions for open government

<http://www.nfoic.org/nfoicmembers>

Nearly every state has a coalition for open government, which provides assistance in accessing records. Check the National Freedom of Information Coalition Web site for a coalition in your area. Also, NFOIC has a litigation fund for suing agencies over records.

Reporters Committee for Freedom of the Press

<http://www.rcfp.org>

This group explains how to use FOIA, provides an online request letter generator (for FOIA and state laws), and provides easy-to-understand explanation of state public records laws (<http://www.rcfp.org/ogg/>). Find guides to accessing health records and other information.

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.

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.

State record ombudsman

About half the states have some sort of mediator or ombudsman to help requesters and agencies settle disputes over records. Check with your state attorney general’s office.

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.

Citizen Access Project

www.citizenaccess.org

This Web site out of the University of Florida provides information about access laws in each state, including a rating for whether different aspects are good or bad.

Investigative Reporters and Editors

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/>

Society of Environmental Journalists

www.sej.org

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

Center for Investigative Reporting

<http://centerforinvestigativereporting.org>

Story blog with great ideas for document-based stories.

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.