

SECTION THREE

non-media players

GOVERNMENT
TRANSPARENCY

EMERGENCY ALERT
SYSTEMS

LIBRARIES

SCHOOLS

Americans have never relied solely on the media as their source for critical information. The PTA newsletter, a flier on the bulletin board at work, gossip over the hedge, the weekly sermon, the National Weather Service, campaign advertisements, public health announcements—these are among the myriad ways we learn about events that impact our lives. The digital revolution has not only transformed traditional media but also has created new ways for Americans to get civically important information from outside the flow of the news media. In this chapter, we look at four areas we expect will become increasingly important sources for information: government, libraries, emergency alert systems, and schools.

16 Government Transparency

GOVERNMENT HAS LEGITIMATE REASONS to want to preserve secrecy when it comes to national security and other private matters—but when it comes to matters that directly affect the lives of citizens, transparency and accessibility are crucial. And the weaker the traditional journalism sector is, the more crucial these become: By making relevant data available online, information that previously might have taken weeks to track down can be found in hours through a computer-assisted search. This reduces the expense of accountability journalism, and it empowers citizens to act on their own behalf. Greater government transparency has been recommended by the Knight Commission in *Informing Communities: Sustaining Democracy in a Digital Age*,¹ the Columbia Journalism School in *The Reconstruction of American Journalism*,² the Federal Trade Commission, and many others.³

In previous chapters we touched on some efforts that have enabled citizens to observe the workings of government, including state public affairs networks, local governmental access channels on cable TV, and C-SPAN. In this section, we will take a broader look at the developing movement for government transparency, we will discuss ways to improve transparency in the future, and we will talk about the limitations of transparency as a strategy for meeting public information needs.

The Three-Stage Open Government Movement

The contemporary open government movement traces its roots to the 1966 enactment of the federal Freedom of Information Act (FOIA).⁴ FOIA significantly expanded the obligations of federal agencies to publish fundamental government information and disclose specific records upon public request.⁵ FOIA's enactment also spurred a nationwide revolution in open government law. Every state now has its own version, and Congress has repeatedly amended the federal FOIA, almost always in the direction of greater openness. In addition, Congress enacted the Electronic Freedom of Information Act Amendments of 1996,⁶ which directed agencies to use new technologies to further realize FOIA's promise of government transparency.

More recently, a second branch of the open government movement has blossomed, promoting the sharing of government databases. President Obama's January 21, 2009, Memorandum on Transparency and Open Government stated: "Executive departments and agencies should harness new technologies to put information about their operations and decisions online and readily available to the public."⁷ The Office of Management and Budget then issued an Open Government Directive,⁸ requiring agencies to "identify and publish online in an open format at least three high-value data sets"⁹ and develop "an Open Government Plan that will describe how it will improve transparency and integrate public participation and collaboration into its activities."¹⁰

Perhaps the most visible national spokesperson for this trend is Vivek Kundra, the White House's chief information officer, who, as chief technology officer for the District of Columbia, created what many consider the gold standard in online data sharing by local government. Among its 29 databases,¹¹ the DC.gov site enables citizens to search:

- *Campaign Contributions*—by amount, contributor, date, location, or recipient
- *Citywide Calendar*—for information on events in D.C.
- *D.C. Parks*—for information on swimming pools, basketball courts, before- and after-school care, and other programs at parks and recreation centers
- *Local and Small Businesses*—for listings of small, local, minority, and disadvantaged businesses in D.C.
- *Grants*—for information on current competitive federal, city, and foundation grant opportunities for local organizations

- > *Health Professionals*—to find Department of Health licenses for practitioners, including chiropractors, dentists, psychologists, and social workers
- > *Property Sales*—for sale prices and other information about D.C. properties
- > *Public Library Catalog*—for book information and availability
- > *Reference Materials*—for online access to magazines, newspapers, and reference materials on a wide variety of subjects
- > *Public School Demographics*—for D.C. Public Schools data on racial composition, Stanford-9 scores, attendance rates, and more
- > *Free Internet Access*—to find organizations offering free or low-cost Internet access
- > *Meeting Facilities*—to find places to hold a convention or meeting in D.C.
- > *Property Assessments*—for D.C. property tax assessments
- > *Surplus Property Auctions*—for sales of surplus assets through online auctions
- > *Public Land Records*—by grantor, grantee, document number, lot/square, or document type
- > *Zoning Maps*—for maps of neighborhood zones

Other impressive local efforts include San Francisco’s DataSF and NYCStat, which describes itself as “New York City’s one-stop-shop for all essential data, reports, and statistics related to City services.”¹²

A third frontier in the drive for government openness is a growing engagement with social media. Nearly three-quarters of local government jurisdictions around the country use Twitter to push news to citizens and the media, especially with regard to emergency and public safety alerts. About the same number are using Facebook to communicate with citizens, frequently targeting users demographically or by interest.¹³ In addition, governments are involving residents interactively in the gathering and reporting of civic information. “Many cities and counties have developed web-based applications that encourage citizens to submit pictures of potholes in need of repair, garbage needing pick-up, or graffiti that needs to be erased,”¹⁴ says Alan Shark, executive director of the Public Technology Institute, a nonprofit group that supports city and county government. Examples include:

- > Boston developed the Citizens Connect application to allow residents and visitors to gather information about the physical state of the city and send that information directly to the appropriate city department through their iPhone. Citizens can attach a photo and capture system-generated Geographic Information System (GIS) coordinates. The Boston Globe reported that, “City officials say the iPhone application is being used mostly by younger residents who have not previously called the hot line.”¹⁵
- > The City of Mesa, Arizona, developed a Citizen Dashboard for Bond and Capital Improvement Projects, keeping citizens apprised of public projects financed by their bond votes.¹⁶
- > Pittsburgh’s iBurgh application for the iPhone debuted in August 2009 and reportedly had 8,000 users in its first five months.¹⁷
- > San Jose launched a complaint app called the San Jose Mobile City Hall.¹⁸
- > One private site, SeeClickFix, recently reported the posting of its 50,000th city maintenance issue to be resolved.¹⁹

These apps can aid journalists, who track posts as sources for stories.²⁰ And these records-and-data-sharing initiatives will likely have a public impact that goes beyond stimulating information flow. Their very existence has the potential to reduce corruption and promote accountability in the same way that publicity typically does. A team of scholars working through the École des Hautes Études Commerciales (EDHEC) Business School examined the disclosure practices of the national legislatures of 126 countries and compared them to corruption scores indicated by the International Country Risk Guide. Their conclusion: greater public access to financial disclosure by public officials correlated to lower levels of corruption.²¹

Boston's Citizens Connect application allows residents to gather information about the physical state of the city and send it directly to the appropriate city department through their iPhone.

How Transparency Fosters an Informed Public

Government transparency improves information flow three ways: directly to citizens themselves, through “information entrepreneurs,” and through journalists.

Direct Access

Many governments have found that citizens value the access they have to information, and they put it to good use. On the federal level, a list of Data.gov's top-10 most downloaded datasets of all time can be found at <http://www.data.gov/metric/visitorstats/top10datasetreport>. In May 2010 (a sample month), four of the 10 most popular datasets were from the Geography and Environment category, among them a worldwide listing of real-time earthquakes and an inventory of sites subject to environmental regulation. The dataset on U.S. Overseas Loans and Grants was frequently accessed, too.²²

There is great variety in the city datasets that prove popular. In May 2010, San Franciscans searched most often for traffic accident data, school dropout data, information on library books available in the San Francisco Public Library, and information on Treasure Island development plans.²³ In Seattle, neighborhood maps, crime statistics, active building permits, and a list of the locations of the city's public toilets were among those most-frequently accessed.²⁴ The District of Columbia's most popular datasets are those on juvenile arrests and charges, crime incidents, purchase orders, and public space permits.²⁵ In Ann Arbor, Michigan, the most downloaded datasets are the city boundary data, records of checks or fund transfers issued to the city, and a graphic representation of land use planning parcels.²⁶

A 2010 study by the Pew Internet & American Life project found that 35 percent of Internet users have researched official government documents or statistics.²⁷ Citizens access the information through a variety of devices. As the Pew study noted, “[Four percent] of cell phone owners who use text messaging signed up to receive text messages from a government agency or official.”²⁸ Use of phones for these purposes is small but growing. In

One study of 126 countries found that good financial disclosure by public officials correlated with lower levels of corruption.

2009, the Brookings Institution found that 2 percent of federal government websites and 3 percent of state government websites offer PDA (personal digital assistant—or mobile device) access. Although these rates lag behind the corporate sector—10 percent of corporate web sites offer PDA access—the numbers are slowly increasing.²⁹ For many Americans, mobile phones and hand-held devices provide the most attractive means of accessing the Internet—and are especially popular among African-Americans and Latinos as primary tools for

reaching the Web.³⁰ Governments can thus maximize the utility and inclusiveness of their transparency initiatives by making web sites compatible with mobile devices and enabling the development of free smart phone applications that give users easy access to government information.

Information Entrepreneurship

Not only do open government initiatives support direct citizen access to information, they support private sector and nonprofit entrepreneurs who create applications to organize and structure government data so that it can be searched and utilized.

Both New York City and the District of Columbia have enhanced the value of their datasets by wooing developers to create applications. New York held a “BigApps” competition, which selected 10 winning applications from a pool of more than 80 submissions that included “a resource for better navigating the City and its cultural resources, a guide to New York City schools, a live-feed commentary on New York City taxis, and an application that helps users locate books at Public Libraries.”³¹

In the case of D.C., the Apps for Democracy program, “which offered a cash prize to the developer who could produce the most user-friendly applications based on government data—ultimately led to the development

of 47 different applications (with an estimated value to the city of \$2.3 million) at a cost of just \$50,000 in prize money.”³² Examples include DCCrimeFinder, which uses citizens’ phone locations to inform them of crimes that have occurred nearby; Achieve D.C., which shows both poverty and achievement rates for D.C. elementary, middle, and high schools; and PointAbout, which allows citizens to use their iPhones to find nearby embassies, vacant properties, banks, and a variety of other community assets, based on their location.³³

This trend shows every sign of continuing. Sunlight Labs, part of the D.C.-based nonprofit, nonpartisan Sunlight Foundation is “an open source community of thousands dedicated to using technology to transform government,” chiefly by advancing transparency.³⁴ Its two “Apps for America” contests elicited the development of dozens of open source applications designed, in one way or another, to advance government accountability through data.³⁵ The winner of Apps for America 1, Filibusted, aggregates data compiled by Sunlight Labs and GovTrack to reveal the rate

DCCrimeFinder uses citizens’ phone locations to inform them of crimes that have occurred nearby.

at which different Senators vote against cloture motions that would cut off floor debate and permit Senate votes on pending legislation.³⁶

A runner-up, Legistalker, aggregates all online activity by members of Congress including news stories, “tweets,” and YouTube videos.³⁷

The winner of Apps for America 2, DataMasher, enables users to analyze data sets in tandem. For example, a user could take data

on federal spending by state and divide it by the data for each state’s population to create a data mashup of federal spending per person per state.³⁸ The runner-up, GovPulse, makes it possible to track the frequency of federal agency appearances in the Federal Register and to search and digest Federal Register entries more easily.³⁹

In April, 2011, the John S. and James L. Knight Foundation partnered with the FCC to establish an “Apps for Communities” competition. Its goal “is to create apps that use publicly available data to help people in communities across the country,” even if those communities lack the big population base (or municipal budgets) of a New York or D.C.⁴⁰ The formal challenge urges programmers: “Using hyper-local government and other public data you should develop an app that enables Americans to benefit from broadband communications—regardless of geography, race, economic status, disability, residence on Tribal land, or degree of digital or English literacy—by providing easy access to relevant content.”⁴¹

Of course, nonprofit institutions may foster increased transparency through their own direct initiatives, as well. Among national nonprofits, the Sunlight Foundation, mentioned above, has played an especially important role in making government data available in formats useful for both journalists and the general public. For example, RealTimeCongress, developed by its Sunlight Labs, is a mobile phone app that gives updates on live floor debates and votes, information on key documents as they are published, and access to “whip” notices and hearing schedules.⁴² An example of state-level initiative is the Texas Tribune, a nonprofit public media organization that hosts several state government datasets.⁴³ Its compilation of government employee salaries is the most popular. Other highly demanded datasets include a directory of all elected officials in Texas, data on Texas prisons, education-related data (such as school rankings, superintendent comparisons, and student demographics), a list of red-light cameras, campaign finance data, and county-by-county election results.

Nearly one out of five print stories were based on public records.

Information Serving Journalism

Journalists have long considered access to government records central to effective journalistic practice. In December 2001, the Society of Professional Journalists, looked at 4,000 individual news stories in 20 different media outlets and found that nearly one out of five print stories was based on public records, as were 11 percent of broadcast stories.⁴⁴ *Uplink* is the online magazine of the National Institute for Computer-Assisted Reporting (NICAR). Reviewing the issues of *Uplink* between January 2009 and June 2010, the FCC Future of Media team found that much of the data journalists and reporters were interested in during that time fell into four distinct categories: 1) Spending and tax-related datasets, including information on state loans, economic recovery spending, and local stimulus spending; 2) Environmental datasets, which included data tracking violations and enforcement of the Clean Air and Clean Water Acts as well as air pollution by geographical region, logging practices, and the level of trace pharmaceuticals in

water supplies; 3) Crime data, including crime in schools, crime stories, and statistics on Taser usage by local police departments; and 4) Census data, which—when viewed in combination with other datasets—can reveal how social and economic trends are affecting Americans taking into account such variables as race, income, and place of residence. NICAR’s database library, available only for investigative reporters, offers information on federal spending, crime, and campaign spending. Other crime-related datasets, such as airport crime statistics and data on violations of Federal Aviation Administration regulations, also are available.⁴⁵

To the extent that government databases reveal the behavior of private entities, they can support greater accountability in the private as well as the public sector. One of the most innovative government-initiated transparency efforts is the Securities and Exchange Commission requirement that corporations use XBRL (Extensible Business Reporting Language) in submitting financial disclosure forms. A company’s reports (including footnotes) can be tagged with metadata so that facts and numbers can be searched and analyzed. The XBRL reporting requirement makes information easy to mine and convert into structured data for rapid analysis.⁴⁶ Given that government agencies routinely require information submissions on subjects as disparate as workplace safety, environmental compliance, and the finances of tax-exempt nonprofit organizations, one can see how attention to submission format on a government-wide basis could facilitate deeper journalistic analysis across every sector of social and economic activity.

A comparison of two recent Pulitzer Prize–winning projects illustrates two impressive uses of records research. In 2010, Barbara Laker and Wendy Ruderman of the *Philadelphia Daily News* received a Pulitzer Prize for Investigative Reporting. Their “Tainted Justice” series exposed the corrupt practices of a police narcotics squad. Laker and Ruderman read through thousands of search warrants by hand and verified the addresses listed on them. Then they went looking for the drug dealers named in the warrants, knocking on scores of doors in the process. Through this painstaking effort Laker and Ruderman proved that the information contained in the warrants did not match by-stander and other nonpolice accounts of the drug raids. This type of work required extensive resources. *Philadelphia Daily News* editor, Gar Joseph, said that his “back of the envelope” calculation was that the series cost \$164,000, an amount that factors in the salaries of the two reporters and the time spent editing.⁴⁷

In contrast, the Pulitzer Prize for Public Service was awarded to the *Bristol (VA) Herald Courier* in 2010 for Daniel Gilbert’s investigation of payments owed to local mineral-rights owners by gas corporations. The publisher of the *Herald Courier* sent Gilbert to a workshop on computer-assisted reporting held at the University of Missouri’s journalism school, where he learned how to analyze the data he had obtained. According to managing editor J. Todd Foster, “Gilbert used two sets of data: the monthly gas production numbers that companies report to the state for an online database, and the monthly escrow statements generated by Wachovia Bank, data obtained from the Division of Gas and Oil through a Freedom of Information Act request” for his exposé.⁴⁸ The Gilbert investigation could not have been done without computerized records and data-mining techniques.⁴⁹

Journalists are receiving assistance from information entrepreneurs, especially in the nonprofit sector, who use government datasets to create relevant, accessible databases designed to match likely reporter interests. For example, ProPublica, a 501(c)(3) investigative journalism organization, has compiled government stimulus data from Recovery.gov and other sources to create a database journalists can use to track the distribution of economic stimulus money. This data has been used in reports by sources that range from the *New York Times* to National Public Radio to the *Salt Lake Tribune* to the *Bozeman (MT) Daily Chronicle*.⁵⁰

The Sunlight Foundation has created Congrelate, a data-rich website that provides information about legislators and their districts, including their voting history, their top donors, and fundraising efforts—all in tables that can be manipulated to display data in the way a given researcher finds most useful.⁵¹ TransparencyData, another Sunlight Foundation project, allows users to explore data on federal campaign contributions, lobbying, grants, and contracts.⁵² Poligraph, a third Sunlight Foundation project, enables users to cross-reference TransparencyData information with the text of articles (that the user can submit in a field on the site).⁵³ The site then displays political contributions re-

The Sunlight Foundation created Congrelate, a data-rich website that provides information about legislators and their districts, including voting history, top donors, and fundraising efforts.

ceived and made by organizations and individuals described in the article. For example, if an article mentions the National Rifle Association (NRA) or the National Organization for Women (NOW) and a particular senator, Poligrift would display the campaign contributions made by the NRA or NOW to that senator.

The journalistic use of such tools is not limited to the employees of conventional media organizations. The Sunlight Foundation's PolitiWidgets allows bloggers to easily embed a wide range of information about elected officials into blog posts.⁵⁴

Computer-assisted reporting is increasingly finding its way into mainstream media through the efforts of independent groups. Bill Buzenberg, executive director of the Center for Public Integrity (CPI), told a workshop of the Federal Trade Commission how CPI downloaded information on 350 million mortgages from the Home Mortgage Disclosure Act database and used it to identify the top-25 subprime lenders.⁵⁵ CPI found that nine of the top-10 lenders were based in California and that at least 21 of the top-25 subprime lenders were financed by banks that received bailout money.⁵⁶

The Current State of Government Transparency

President Obama made government transparency the central theme of several initiatives on his first full day in office. These included an executive order expanding access to the presidential records of prior Administrations,⁵⁷ a memorandum directing the Office of Management and Budget to create an Open Government Directive setting transparency requirements for all executive departments and agencies,⁵⁸ and a memorandum on Freedom of Information Act implementation.⁵⁹ The last of these prescribed that “[a]ll agencies should adopt a presumption in favor of disclosure . . . to all decisions involving FOIA.”⁶⁰ On March 19, 2009, Attorney General Holder issued a new policy,⁶¹ setting narrower grounds for defending the withholding of government records than had been adopted in 2001.⁶²

The Obama Defense Department lifted the prior administration's ban on photographing the coffins of the war dead returning from Iraq and Afghanistan,⁶³ and the White House agreed to post its visitor logs online, making public all but a few narrow categories of visitors to the president or vice president.⁶⁴ In December 2009, President Obama created a National Declassification Center in the National Archives, whose goal is to make all properly declassified records within a backlog of over 400 million pages of records publicly accessible by December 31, 2013.⁶⁵ In January 2010, the Administration released the names of detainees at the Bagram AirBase in Afghanistan.⁶⁶

However, independent assessments⁶⁷ still give the federal bureaucracy mixed reviews for achieving the President's transparency goals. For example, the Federal Funding Accountability and Transparency Act, passed by Congress in 2006, required the Office of Management and Budget (OMB) to create a public website with data on federal contracts, grants, loans, and spending.⁶⁸

The Government Accountability Office (GAO) was to determine the extent of OMB's compliance with the requirements of the Act.⁶⁹ In March 2010, GAO reported that “of nine requirements [GAO] reviewed, OMB has satisfied six, partially satisfied one, and has yet to satisfy two.” GAO also raised concerns about data quality.⁷⁰

Efforts to obtain information through the Freedom of Information Act also continue to be stymied by obstacles. The federal Freedom of Information Act ordinarily requires agencies to determine within 20 days how they will respond to records requests.⁷¹ But in 2009, only eight of the 29 largest federal agencies had an *average* response time on “simple requests” of 20 days or less; the average for all 29 was over 32 days.⁷² And this was an improvement over 2008.⁷³ In other words, over two-thirds of federal agencies handling the overwhelming majority of FOIA requests do not even average a response time in compliance with the law.⁷⁴

The 2010 reports filed by the Chief FOI officers of every federal agency specify the steps taken within each agency to promote proactive disclosure and implement the presumption of openness that President Obama called for.⁷⁵

Though not required to do so by law, agencies releasing data should also include an Application Programming Interface (API) that allows the data to be shared easily with other computers and applications. These approaches

Most websites created by local or state governments did not offer the most essential civic information, such as budgets, audits, contracts, and tax documents.

can not only allow citizens to participate but make the services and analysis of government more effective. For instance, the FCC recently undertook to document the broadband speeds in different parts of the country. Instead of sending out, say, a half dozen researchers to report on the variations, they built an application that allowed citizens to perform tests themselves and report the data to the FCC. Two million submissions resulted.⁷⁶

Of course, transparency at the federal level involves not only the executive branch, but also Congress. Federal legislation is frequently both lengthy and complex. Requiring the House and Senate, as urged by transparency advocates both within and outside Congress, to post all non-emergency bills online for 72 hours before adoption would enable not only legislators, but reporters and the general public to analyze and critique Congress' handiwork more effectively.⁷⁷

The degree of government openness on a state and local basis varies widely. In 2009, a survey of government websites in 48 states revealed how many states (see numbers in parenthesis below) provide online records in various categories:⁷⁸

- > Department of Transportation projects and contracts (46)
- > Statewide school test data (46)
- > Political campaign contributions and expenses (45)
- > Disciplinary actions against doctors (43)
- > Audit reports (42)
- > Disciplinary actions against attorneys (38)
- > Environmental citations/violations (36)
- > Teacher certifications (32)
- > Fictitious business name registrations (29)
- > Nursing home inspection reports (28)
- > Database of local government expenditures (25)
- > Consumer complaints (25)
- > Bridge inspection and safety reports (23)
- > Personal financial disclosure reports of elected or appointed officials (22)
- > Child care center inspection reports (22)
- > Hospital inspection reports (18)
- > School inspection/safety records (9)
- > School bus inspections (11)
- > Death certificates (8)
- > Gas pump overcharge records (8)

The only state to provide online data in all 20 categories was Texas; New Jersey was right behind with 19; and the state with the least information online was Mississippi.⁷⁹

In a similar vein, Pew's Center on the States grades states on how well they use data and technology to make decisions and communicate with the public.⁸⁰ Only five states earned an A: Michigan, Missouri, Utah, Virginia, and Washington.⁸¹ New Hampshire and South Dakota ranked the lowest, both receiving a D+.⁸² The average across the states was a B-.⁸³ The criteria taken into account include the state's information technology planning, the state's and state agencies' use of cost and performance information, and the public's ability to access information about the performance of state programs.⁸⁴

A number of states have undertaken initiatives similar to the Federal Funding Accountability and Transparency Act of 2006, which requires OMB to post federal spending data online.⁸⁵ In March 2010, Sunshine Review, an

independent group,⁸⁶ announced the results of its evaluation of over 5,000 government websites, including those of 3,140 counties, 805 cities, and 1,560 school districts, through “crowdsourcing”—inviting participants around the country to use a “transparency checklist” to “collaboratively determine the extent to which government-managed websites contain the information people need.”⁸⁷ According to the findings, in 2010 there were 41 websites created by local or state governments that made available the most essential civic information needed by citizens, such as budgets, audits, contracts, tax documents for public officials, and contact information for the person charged with fulfilling local FOIA requests.⁸⁸ In 2011, that number had risen to 112 local and state government websites.⁸⁹

In terms of local news, the relative lack of openness regarding the courts and the criminal justice system is cause for special concern. According to David Cuillier, FOI chair of the Society of Professional Journalists, journalists commonly have a difficult time procuring records regarding law enforcement; agencies tend to be overly secretive and deny valid public records requests.⁹⁰

Journalists seeking court records at the federal level have the great advantage of the PACER (Public Access to Court Electronic Records) web site.⁹¹ PACER includes case and docket information for all district, bankruptcy, and appellate courts, and it currently hosts 500 million case file documents. However, only the U.S. District and Bankruptcy Courts provide searchable transcripts, and personal identifiers are removed before the records are made public. Transcripts from the U.S. Courts of Appeals are not made available. As of May 2010, PACER added digital audio recordings of court proceedings to its public offerings.

Access to electronic *state* court records is uneven. The Reporters Committee for Freedom of the Press (RCFP) maintains an online state-by-state summary of which court records are available online, along with links to websites where more details can be obtained and a summary of laws governing remote electronic access to court information.⁹² The RCFP found that, at the Supreme Court and appellate level, most states have made at least some information available online. Most Supreme Court and appellate court opinions are online, with calendars and docket sheet information sometimes available as well, but briefs are less often accessible. At the trial court level, information is generally less available; some amount of docket sheet information is provided, but full access to filed court documents is rare. Even in states where the judicial system aims to make such information available, a lack of resources and expertise on electronic access capabilities often limits the scope of the initiative. The following states charge fees for online access to court records: Colorado, Delaware, Florida, Kansas, Oregon, Utah, and Washington.⁹³ Transcripts can often be obtained directly from a court, and many courts offer electronically viewable and searchable transcripts, though often there is a fee for transcription services.⁹⁴

Access to police records is yet more problematic. The laws governing public access to law enforcement records differ significantly from state to state. No studies have been found that compile these differences.⁹⁵ In the wake of recent political scandals, Illinois strengthened its Freedom of Information law, enhancing the powers of public access counselors (PAC). Illinois’s PAC system could easily become a model for the country.⁹⁶

Journalism professor Ira Chinoy, also a prize-winning journalist, has found that public employees are sometimes resistant or even antagonistic to public records requests. They are often uninformed about public records laws and the ease with which they could actually comply with them. Agencies may have legal authority to waive fees—if the request is in the public interest—but may be reluctant to do so when they are obligated to pay a contractor for the labor entailed in responding to the request.

In some cases, public authorities may be wrestling with computer systems that impede easy access.⁹⁷ In other cases, jurisdictions are working with systems designed by an outside contractor and then turned over to government employees not well versed in their operation.⁹⁸ And some record systems make databases especially difficult to copy.

The persistence of these problems underscores the need for a critical mass of full-time professional journalists. As the press is weakened by dwindling numbers and less experienced reporters “the court bureaucracy has gotten stronger and stronger,” says Bill Girdner, editor and publisher of Courthouse News Service in Pasadena, California. “When journalists don’t have presence, others control the information process.”⁹⁹

The Center for Public Integrity downloaded information on 350 million mortgages from the Home Mortgage Disclosure Act database and used it to identify the top-25 subprime lenders.

Girdner also points out that electronic court filings have, in some cases, made gaining access to judicial information *more* difficult. Traditionally, hard-copy filings were maintained in a wooden box in the clerk’s office in every court around the country. Courthouse reporters typically thumbed through the filings in the wooden box for good stories. When the Riverside County courthouse was renovated, however, a wall went up—literally—from floor to ceiling, and the wooden box disappeared in favor of electronic documents. Filing documents are now available only as quickly—or as slowly—as the staff uploads them, which can mean a delay of days. “The time that they take to get this stuff done and online... by that time, a story is old news,” Girdner says.

“As we lose resources, we lose our ability to fight Freedom of Information suits,” says Doug Guthrie, court reporter for the Detroit News. “We try to fake them out with stern letters, but they know we don’t have it.”

Girdner’s concerns are echoed by Doug Guthrie, court reporter for the *Detroit News*:¹⁰⁰ “As we lose resources, we lose our ability to fight Freedom of Information suits. We try to fake them out with stern letters, but they know we don’t have it.” Girdner corroborates the point. He cites an instance in which Courthouse News Service (CNS) sued the Houston court clerk for denying access to documents, in one case, for nine days. CNS won an award of \$253,000, but spent \$1.2 million in attorney’s fees last year.¹⁰¹

Guthrie believes that, as journalistic resources thin and access to records is denied or withheld, stories are going untold.¹⁰² As a consequence, violations of citizen rights may go unchecked. He says that crime statistics have been “spun and polished” to show that crime has decreased. But, meanwhile, police and courts “seem to be more busy... Big cities need newspapers to overcome big problems, big issues,” he says. “We don’t do it anymore.”¹⁰³

Even if public officials have the best of intentions, they may put forth data in a way that emphasizes a particular story line. Kerry O’Brien, who directs the NYC school survey for the New York City Department of Education, does not regard the Department’s extensive survey and data-sharing initiatives as a substitute for independent reporting, as proud as she is of those initiatives.¹⁰⁴ Although her office provides an annual report, its intention is to motivate friendly coverage; the picture presented may well be a fair one but is not necessarily balanced. “People in any organization,” O’Brien said, “will want to put their best foot forward in any public presentation.”¹⁰⁵

Limitations to Transparency Strategies

As important as government transparency is, it is not in itself a sufficient strategy toward the goal of an informed citizenry.

Ongoing Government Resistance to Disclosure. Ira Chinoy at the University of Maryland reports that his students almost invariably meet resistance in their first attempts to acquire digital copies of databases that are subject to mandatory disclosure under the Maryland Public Records Act. The reasons given for noncompliance “range from legitimate [antiquated computer systems or even high-end computer systems not designed with transparency in mind] to ludicrous, and a large middle of crankiness instead of helpfulness.”¹⁰⁶ In short, despite recent efforts to improve government transparency, extracting significant information from the government often requires skill at framing questions, persistence, and significant resources of time and money.¹⁰⁷

Data Does Not Interpret Itself. Data requires analysis. For example, the National Highway Traffic Safety Administration Office of Defects Investigation maintains a “safety complaints search engine,” that allows users to find all complaints filed with the agency based on the make, model, and model year of any vehicle sold in the United States.¹⁰⁸ It does not appear that anyone used this application prior to the major Toyota recalls of 2009 to sound the alarm on Toyota safety issues. Analysis requires some sophistication.¹⁰⁹

Transparency Without Reporting Can Promote Misunderstanding. In a 2009 essay, Professor Lawrence Lessig bemoaned the fact that certain kinds of public disclosure can unjustifiably undermine public trust by facilitating quick, cynical, unjustified conclusions about what influences government behavior.¹¹⁰ Consider, for instance, a theoretical example in which an “exposé” reveals that a member of Congress received contributions from a certain industry and also voted in support of that industry. That correlation, by itself, proves little. It may be that the House member is voting in the way he or she hopes will be rewarded by contributors in the future, or it may be that contributors

are rewarding House members whose views match those of the industry. Similarly, if a reporter should uncover a year-to-year reduction in the number of public school students achieving math or verbal “proficiency” for a particular jurisdiction, it would be important to investigate whether the measure of “proficiency” used by the testing agency had changed during the relevant time span.¹¹ If there were an increase in the number of crime reports on a university campus, it would be important to determine whether it reflected an increase in crime or improvements in the ease of reporting. In short, data poses questions as much as it answers them; the more data government shares, the more questions there are to be answered.

Data Manipulation by Government. In the hands of a skilled practitioner, data can be made to lie or mislead. For example, if a government finds that its average rate of something puts it in a bad light, it can simply change the quantity being averaged. Sort states by “average household income” and you will get one ranking; sort by “average family income” and the list will be different. For this reason, it is important to have available journalists trained in analysis to police the accuracy of data. Politicians and bureaucrats may knowingly falsify data, but even inadvertent errors can be misleading—and are unlikely to be detected by persons unaccustomed to data-based argument.

Corporations and Nonprofit Groups Require Monitoring, Too. Much of the data currently being disclosed shines light on government performance. But cutbacks in the number of journalists have also affected news organizations’ ability to hold other powerful institutions accountable, such as large hospitals, major corporations, trade unions, and universities.

Unequal Recourse. The social divide among Americans who pay attention to government information and those who do not is significant. The 2010 Pew study of Internet users found that people who access information on government sites most often have substantially higher levels of income and education than those who interact with government websites only occasionally. Compared with light users, heavy and moderate users are also slightly more likely to be middle-aged (30 to 49 years old) and less likely to be younger than 30 or older than 65.¹² There is a danger that, unaccompanied by accessible journalistic analysis, government transparency initiatives may further skew the “informed electorate” toward a narrow slice of the wealthiest, best-educated, most technologically sophisticated Americans.