

Editor's Note

Advocacy Groups Make a Difference

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At last, we have empirical evidence that public records acquisition works better in states served by nonprofit independent advocacy organizations.

In this issue of the *Journal of Civic Information*, A.Jay Wagner of Marquette University presents his findings from a field survey employing 1,002 public records requests across nine states. The key takeaway:

States with active freedom of information coalitions have better compliance with public record laws, meaning faster response, more communication from the agency, and more likelihood to receive records requested.

Florida, Wisconsin, Iowa, Maine, Oklahoma, New Jersey, and Washington state all have active coalitions for open government, and requests submitted to their county governments came out much better than counties in states without coalitions, Wyoming and Mississippi. His study identified other interesting findings, as well.

Granted, it's a little too early to pop the research champagne cork. This is just one study with just nine states, and correlation doesn't equal causation. But every piece of data helps us learn a little more about what matters in making civic information flow more freely, creating a more informed electorate, and ultimately a better society.

In all transparency, I am biased on this topic, as board president of the National Freedom of Information Coalition, which promotes and supports the more than 40 state freedom of information coalitions nationwide, including Guam and Puerto Rico.

Wagner's findings back up what we've seen anecdotally for decades: States with strong, diverse nonprofit coalitions promoting government transparency tend to enact stronger laws and build a culture of openness.

A survey of the coalitions earlier this year by NFOIC found that 80% offer hotlines for the public, about three-quarters help draft legislation, and many have aided dozens of lawsuits to improve transparency.¹ Some coalitions have led effective FOI audits, leading to change, as

¹ Todd Fettig and David Cuillier, *States of Denial*, National Freedom of Information Coalition (March 15, 2021), <https://drive.google.com/file/d/1L8yJY1Lrufg-rfqxFBqQfsi54BUhsBRK/view>.

described from a previous research project in the *Journal of Civic Information*, by Kevin Walby and Jeff Yaremko of the University of Winnipeg.²

The question is, do strong broad-based coalitions *cause* more transparency in a state, or is there something about the states that lead to stronger laws and creation of coalitions? That's the million dollar question, and one we will need more studies to get at. I suspect, like a lot of research, that it will be complicated, and that perhaps a little of both is going on.

Ultimately, though, the growing body of research indicates that nonprofit coalitions for open government make a difference, and they should be supported generously if we want to maintain this experiment we call democracy.

Case in point: The other article in this issue of the journal focuses on the lack of transparency in environmental records, as explained by Benjamin W. Cramer of Penn State. The bureaucratic process of saving species in the United States is clouded in secrecy, and when information is revealed it is often far too late to help the plants and animals in peril.

So who is going to go to bat for freedom of information, and indirectly for the snail darter and northern spotted owl?

The government? Some well-intentioned officials, perhaps, but many do not see it in their own best interest.

Corporations? Only if it boosts profit margins, and history shows they work harder to close records, not pry them open.³

News organizations? Sure, some are still active in fighting for records,⁴ but legacy news is weakened, and journalists are less likely to acquire and litigate for records than in decades past.⁵

Academics and university law clinics? A growing community, but focused on teaching and their own research priorities, as they probably should be.

Everyday Joes and Janes? Some dedicated gadflies work hard for their communities, often lone voices against more powerful institutions.

All of these actors play a role in improving the information ecosystem, but they are less powerful on their own. It takes broad-based organizations, like the nonprofit coalitions in Wagner's study, to pull constituencies together and galvanize action for open, accountable government.

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² Kevin Walby and Jeff Yaremko, *Freedom of Information Audits as Access Advocacy*, 2 J. CIVIC INFO 2, 22-42 (2020).

³ Jeannine Relly and Carol Schwalbe, *How Business Lobby Networks Shaped the U.S. Freedom of Information Act: An Examination of 60 Years of Congressional Testimony*, 33 JOURNALISM 3, 404-16 (2016).

⁴ See the hundreds of Freedom of Information Act lawsuits filed by news organizations, particularly *The New York Times* and BuzzFeed News, as per The FOIA Project from the Transactional Records Access Clearinghouse at Syracuse University, <http://foiaproject.org/>.

⁵ See *In Defense of the First Amendment*, Knight Foundation (April 2016), <https://knightfoundation.org/reports/defense-first-amendment/>.