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Getting Your Hands on Government Data and Docs National Institute for Computer-Assisted Reporting Conference Denver, CO, Mar. 11, 2016

START WITH A VERBAL REQUEST – Ask questions first. Find the government person who can help you locate the records you’re looking for. If you want data and the PIO or clerk doesn’t understand what you’re talking about – or claims that your request is “impossible” – ask to speak with the person in that agency who actually manages the data. Find out precisely where the data is kept, by whom and in which formats.

ASK FOR THE RECORD LAYOUT: Before submitting a request for a copy of a database file, ask for a copy of the record layout, which identifies the fields of a database or spreadsheet. Examining it will help you understand the data and know whether the government is omitting certain fields of information.

BE SPECIFIC: Be as specific as you can in your FOI letter. If asking for data, you should know exactly what to request after speaking with someone at the agency. Try to identify the exact name of the database and specify the format. If you are requesting a spreadsheet, for instance, be sure to say you want the spreadsheet in that format (i.e. a “machine readable” or manipulable digitized form).

GET FAMILIAR WITH YOUR STATE’S FOI LAW – The [Open Government Guide](#) published by the Reporters Committee for Freedom of the Press is a great place to start. It provides information on each state’s open records law.

If your state law is like Colorado’s, obtaining public records in native database formats can be a crapshoot – you might get a database or a spreadsheet or you might get a PDF or a printout. Or you might not get any records if a database contains some confidential fields.

That’s because the Colorado Open Records Act (CORA) isn’t as specific as it ought to be. **Still, knowing the law might help you get what you want.** In Colorado you can say that the legislature’s intent is clear: CORA requires public access to all “writings” made, maintained or kept by government for government purposes, and the definition of “writings” includes “digitally stored data.” The law also requires custodians of “records kept only in miniaturized or digital form” to “take such measures as are reasonably necessary...to ensure public access to the records without unreasonable delay or unreasonable cost.”

GET FAMILIAR WITH CASE LAW TOO: It’s helpful to know what state courts say in open-records cases. For instance, Colorado’s open-records law does not specifically state whether records custodians are required to redact confidential information and release public portions of a particular public record. But recent high court rulings expressly encourage the redacting of confidential information when possible. In 2008, the Colorado Supreme Court called redaction “an effective tool to provide the public with as much information as possible, while still protecting privacy interests when deemed necessary.” It also sent a case back to a records custodian with direction to provide emails and text messages in redacted form, removing only the personal and private information unrelated to official conduct.

COST: Ask for an estimate of the cost to provide the records. In Colorado, agencies may charge the “actual cost” of manipulating data to generate a record in a form not used by the agency. You can ask that fees be reduced or waived for journalistic purposes.

For records requests that don’t require the manipulation of data, governments in Colorado may charge up to \$30/hour for “research and retrieval” after the first hour. **An agency is not allowed to charge for research and retrieval if it hasn’t published its fee schedule on the date of your request.** So check to make sure they’ve done this.

If the cost estimate seems unreasonable, ask for a detailed breakdown. It might be possible to reduce the cost estimate by narrowing the scope of your records request.

DENIALS: Always, in your FOI letter, ask for a written explanation if an agency should deny any portion of the records you requested. Ask the agency to cite to each specific statutory exemption that justifies its withholding of records.

Know where to turn if you get denied. You may live in a state with an alternative appeals process. In Colorado, if your request for reconsideration is denied by the agency, you must go to court to challenge a denial of public records.

Reach out to your state FOI organization (such as the Colorado Freedom of Information Coalition) or your state press association or state broadcasters association for help.

BE PERSISTENT: But always be courteous.

WRITE STORIES: If you are improperly denied records, write about it! If you are told that public records will cost many hundreds or thousands of dollars to obtain, write about it! Shining light on FOI abuses may help prevent further abuses. The Colorado Freedom of Information Coalition’s blog (coloradofoic.org/blog) does this regularly.

FOR MORE TIP SHEETS AND LOTS OF OTHER INFORMATION ON COLORADO’S FOI LAWS: Go to www.coloradofoic.org. A template for requesting information using the Colorado Open Records Act or the Colorado Criminal Justice Records Act is at coloradofoic.org/new-resources/.

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