

From Officials' Grubbies to the Web:

How to Acquire Government Data and Post it Online

**Minneapolis, Minn.
Sept. 27, 2010**

About the presenter

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Agenda: Strategies for acquiring public data

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Part I: The power of electronic records

Examples of practical electronic records:

- **Accident data**

Truck wrecks: The Arizona Daily Star in 2007 examined state highway accident data to find that large trucks were increasingly causing fatal traffic accidents because of unsafe lane changes. This kind of accident data also can be downloaded from the Federal Analysis Reporting System (FARS) and localized to any county or state. Also find data online for accidents involving planes, trains and other vehicles.

- **Inspections**

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.

- **Public health**

Toxic water: A reporter from The New York Times in 2009 gathered drinking water testing data from every jurisdiction in the nation, analyzing the information and posting the data online so people could see whether their local town's water supply was up to snuff (many aren't!). The project earned the reporter the first-place award in investigative reporting for the 2010 national SPJ contest. See <http://www.nytimes.com/2009/09/13/us/13water.html>.

- **Crime cross-checks**

Bad bus drivers: The Providence (R.I.) Journal-Bulletin was one of the first newspapers to cross public employee lists (bus drivers) with criminal data to find a high rate of felony convictions among school bus drivers. Get conviction data and cross it with just about any data listing people who should not be felons, including daycare workers, teachers, university employees, voters, etc.

- **Government oversight**

E-mails and text messages: The Detroit Free Press went to court to acquire e-mails and text messages in 2008 sent by Mayor Kwame Kilpatrick. The text messages showed that the mayor had lied under oath and also was having an affair with a staffer. The Pulitzer-winning reporting led to the mayor's ouster and imprisonment. The paper posted thousands of the text messages online and also printed a little book with excerpts, titled "The Kwame Sutra: Musings on lust, life and leadership, from Detroit Mayor Kwame Kilpatrick."

Public data

Below are just a few of the thousands of different databases you can access from your local, state or federal governments to find stories and potentially post online for readers, depending on the newsworthiness. 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 data exempt.

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). Create clickable neighborhood maps for people to see recent 911 calls.

2. **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.

3. **Air quality**

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

4. **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").

5. **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 to see complaints about TV shows, collected by the FCC.

6. **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. Post online so people can see how their money is spent.

7. **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.

8. **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.

9. **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.

10. **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.

11. **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.
12. **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.
13. **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! Try to get databases from your state courts or county court that includes every felony conviction on record. Use this data to cross-check with other databases.
14. **Disease control**

County health departments often keep epidemiology reports documenting outbreaks of disease. It can even include locations of rabid animals caught.
15. **Doctor discipline**

Disciplinary records against doctors are usually public, provided by a state licensing board.
16. **Dog bites**

City and county animal control agencies often track dog bites. Find out if there is a chompy puppy in your neighborhood. Provide the lists online with a map.
17. **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/>
18. **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/>).
19. **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.
20. **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.
21. **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.
22. **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.
23. **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).
24. **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. Also, many cities inspect public swimming pools, including those at hotels.

25. 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.

26. 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.

27. 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. Acquire the data and post it online for people to see. Great service for consumers, but make sure it is updated frequently.

28. 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.

29. 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>

30. 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.

31. 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>.

32. 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.

33. Parking tickets

Find the biggest parking scofflaws in town. 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).

34. Pilot licenses

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

35. 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.

36. 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>.

37. 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.

38. Property records

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. Get the database to analyze trends.

39. Public employee 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.

40. 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.

41. 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>.

42. 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. Cross it with the sex-offender registry or criminal database.

43. 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>.

44. 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).

45. Street maintenance

Street departments often track pothole complaints and other problems. Find out if any street work is planned for your home. Post data online so people can see where the problem spots are.

46. Taxi inspections

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

47. 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>).

48. 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).

49. 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.

50. 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.

51. 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..

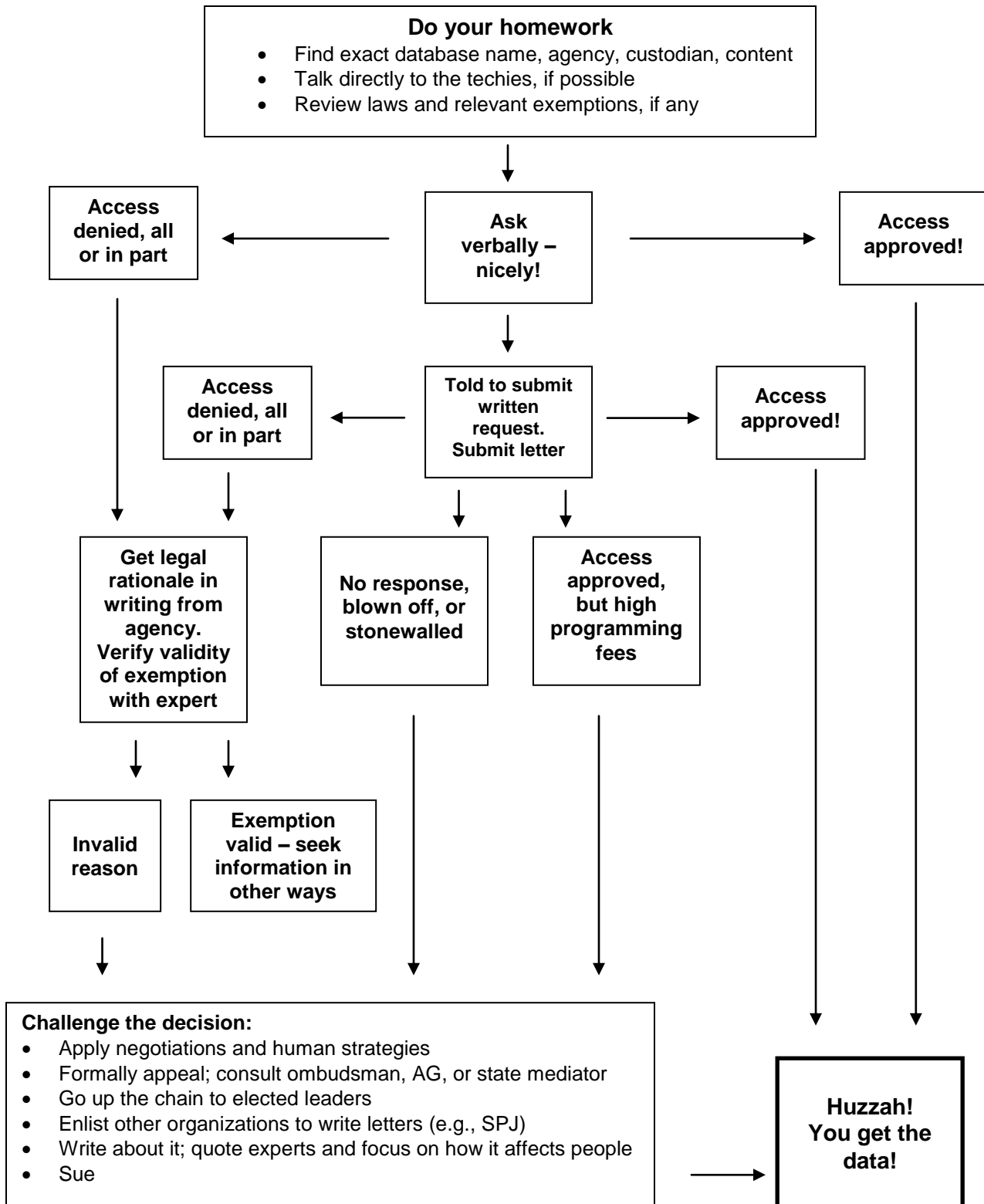
52. Weather

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>

Creating a data state of mind

1. **Map the government.** 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 data might be generated by the activities of this office?
2. **'Form'ative thinking.** Look at blank forms, particularly online forms, that people fill out to get a sense of what is kept in a database. All those pieces of information are collected in some computer.
3. **Follow the money.** Ask for the 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. When you think money, think data and particularly using Excel or another spreadsheet program. Where is that money going?
4. **Seek data news pegs.** Find news pegs for stories: a) trends by getting data going back at least five years, b) "the most/least" by looking for the highest or lowest (e.g., salaries), c) nepotism and cronyism by looking at individuals, d) neighborhood comparisons by having addresses or zip codes to map data points, and e) cross-checks to find problems (daycare workers who are criminals).
5. **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 and data available regarding those roles.
6. **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. Find out what data the agency sells.
7. **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.
8. **Take over an agency.** 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. Get to know the techies to learn what they have.
9. **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 or Excel, and follow up. Get in the habit of doing it routinely.
10. **Explain to the public.** Get in the habit of explaining what data 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 data



Planning your data 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 the state public records law, the Minnesota Data Practices Act, provided by the Reporters Committee for Freedom of the Press at: www.rcfp.org/ogg. Also, check the state open government coalition, SPJ chapters, or press associations 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 to the state Data Practices Act. Be sure to know the name of the 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 ask you to provide a written request.
- Agencies are required by law to respond to records requests within a certain amount of time, depending on the law (“prompt” in Minnesota). 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.
- See the Access Resources at the end for more helpful guides and information.

Know the database

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

- Check the agency's Web site and see if the database is provided online. Or perhaps information is provided online about the specific data.
- Visit or call the agency and talk to a clerk or person who would know what data are kept that would have the information you need. Try to talk to the techies who know the details, including all the fields contained in the data.
- Look for original blank forms that the agency keeps to know what kinds of information is kept and how it is kept. Ask for a record layout that describes the database and what's in it.
- Look at an agency's retention schedules or records indexes to find what kinds of data are kept, and for how long.
- Ask to see the log of public records requests to see what other people have requested.

Request the data

- **Ask verbally.** Ask for the record verbally in person first, if possible.
- **Avoid fishing.** Try to limit your request to what you really want. If you simply ask for "all data relating to" a particular subject, you may give the agency an excuse to delay its response, and you risk needlessly running up search and programming costs. Do your homework. Be specific in what fields you want, after talking to the techies. Know the name of the database.
- **Tab-delimited text file.** Ask for the data in a basic format that you can pull into Excel or Access, such as a "tab-delimited text file." Nearly every computer should be export it into that format so you can pull it into your software.
- **Offer transfer options.** Suggest a variety of transfer options, such as e-mail, flash drive, ftp site, an external hard drive or a CD. Include a blank CD with a self-addressed stamped envelope. Avoid pdf files if you can, although there are some programs that can transfer column-oriented type in pdf files to an Excel file (e.g., PDF to Text).
- **Get the record layout.** Get the description of the database, including all the fields and descriptions. Also make sure to get code sheets so you understand what coded information represents. Make sure you know how many records should be in the data, so you can compare to the file that you receive.
- **Get a sample.** Ask for a sample of the data printed out on a few pages to get a sense for what it looks like and whether something might be missing.
- **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. Data 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 data. As a practical matter, you'll probably have to tell them your name and provide a phone number and e-mail 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.
- **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. 27, 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 data regarding weapons incidents in the school district. I am writing to request a copy of all incidents involving weapons in the school district for the past five years, or longer if available. I would prefer the information in its native format – the district's S-210 weapons incident reporting database. You can export the data in Excel or as a tab-delimited text file, and can transfer it in a way that would be convenient to you, such as via e-mail or burned onto the enclosed blank CD (with self-addressed stamped envelope provided). Also, please include the record layout data dictionary and code sheets.

I would be happy to pay for a reasonable cost of copying the data, but if the cost is more than \$5, please contact me and let me know.

I would very much appreciate a response within 10 days, 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. Please cite the specific statutes that would allow for redaction, and the reasons for why the statute would apply.

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. 27, 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 all incidents involving weapons in the school district for the past five years, or longer if available. I would prefer the information in its native format – the district's S-210 weapons incident reporting database. You can export the data in Excel or as a tab-delimited text file, and can transfer it in a way that would be convenient to you, such as via e-mail or burned onto the enclosed blank CD (with self-addressed stamped envelope provided). Also, please include the record layout data dictionary and code sheets.

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. 27, 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 all incidents involving weapons in the school district for the past five years, or longer if available. I would prefer the information in its native format – the district's S-210 weapons incident reporting database. You can export the data in Excel or as a tab-delimited text file, and can transfer it in a way that would be convenient to you, such as via e-mail or burned onto the enclosed blank CD (with self-addressed stamped envelope provided). Also, please include the record layout data dictionary and code sheets..

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 data secret. Here are some common agency denials and how to respond:

IF THE AGENCY SAYS...

"WE DON'T HAVE A DATABASE LIKE THAT"

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.

If you are reasonably certain the data 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. Talk to the techies to help narrow the request. 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 data 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). It's usually pretty easy to delete a field (such as social security number). It's a little more time-consuming to read through notes/memo fields that have narrative text.

"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.

"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 legal statutory 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 and programming fees

Sometimes agencies want to charge exorbitant fees for copies of data, 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 or tables 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. Bring in your own hard drive.
6. Ask the agency for an itemized list of expenses to justify the costs. Here is what I consider reasonable for paper copies: 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. Have them justify the hourly wages.
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 database is a waste of time then ask what data 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.
- **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.

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.
- **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.
- **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?
- **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 data 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 databases as birthday presents. Because turnaround on requests can take days, weeks or months, (and sometimes years), submit requests for data 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 database 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 data 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 an agency to save time.
5. **Carry a flash drive.** Carry a flash drive with you so you can copy data from an official. Get an external hard drive for beefy databases.
6. **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.
7. **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.
8. **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.
9. **Get inspired.** During lunch, visit FOI Web sites to see the great work other journalists are doing with data. 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.

Posting data online for the public

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. Anyone can upload a basic CSV text file.

2. Socrata

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

This is cheap and easy, and is actually used by the White House and some media organizations. For no cost you can post online really fast and share it with the world. Anyone can do it. The databases are kept on the Socrata server, though, and it is limited in space. You have to pay to put up large files.

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 media organization's 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. Probably the best out there, used by a lot of journalists. 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 (more data can be stored and accessed).

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, including in journalism.

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).

Access resources

Minnesota Coalition on Government Information

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

Good tips and assistance in accessing public records in Minnesota. For other states, check the National Freedom of Information Coalition's member directory at <http://www.nfoic.org/nfoicmembers>. Nearly every state has a coalition for open government, which provides assistance in accessing records. Also, NFOIC has a litigation fund for suing agencies over records.

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.

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.

Investigative Reporters and Editors & National Institute for Computer-Assisted Reporting

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/> The sub-group, NICAR, provides a database library, assistance in cleaning up data, and other help. IRE also provides bootcamps to learn computer-assisted reporting.

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.

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.

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 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.

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.

Society of Environmental Journalists

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.

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/>

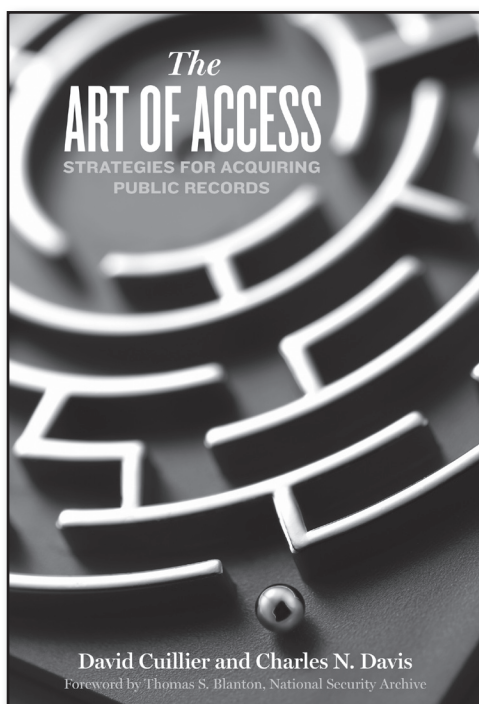
Check the FOIA files for hundreds of stories produced with public records.

Google News Alerts

<http://news.google.com>

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- Steven Aftergood, Director, Project on Government Secrecy

The Art of Access

Strategies for Acquiring Public Records

David Cuillier,
University of Arizona

Charles Davis,
University of Missouri

February 2010. Paperback.
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Check out: www.theartofaccess.com

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