

# FEDERAL FOIA AND CRACKING STATE LAWS

NICAR CONFERENCE

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## **Strategies for FOI Success**

- \*Make FOI a part of your daily routine
- \*Approach FOI as a reporter. Use your reporting skills to identify data and the people willing to give it to you
- \*File FOI requests frequently, always keeping several in the pipeline as a way to troll for information. Beat reporters can monitor an agency by seeking copies of FOI requests filed by other applicants.
- \*Know the public information laws at all levels. If your state has ombudsmen, take advantage of their help. Prepare fill-in-the-blanks form letters for quick filings. When filing a request under the federal FOIA, use the form letter provided by the Reporters' Committee for Freedom of the Press, available at <http://www.rcfp.org/foi lett.html>.
- \*Cultivate FOI officers as sources. A phone call may get you what you need or at least the title of the document.
- \*Thoroughly research your request before you send an FOI letter. Has the information ever been released? If not, find out why so you can cover those issues in your letter.
- \*Make your requests both broad and specific. For instance, ask for a document by its exact title, but request all other records on the same subject as well. Do the same with data.
- \*Follow up on your request. File an appeal. Expect to write it yourself even if you consult with the newsroom's attorney. Don't give up. Agencies often expect you to lose interest and fade away.
- \*If you are denied the release of all the information, insist on obtaining some of it. Agencies can redact information deemed exempt but release public portions.
- \*Especially in states where access laws are weak, aim FOI requests at those officials who believe in openness and are more willing to release the information.

## **DATA ISSUES:**

\*Cultivate an agency's technical staff for those times when your information request involves data.

\*If you expect a fight for data/information that may require an attorney's help, enlist your editor's support before you send in the letter.

\*If you expect an agency to withhold fields when releasing a database, be willing to negotiate a partial release. Negotiate for the fields you must have. You can take the partial data and appeal your full request.

\*If a state agency refuses to release its data, try getting the same national dataset from the federal agency.

\*If an agency is quoting a price for data you consider too high, pay the amount under protest so there's no delay in you receiving the data. Request a review of the price. (This doesn't work if the quote is outrageous i.e. a per record charge for a database of millions of records)

\*Arm yourself with local price estimates for mainframe work and computer run time so you can respond when an agency wants to overcharge for copying its data.

\*Identify mainframe and computer specialists at your newspaper/station who may be willing to lend their expertise to fight for data. They can be your experts who can attend a negotiation or advise on strategy.