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3 in 10 public-records requests not properly fulfilled, new study finds

A statewide public records audit found that one in 10 requests for basic documents were denied or ignored by local governments.

Another two in 10 requests were fulfilled only after records custodians required the requesters to identify themselves or explain why they wanted the documents, in violation of state law.

The audit, conducted by the Wisconsin Freedom of Information Council and the University of Wisconsin-Madison School of Journalism and Mass Communication, involved 318 public records requests filed in 65 counties.

"We were not trying to trick anyone," says Bill Lueders, the Council's elected president and news editor of *Isthmus* newspaper. "We asked for basic information that no one should have any problems getting. And yet there were problems."

Among the access problems:

- An Adams County sheriff's deputy said a jail booking log "was not public record" and refused to allow a reporter to see it despite repeated requests.
- A Calumet County sheriff's deputy requested a reporter's press pass – and made a photocopy of it – before providing the reporter with a jail booking log.
- The Waupaca Police Department denied a request for a list of police calls to the local high school because it would include information about juveniles.
- Some school districts apparently failed to take minutes in closed session meetings while others flatly refused to turn over minutes. In some cases, records were produced after custodians conducted a balancing test and omitted sensitive information.
- Some municipalities charged as much as \$5 a page for photocopies, while one school district charged \$25 for meeting minutes and agendas.

The Council's audit involved an analysis of public records requests filed throughout the state in September and October. Journalists and citizens in each of the state's 72 counties were asked to request basic records: minutes of local school board meetings, jail booking logs of county sheriff's offices, police calls to local high schools from city police departments, legal fees paid by town boards, and a day's worth of e-mails from local mayors or city administrators.

"The good news is that the majority of requests were fulfilled pretty easily," says Jason Shepard, a Ph.D. candidate at the University of Wisconsin-Madison School of Journalism and Mass Communication who coordinated the audit. "The bad news is that we found lots of ways in which records custodians deter people from accessing even the most basic public records."

Of the 318 reported responses, 228 responses, or 71 percent, were reported as being fulfilled without any problem. In 31 cases, requests were either denied or ignored, while another 59 requests were fulfilled with some problem, including custodians who required the identity of the requester or reasons for the request before complying.

"We appreciate that many of the problems owe to a lack of training or awareness and are not because public officials like to keep secrets," says Lueders. "But in fact, the statewide compliance rate for providing this information should have been 100 percent." He hopes groups representing counties, cities, towns and school boards will be troubled by these results and remind members of their obligations under the Public Records Law.

The audit focused on just one small area of public records compliance -- whether simple records can be readily obtained on request. "There are other common problems having to do with fees, delays and gray areas where custodians have to weigh competing interests," says Lueders. "This audit did not seek to quantify those."

As part of the audit, a team of UW-Madison journalism students conducted follow-up reporting about the themes and issues that emerged. Their reporting, along with a county-by-county review of audit results, can be found at www.wisfoic.org. The Council's website also includes detailed information about public records issues and useful tools for citizens, including a new narrated video that provides instructions on writing a model public records request.

The Wisconsin Freedom of Information Council, which advocates for open government, recently celebrated its 30th anniversary. The audit was funded by a grant from the National Freedom of Information Coalition and the John S. and James L. Knight Foundation. Established in 1950, the John S. and James L. Knight Foundation makes national grants in journalism, education and arts and culture.

(A high resolution photo of Bill Lueders is available for download at www.wisfoic.org.)