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How student journalists learn to file public records requests

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Abstract: This interview-based study examines the experiences of college journalists who have filed freedom of information (FOI) requests. Sixteen college journalists were asked about specific public-records requests they filed and their feelings about FOI in general. This study finds that college journalists generally learned how to file FOI requests not in the classroom, but rather from their peers. Students filed requests that tended to seek records from their home institutions rather than from other agencies. College journalists were generally optimistic about the potential of FOI to yield newsworthy information, despite that many of their requests went nowhere. College journalists also believed their status as students put them at a disadvantage. Finally, some students recognized that the outcomes of requests were highly situational, based on the records officers handling them.

Using freedom of information (FOI) requests to access public records can help journalists add credibility to their reporting and shed light on previously untold stories. FOI requests have unearthed records that showed the federal government was undercounting the number of immigrants who died while crossing the U.S. southern border (O' Dell, González and Castellano 2017); that former EPA Administrator Scott Pruitt misused government resources, leading to his resignation (Lucas 2018); and that often, doctors who were disciplined for sexually abusing patients were allowed to practice medicine again (Teegardin and Robbins 2018).



However, journalists often find it difficult to use FOI requests to access newsworthy information. FOI laws are complex and open to interpretation. The long wait times needed to fulfill some FOI requests can be incompatible with increasingly short newsroom deadlines (Barnhurst 2011). Fees to access records can be prohibitively high for financially strapped news organizations (Associated Press 2015). Records officers may redact documents so heavily that they become useless (Arizona Newspapers Association 2016). The act of filing an FOI request may alienate sources who are suspicious of the reasons behind the request (Kimball 2016). FOI laws themselves are continually at risk of being limited by the officials they were designed to hold accountable (Bovard 2019). It is not surprising, then, that most journalists avoid filing FOI requests (Cuillier 2011).

Given the value of using FOI requests to acquire newsworthy information, but also the challenges journalists have experienced accessing information, do student journalists see a brighter future? How do student journalists who have filed FOI requests feel about the process? This study, based on semi-structured interviews with 16 college journalists who have FOI experience, examines these questions.

Literature Review

FOI in Journalism: FOI laws are a subset of open government laws, which are aimed at helping the public obtain information related to the deliberations and decisions of elected and appointed officials. Open government laws, which also include open meetings laws, help citizens to engage in democratic societies (Meiklejohn 1948), help governments operate efficiently (Larbi 1999), and hold power to account (Stiglitz 1999). The adoption of open government laws has been connected to democratization and anticorruption movements around the world (Relly 2012).

Open government laws are often connected to the practice of journalism, which aims to provide the public with information that promotes self-governance and civic engagement (see, e.g., Kovach and Rosenstiel 2014). Journalists see FOI laws as an important tool to that end (Davis 2016; Kwoka 2016). Journalists have been involved in the creation (Schudson 2015) and enforcement (Jones 2011) of FOI laws. Although past studies have suggested that journalists have not been among the most frequent FOI requesters (Cuillier 2011; Kwoka 2016), that may be changing, at least at the federal level (Brust 2019).

Journalists use public records in part because they are perceived to be high quality sources. As government documents, public records are seen by journalists as more credible than lesser-known sources (Carlson 2009; Gans 1979). Journalists and their audiences often presume published records of any kind to be trustworthy (Cox, Wallace and Wallace 2002), even though such presumptions can be misguided (Bond, Brown, Luque and O' Hara 2014). The affordances of online media allow journalists to link to or embed entire public records in their articles, helping them “show their work” (Davis 2016). Using public records can also help journalists build trust among news audiences at a time when public trust in journalism is at near-historic lows (Jones 2019; Tuchman 1978). The popularity of data journalism has also fueled interest in public records, since governments are rich repositories of quantifiable information (Anderson 2015).

In the U.S., the Freedom of Information Act (FOIA) is the primary federal law governing access to public records. Enacted in 1966 but amended several times since, FOIA allows “any person” to access public records held by agencies in the executive branch of federal government. Requesters do not have to complete a specific form or provide a reason in order to gain access. Agencies have 20 business days to acknowledge FOIA requests, although completing requests can take much longer (Mordock 2018). Agencies may deny FOIA requests for records that fall under one or more of nine exemptions, such as national security, trade secrets, or matters that would violate personal privacy.

Although FOIA itself may seem straightforward, the process of filing a request can be deceptively complex. Separate laws apply to records at the state and local level, and they may differ from the federal FOIA in many ways, such as in their definitions of which kinds of documents are available, how long requesters must wait for responses, whether fees may be charged, and whether requests are too “burdensome” to require compliance (Bevarly 2018; Fink 2018, 91-115). Thus, experienced public records requesters advocate a thorough understanding of relevant laws as an important first step in preparing to file requests (Kambhampati 2018).

Still, understanding FOIA and other public records laws is only part of the challenge. Outcomes of FOI requests are highly situational. Records officers have broad discretionary power to interpret FOI laws when determining whether requested documents should be released fully, partially, or not at all (Brennan 2013; Cuillier 2010). Records officers resist cooperating with requesters whose motives they question or who they otherwise believe to

be “vexsome” (Kimball 2012). Requesters who appeal denials from records officers rarely win (Baker 2015), and officials who are found to have wrongly denied access are rarely punished (Hull 2004). Some records officers fail to keep up to date on their obligations under public records laws (Bertot, McDermott, and Smith 2012). Experts believe access to public records has been getting worse in recent years (Cuillier 2017). Backlogs are common, as the number of public records requests filed each year has generally increased (U.S. Department of Justice 2018).

The challenges of obtaining information under FOI laws have prompted calls for reform. Particularly during so-called “Sunshine Week” each March, journalists opine about the flaws of FOI and call on lawmakers to pass amendments (see, e.g. Jones 2019). Legal scholars have advocated for prioritizing responses to requests from the press (Carroll 2016) and/or deprioritizing requests from commercial parties (Kwoka 2016). Meanwhile, organizations such as the Society of Professional Journalists, MuckRock, National Freedom of Information Coalition, and Investigative Reporters and Editors offer resources to help requesters, such as request-letter templates and contact information for particular records officers. Still, the outcomes of FOI requests remain highly individualized based on, among other factors, the information requested, the agency holding the records, and how the request is worded (Kimball 2003; Peters 2017).

Student Exposure to FOI: The attitudes that future journalists develop about FOI depend in part on their exposure to it as college students. The ideas and routines formed in early adulthood have remarkable staying power (Perry 1999), and colleges and universities play a significant role in personal and professional development (Astin 1984; Mayhew et al. 2016). Thus, the impressions that college journalists form about reporting practices can have lasting effects. Those impressions are driven by multiple sources, including students’ personal media consumption habits, internships, academic coursework, and participation on college newspapers (Gutsche and Salkin 2011). Research on what students think of FOI is limited, but journalism-education scholarship offers some insight into the latter two of those sources: academic coursework and participation on college newspapers.

Academic Coursework: College journalism programs offer varying levels of instruction on FOI. Shemberger (2015, 2017) found several barriers to teaching FOI in college journalism programs in Tennessee and argued those barriers likely applied elsewhere in the U.S. She found journalism educators often lacked personal experience filing FOI requests, and believed the complexity and variability of public records laws made them difficult to teach (Shemberger 2015). Other impediments to improving instruction on FOI included resistance from journalism educators who believed their curricula already sufficiently addressed the topic, even as they also believed students did not understand it well (Shemberger 2017).

Limited attention to FOI may be due in part to pressure on college journalism programs to cover an ever-expanding list of topics, from fundamental reporting skills such as interviewing and writing as well as those that track the latest trends and innovations, particularly related to

digital media (Carlson and Lewis 2019). Journalism curricula can also vary widely due to disagreements among educators as to whether coursework should focus more on theory or practice (see, e.g., Blom and Davenport 2012; Josephi 2009) and criticism from news professionals that students are not learning what they need to be prepared to work in journalism (Knight Foundation 2011). Still, news executives have expressed a preference for students who are well educated in media law (Dickson and Brandon 2000).

Even when students learn about FOI in the classroom, they may never gain hands-on experience filing requests. As noted in the previous section, seasoned FOI requesters believe a “learning by doing” approach (Greenberg 2007; Schon 1987) is the best way to gain experience. Such an approach is associated with experiential learning (Kolb 1984), which has been advocated by journalism scholars and professionals to “allow aspiring journalists to test their budding knowledge in a context that resembles the workplace, while providing support” (Ross 2017, 87), not to mention help universities keep pace with rapid industry changes (Robinson 2013). In courses that have taken an experiential learning approach to FOI, educators found that students felt filing requests helped prepare them for careers in journalism and/or government, and made them more aware of their rights as citizens (Pulimood, Monisha, Shaw, and Lounsberry 2011; Simon and Sapp 2006). Assigning public records requests can also benefit students by helping them overcome fears of contacting government officials (Burriss 1986) and unearthing legitimate scoops (Santus 2014).

College Newspapers: College students may also form impressions of FOI through their work on student newspapers. Understanding the operations of college newspapers is important, given their role in fostering civic engagement on campus (Ingelhart 1993) and helping journalism programs improve their curricula (Gutsche and Salkin 2011). College newspapers also serve as training grounds for professional news organizations (Hardin and Sims 2008). College newspapers sometimes even stand in for professional news media, given that financial challenges have led many local news operations to scale back or shut down (Abernathy 2018). College media sometimes even beat professional news organizations to breaking stories (Blatchford 2018).

Although the work of college newspapers may overlap with professional news organizations, the environments in which they operate differ—which can affect their uses of, and experiences with, FOI requests. Most college newspaper coverage is focused on campus, reflecting the news interests of students (Payne and Mills 2015). Thus, college journalists would likely be most interested in filing FOI requests with their own institutions. However, using FOI to obtain information from colleges and universities can be difficult, for a number of reasons.

For one, laws such as the Family Educational Rights and Privacy Act of 1974 (FERPA) and Clery Act, which are aimed at protecting student privacy, are often cited by higher education institutions to justify withholding information (Greenberg and Goldstein 2017; Janosik and

Gregory 2003; Rosenzweig 2002). Critics have often accused universities of improperly invoking these laws to avoid releasing information that could reflect poorly upon their institutions (Greenberg and Goldstein 2017; Sidbury 1999; Silverblatt 2012). Universities are also increasingly transferring fundraising and other activities such as athletics, scholarships, capital projects, and payroll decisions to nonprofit foundations or private corporations, which are exempt from FOI laws (Capeloto 2011-2013; 2015). Some states have also approved exceptions or loopholes to help universities avoid releasing information such as emails (Hobson 2019).

Students who attend private universities face additional constraints. Private universities operate in a “pseudo-public sphere” (Salzano and Lisosky 2017, 17) that is largely exempt from FOI laws and in which First Amendment protections are limited (Steffen 2002). Courts have dismissed numerous legal cases against private universities over speech restrictions because only public universities are considered to be “state actors” (DeCresenza 2009). Although many private universities claim to have policies that support free expression, they “at the same time maintain policies that restrict their students, donors, and faculty’s speech” (Sarabyn 2010, 147). Student news media at private universities that have published information that was considered embarrassing or critical have been censored or shut down (Steffen 2002; Young 2019). Some private universities have also restricted the speech of potential news sources, such as student athletes (LoMonte 2014).

Finally, even college newspapers at public universities may feel a “chilling effect” on information seeking (Safire 2005) because of their dependence on their institutions. Most college newspapers receive financial support from their institutions. Student journalists who fear losing that support may refrain from asking tough questions or covering controversial stories (Gutsche and Salkin 2011), such as those that would require filing public records requests. Only 29 percent of college publications carry advertisements, and revenue has generally been declining (College Media Association 2018). Even student newspapers that claim to be financially independent often receive indirect benefits, such as office space and utilities, from their institutions (Ingelhart 1993). Additionally, courts have ruled that legal protections for professional journalists do not always apply to students (Peters, Belmas, and Bobkowski 2016).

Other resources: Third-party organizations also play a role in how college journalists develop an understanding of public records laws, particularly when those organizations help with legal challenges involving student media. The Student Press Law Center offers guidance on FOI, including a letter template that has been used more than 350,000 times (Student Press Law Center n.d.). The SPLC has also conducted live and recorded presentations on FOI for journalism educators and student news organizations and offers a pro-bono network for legal assistance in FOI disputes. Another press freedom organization, the Foundation for Individual Rights in Education, has provided advice on how to use FOI to gain access to university records and offers to defend students who feel their rights on

campus have been violated (Steinbaugh 2020). Professional and academic associations, such as the Association for Education in Journalism and Mass Communication, have hosted events for educators and students to learn about FOI (Wilson 2016).

These third-party organizations have offered legal advice as well as publicity to college news organizations seeking support for attempts to access public records. High-profile cases involving college media in recent years have included that of the *Lantern*, Ohio State University's student newspaper, which sued the school in 2019 in order to access the arrest records of football players. The *Daily Tar Heel* sued the University of North Carolina in 2016 to obtain the names and punishments of students found responsible for rape, sexual assault or sexual harassment (the case was resolved in the newspaper's favor in 2020). Also in 2016, *Knight News* successfully sued the University of Central Florida over records related to funding allocations for student organizations.

Considering the challenges that journalists have faced using public records requests, but also the challenges to learning about them as students, this study focuses on the perceptions of college journalists who do have experience in this area. Specifically, this research addresses the following questions:

- RQ1: How do student journalists learn to file public records requests?
- RQ2: How do student journalists use public records in their reporting?
- RQ3: What obstacles do student journalists face in accessing records?

Methods

Semi-structured interviews were conducted with 16 student journalists at universities in the United States between 2017 and 2019. Interviewees were identified via online searches of college news media articles using keywords such as “freedom of information” and “public records request.” Interviewees were contacted by email if they wrote at least one article that indicated public records requests were used to access information for the story. Potential interviewees were also identified from responses to a survey that had been conducted for a study on a similar topic.

Recruiting participants for the study was challenging. Identifying journalists, college or professional, who have filed public records requests is difficult in part because journalists tend not to cite all the sources they use (Hallin, Manoff, and Weddle 1993). In other words, many articles that used FOI requests in their reporting likely eluded online searches. Additionally, college newspapers are often not well indexed by search engines. In spite of Google's claim that its search engine includes 50,000 news sources (Garber 2012), the company has not made available a full list of publishers, so it is unclear how many are college media. However, the Google algorithm appears to favor a small number of well-known legacy media (Trielli and Diakopoulos 2019).

This study takes an inductive approach based on constructive grounded theory (Charmaz 2014). Student journalists who were interviewed for this study were asked questions about specific FOI requests they had filed as well as more general questions about their experiences with the process, such as how they learned how to file requests, and how they felt FOI impacted their reporting. All interviews were recorded and transcribed. Transcripts were coded based on general themes that emerged upon the first round of review and categorized again upon further analysis.

This project received Institutional Review Board approval to identify students by name in published research, due to the individualized nature of their requests. Students granted permission to use their names as part of the informed consent process. Most interviews were conducted over the phone; one student was interviewed in person. Interviews lasted an average of one hour.

Findings

RQ1: How do student journalists learn to file FOI requests?

Most interviewees said they learned to file public records requests through their work on college newspapers, not in the classroom. This finding is consistent with prior research (Shemberger 2015, 2017) that suggested college journalism programs tended to spend little time on FOI. Most interviewees also said they learned about public records requests from peers, not from journalism instructors or other mentors. According to Ethan Edward Colson with the *Triton* at the University of California-San Diego:

The only reason I learned how to do them was because my editor had taught himself how to do public records requests and then he taught me how to do them. And now I have other staffers to do them. But without that knowledge, we wouldn't have been able to file those requests. So I think there's a lack of resources available to student journalists when it comes to learning how to use resources like public records.

Some students said FOI came up in journalism courses. However, their in-class exposure to FOI often took the form of discussions rather than hands-on work. Students did not file FOI requests for their courses, the type of "learning by doing" assignments advocated by Robinson (2013) and other journalism educators. Some students said they wished their journalism classes had helped them learn FOI. However, Caity Coyne, who wrote for *The Daily Athenaeum* at West Virginia University, said she thought student newspapers were a better learning environment:

We always say you have to work at the student newspaper to really experience what student media is and how to actually do journalism before you enter the workforce. I think FOIA is a perfect example of that.

While most students learned from their peers how to file FOI requests, professional mentors sometimes assisted. Those mentors introduced students to public records requests as a general concept and/or shared materials such as request-letter templates with student journalists. Emma Finkbeiner, who wrote for *The North Wind* at Northern Michigan University, said she consulted her student newspaper's adviser when specific questions arose: "How do I narrow this email FOIA, or how do we go about requesting financial records." Kenny Jacoby, a journalist with the *Daily Emerald* at the University of Oregon, said faculty members came to his defense when his FOI request was denied. They "took on my complaint and brought their concerns to the university from a more official standpoint than just having the student kind of fight his own battles."

RQ2: How do student journalists use public records in their reporting?

College journalists used public records requests most often to access information from their own universities, rather than from other public agencies. Students were generally positive about the potential of FOI, although many of their requests did not yield useful information.

Consistent with earlier findings (Payne and Mills 2015) that students were most interested in news on their own campuses, the college journalists interviewed for this study filed almost all their requests with their own institutions. The topics of requests varied. Some related to crime and public safety. Other requests related to university spending, such as on employee salaries, construction, real estate, and payments to musicians and speakers who visited their campuses. Finkbeiner, the Northern Michigan University student, said public records requests helped her investigate spending by the university's board of trustees.

Students have a very low awareness of who they are and what kind of power the board of trustees has regarding decisions that are made at the university. And our tuition at NMU rises every single year, like most universities... you know, there are these people that are making decisions, and who are they?

Finkbeiner's requests led to stories about the university's spending to cover the travel expenses of trustees, including reimbursement for the use of a private plane.

Students also requested records related to hiring and employee misconduct. For example, Marjorie Kirk with the *Kentucky Kernel* gained national attention and support from open records advocates in her battle with the University of Kentucky for records related to sexual misconduct allegations against a former professor.

Two women had come to me and said that they went through this Title IX process and they weren't happy with the result, because the professor was going to be able to leave campus by resigning, not going through what they thought was a real, like, punishment process... He was going to be able to go to another university without anyone knowing what he had done and what he'd been found responsible for.

Although the university sued to block Kirk's request, she eventually received the records she requested, and wrote at least eight articles about the professor. Seven other students indicated that they had tried unsuccessfully to use public records requests to investigate allegations of sexual misconduct or report on sexual assault more generally. In all cases, records officers cited FERPA in denying the requests, consistent with earlier findings (e.g. Greenberg and Goldstein 2017) that universities often use privacy laws to justify the withholding of information.

University records officers also cited FERPA in denials of other types of requests, according to the student journalists. Michael Tobin with the *Daily Emerald* at the University of Oregon said he filed an FOI request for the names of donors to student government campaigns after learning that candidates were allowed to do whatever they wanted with unspent money. The university released a list that was almost entirely blacked out.

All the parents' names, all the students' names were redacted, and they cited FERPA for it.... A university is withholding the names of donors to a student government campaign and they're saying that these donation records are educational records, which is absurd. We need to figure out who's donating to our student government campaign campaigns, like who's influencing these.

Sometimes, students would submit requests based on their own curiosity, or to test which information they could actually get. Benjamin Blanchet with the *Spectrum* newspaper at the University of Buffalo submitted a public records request to see how his student ID swipe information was being collected and used:

I was always obsessed with it. Like, every student has a card. So I wanted to see whatever information is disclosed or kind of scattered, and who gets to see it. What type of like overview those type of people have on student information, I guess. And then seeing like where that information goes. So say, like, how many times I swipe in to a dorm. Who gets to see that?

A small minority of students interviewed for this study did make requests to agencies outside their universities. For example, Andrew Clark with the *Oklahoma Daily* at Oklahoma University requested an autopsy report from the local medical examiner's office for a student who died at a fraternity party. Alex Yoon Hendricks, who wrote for the *Daily Californian* at the University of California-Berkeley, sought emails from a local school district to try to learn why a high school principal had suddenly resigned.

Students rarely sought records from private universities. As Steffen (2002) and others have noted, private universities face fewer obligations to respond to records requests. That could discourage students from even trying to ask for information. Katie Goodrich said her student newspaper, the *Butler Collegian*, never tried to request records from Butler University, which is private. She assumed the requests would be denied. Nick Buzzelli, who began his

undergraduate education at a private university, said he only realized the power of public records requests after transferring to a public institution, Kent State University: “I realized that because it’s public, you know, we’d be able to do all this different reporting. You know, money-based, numbers-based.”

RQ3: What obstacles do student journalists face in accessing records?

College journalists felt that their status as students put them at a disadvantage in using FOI requests. Students also recognized that using FOI effectively was more complicated than just knowing the law; it was additionally about managing communications with records officers.

Many student frustrations with FOI echoed those of professional journalists. Students accused records officers of being unresponsive or combative, improperly withholding information that should have been public, and charging exorbitant fees. But college journalists also faced challenges that were particular to their status as students. Requests could be forgotten by students or records officers over semester breaks, or because of changes in student newspaper staffing. Keeping up with requests was also challenging since students, unlike full-time journalists, report in their free time. Some students said they believed records officers were aware of how difficult it was to keep following up and used that to their advantage. Records officers always served in a university relations or other promotional capacity, even when the records themselves were kept by other departments. Records officers “actively do things to wait until we graduate and leave,” said Alejandra Reyes, who wrote for the *Daily Bruin* at UCLA. “Like with this request that I’ve been waiting on for a year, I’m pretty sure that [the records officer is] aware that I left.” Some students said they also noticed that professional journalists would get faster responses than they did to FOI requests.

The descriptions students provided of their experiences with FOI revealed an understanding that the outcomes of requests depended on much more than knowing relevant laws and what records were available. Accessing the information students wanted also depended on their ability to cultivate relationships with records officers, and their understanding of how records are kept and retrieved. That kind of knowledge generally came after filing many requests—successful and unsuccessful. Eleven of the 16 college journalists interviewed for this study had filed at least 10 requests in the most recent academic year. Cody Boteler, who reported for *The Towerlight* at Towson University, said when filing requests, “you learn so much. You learn how to navigate difficult situations, you learn to negotiate a little bit back and forth—well, what if we requested this, what could you do then?”

Some students also recognized that the act of filing a FOI request itself made a statement. As Kimball (2016) found in her research on records officers, filing FOI requests can come across as an adversarial gesture. University of North Alabama student Harley Duncan, who

wrote about his own public records request challenges as Editor in Chief of the *Flor-Ala* newspaper, said he has come to believe journalists should use public records requests sparingly.

I don't think there's necessarily anything wrong with just randomly asking for information. It's people's right and I believe that they should exercise that. I think that just reporters should be really responsible with what they do, because there's just so much distrust nowadays between the press and the public, and certain institutions and the press.

Duncan said requesters who push hard for compliance with FOI requests may burn bridges with sources or feel repercussions from their universities. In the *Flor-Ala's* case, the university removed the newspaper's faculty adviser.

Conclusion

This study aimed for a deep examination of the experiences of student journalists with FOI requests. It is not clear how common filing FOI requests is among student journalists as a whole—although past research suggests that, just as is true for professional journalists, the practice is rare (Silverblatt 2012; Cuillier 2011). Still, this study is limited due to challenges identifying and recruiting college journalists with FOI experience. Future research could survey college journalists about their use of FOI requests and attempt to identify relationships between FOI practices and, as examples, student newspaper staffing, publishing frequency, and/or funding; whether their schools are public or private; whether they offer journalism majors and/or are accredited; and the roles and professional backgrounds of college media advisers.

This study found that college journalists share some challenges of professional journalists when attempting to access public records, but also face challenges particular to their status as students. First, they often lack guidance from experienced mentors to help navigate complex request processes. Second, students lack the time to wait for responses and the standing to pressure records officers to comply with FOI laws. Despite those challenges, students believed knowing how to file public records requests was valuable.

Students and college media advisers seeking to bolster their efforts to access public records may benefit from resources offered by student press advocacy organizations referenced earlier in this paper. The Student Press Law Center, in addition to providing a FOI request template and legal advice, also offers guest speakers on FOI and press freedom. Other press advocacy groups such as the Society for Professional Journalists, Reporters Committee for Freedom of the Press, and National Freedom of Information Coalition, also offer online resources on obtaining public records.

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