

Chasing Paper (And electronic records – and audio and video and ...)

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Assume a record exists. Then, when you get it, assume more records exist. Watch this commercial: <http://bit.ly/1iqjFk0> Learn to say: And? There are layers of records beneath the first cut. You want those deeper cuts.

Yes, you're chasing paper. But it's still all about people. Relationships matter. Spend time getting to know public-records officers. It's harder to say no to someone you know, than it is to reject an email request from the ether.

Don't apologize for requesting public records. Just don't.

Some agencies engage in denial through prohibitive cost. If you're dealing with such an agency, and you're requesting a lot of records, don't ask for copies – ask to inspect.

Some agencies engage in denial through delay. If you're requesting a lot of records, ask to have them released in stages. And instead of filing one big FOIA, consider filing multiple FOIAs for targeted records.

When you write a public-records request, don't dash it off. Take care with the language. The more professional you are, the greater your chances of success. Imagine your request being denied (not so hard to imagine, really) and eventually landing in front of a judge: Make a good impression.

Ask for the same records from multiple agencies. One agency might interpret an exemption broadly, another agency narrowly.

If you encounter a sealed court file, ask for the sealing order. Then see if that order complies with your jurisdiction's rules governing courthouse secrecy. (Oh, and learn those rules.)

If an agency that generated a record won't give it up, think of other agencies the record might have been passed along to. With FOIA what matters is possession, not production.

Some agencies collect all kinds of valuable records by virtue of their work – for example, the state Attorney General's Office. Establish a relationship with those agencies.

Try to understand the public policy behind different laws and exemptions. Sometimes you can win an argument based on the spirit of a law rather than its letter.

Don't limit your request to paper. Ask for electronic records, audio and video.

If you've been denied unjustly and can't afford to sue, you still have the power to shame. There's the court of law. There's the court of public opinion. Use either or both.