



Joseph L. Brechner Freedom of Information Project

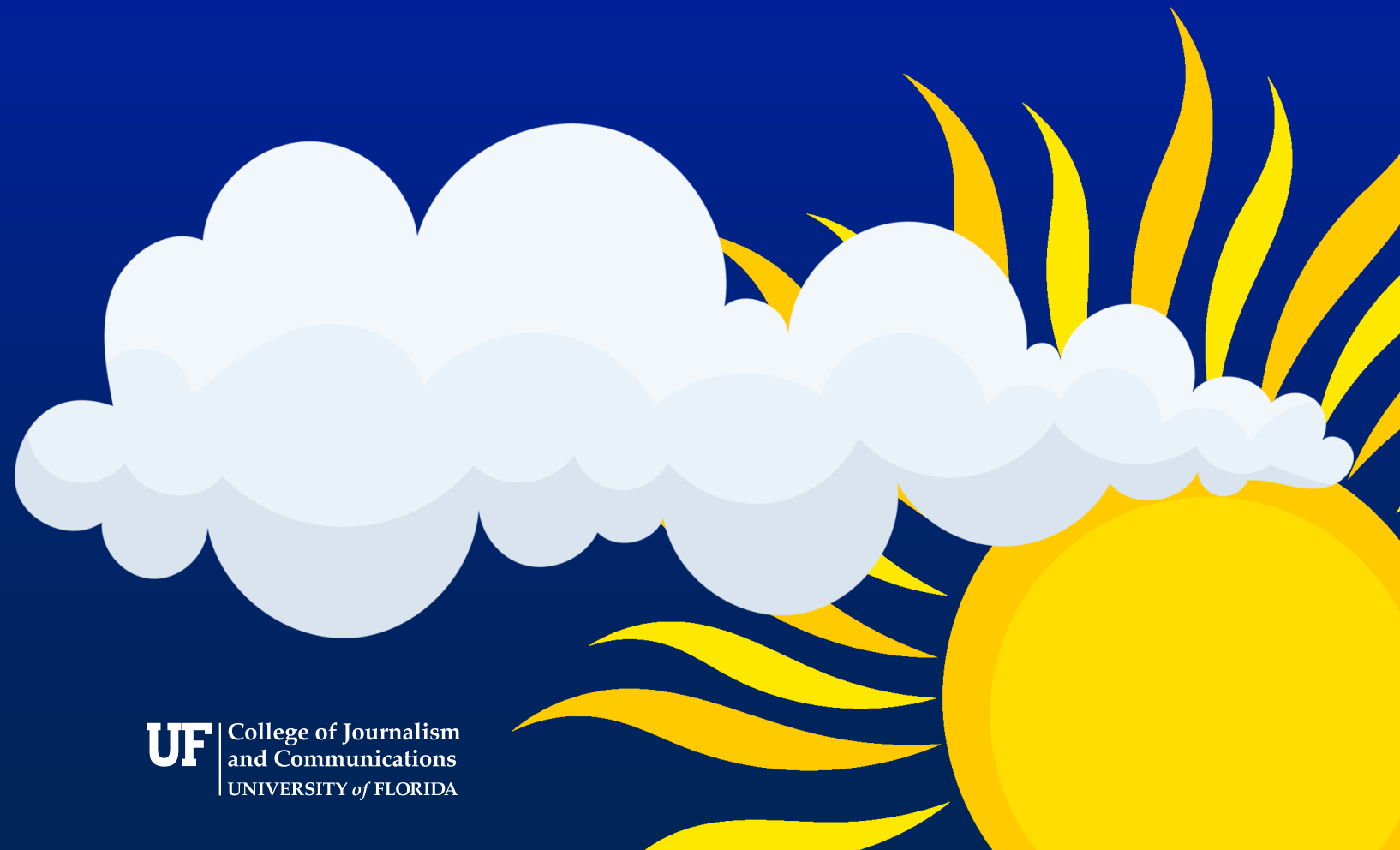
COLLEGE OF JOURNALISM AND COMMUNICATIONS

Newspaper Association Managers, Washington, D.C.

Dr. David Cuillier, Director, cuillierd@ufl.edu

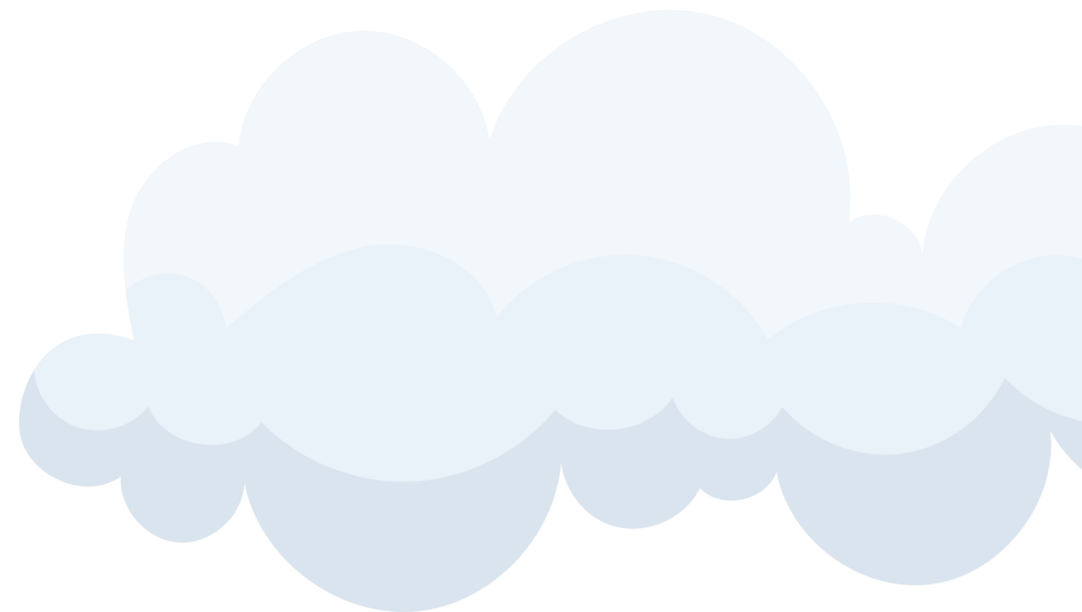
Dec. 4, 2023

FOI FORECAST: INCREASING CLOUDS.

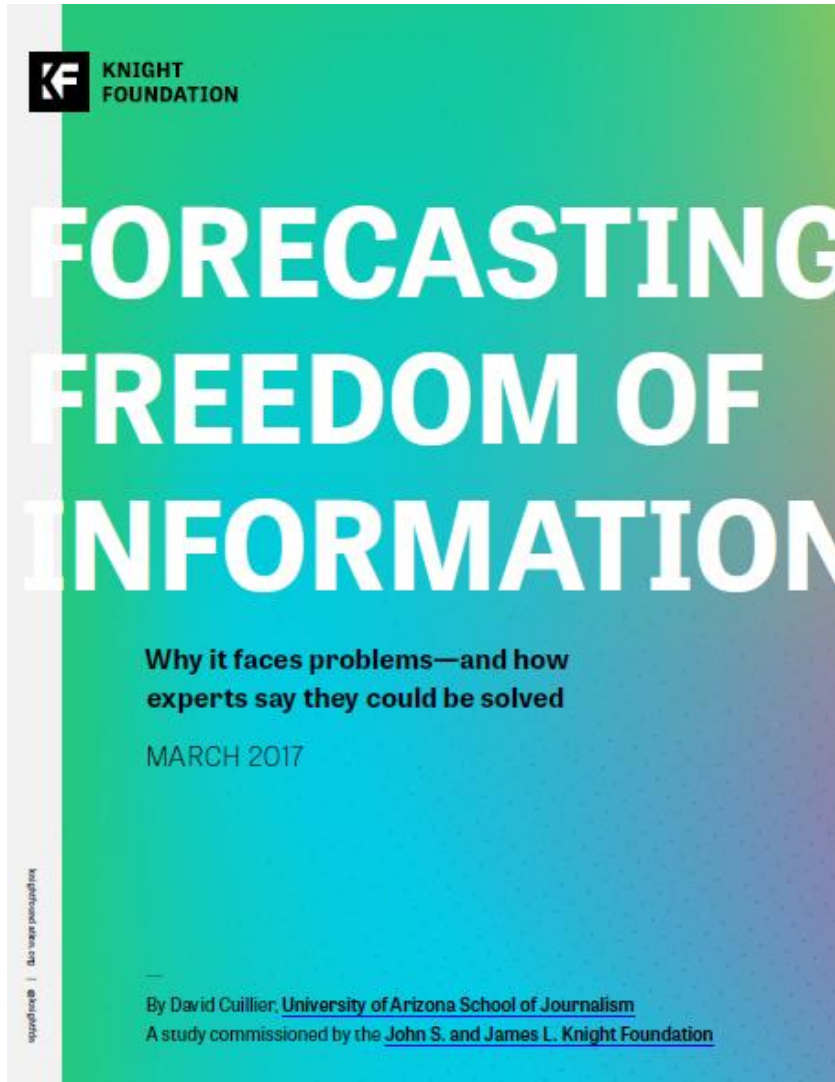


Access denied: 32 access audits in the states

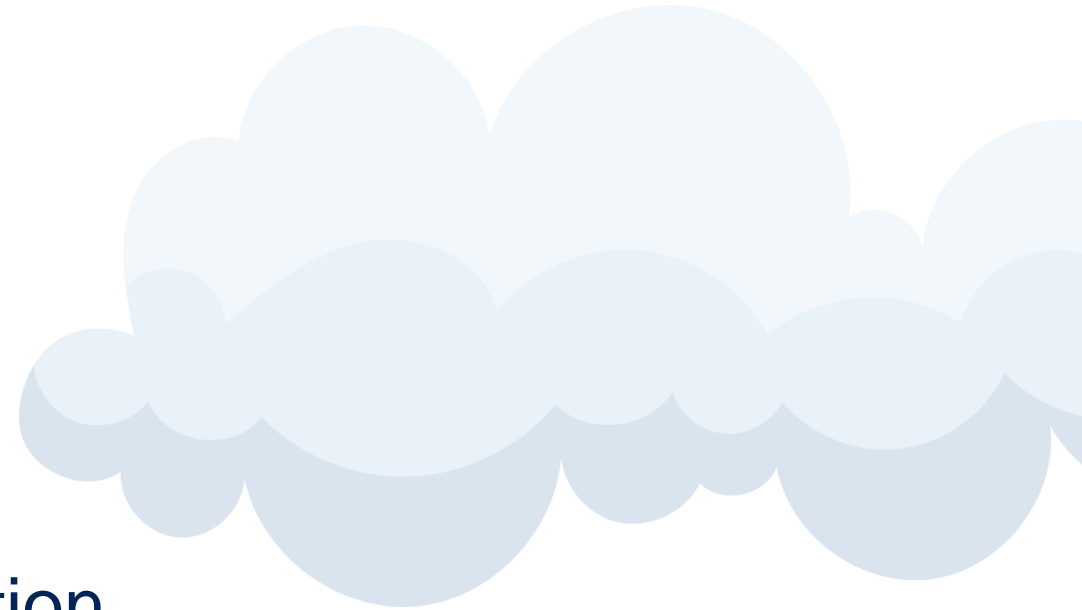
Record type requested	Provided
City council minutes	93%
Restaurant inspections	86%
City/county expense reports	74%
City/county travel vouchers	74%
Coach salary	68%
Superintendent contract	66%
City employee overtime pay	60%
Jail log	58%
Police/sheriff incident report	55%
Police crime log	29%



Journalists report increasing problems



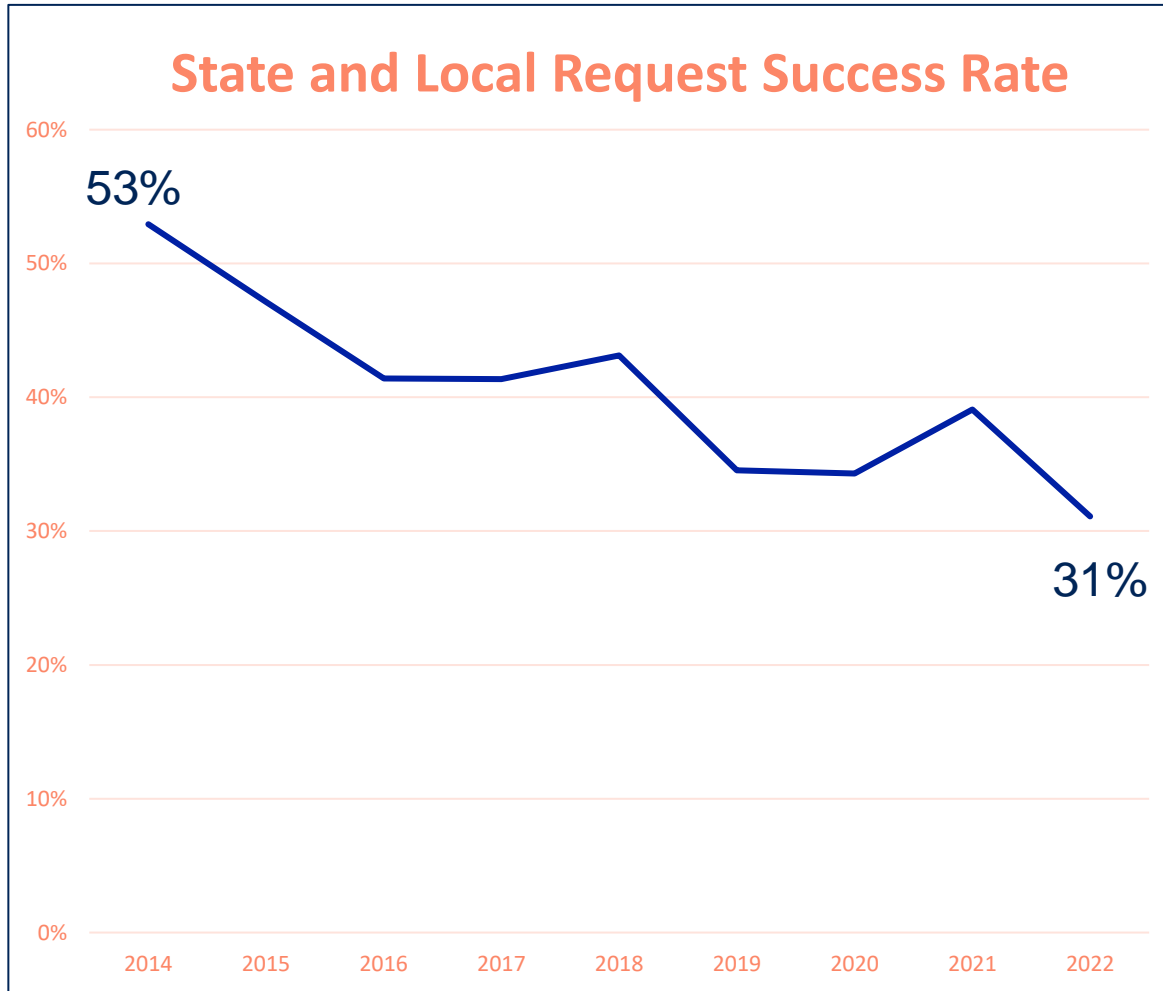
Cuillier, 2017
Knight Foundation



Delays, redaction, ghosting, fees

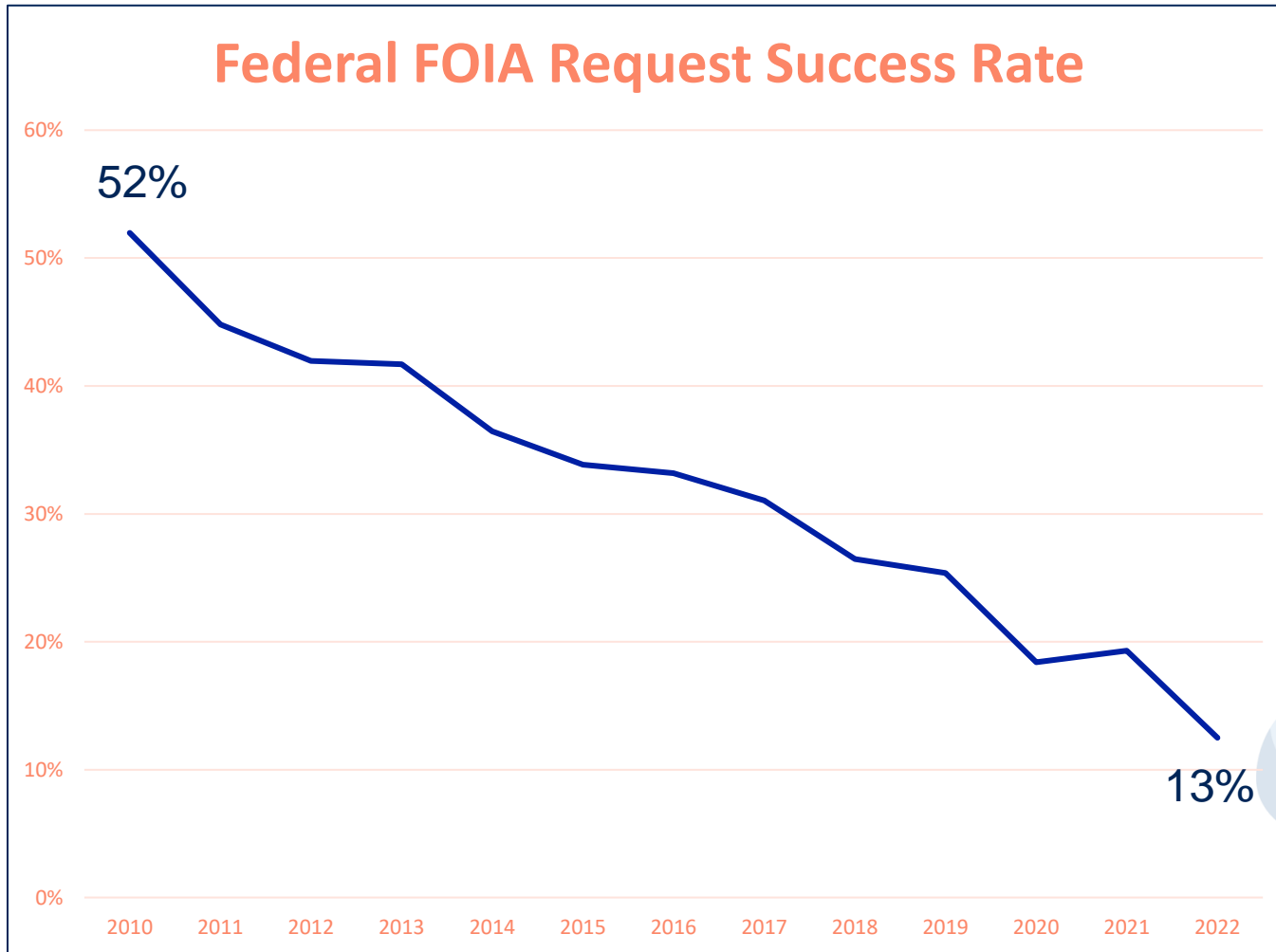
ISSUE	N	MEAN (1-4, higher is worse)	NOT AT ALL PROBLEMATIC	SOMEWHAT PROBLEMATIC	VERY PROBLEMATIC	EXTREMELY PROBLEMATIC
DELAYS	188	3.09	5.3% (10)	20.7% (39)	34.0% (64)	39.9% (75)
EXCESSIVE REDACTION	184	2.47	21.7% (40)	32.1% (59)	23.4% (43)	22.8% (42)
REQUESTS IGNORED	185	2.44	20.5% (38)	36.2% (67)	21.6% (40)	21.6% (40)
SEARCH / REDACTION FEES	184	2.09	34.8% (64)	36.4% (67)	13.6% (25)	15.2% (28)
COPY FEES	188	1.97	38.8% (73)	37.8% (71)	11.2% (21)	12.2% (23)

U.S. transparency on the decline, 2014-2022



Cuillier, 2023,
MuckRock data,
2014-2022

Even worse at the federal level



Cuillier, 2023,
MuckRock data,
2010-2022

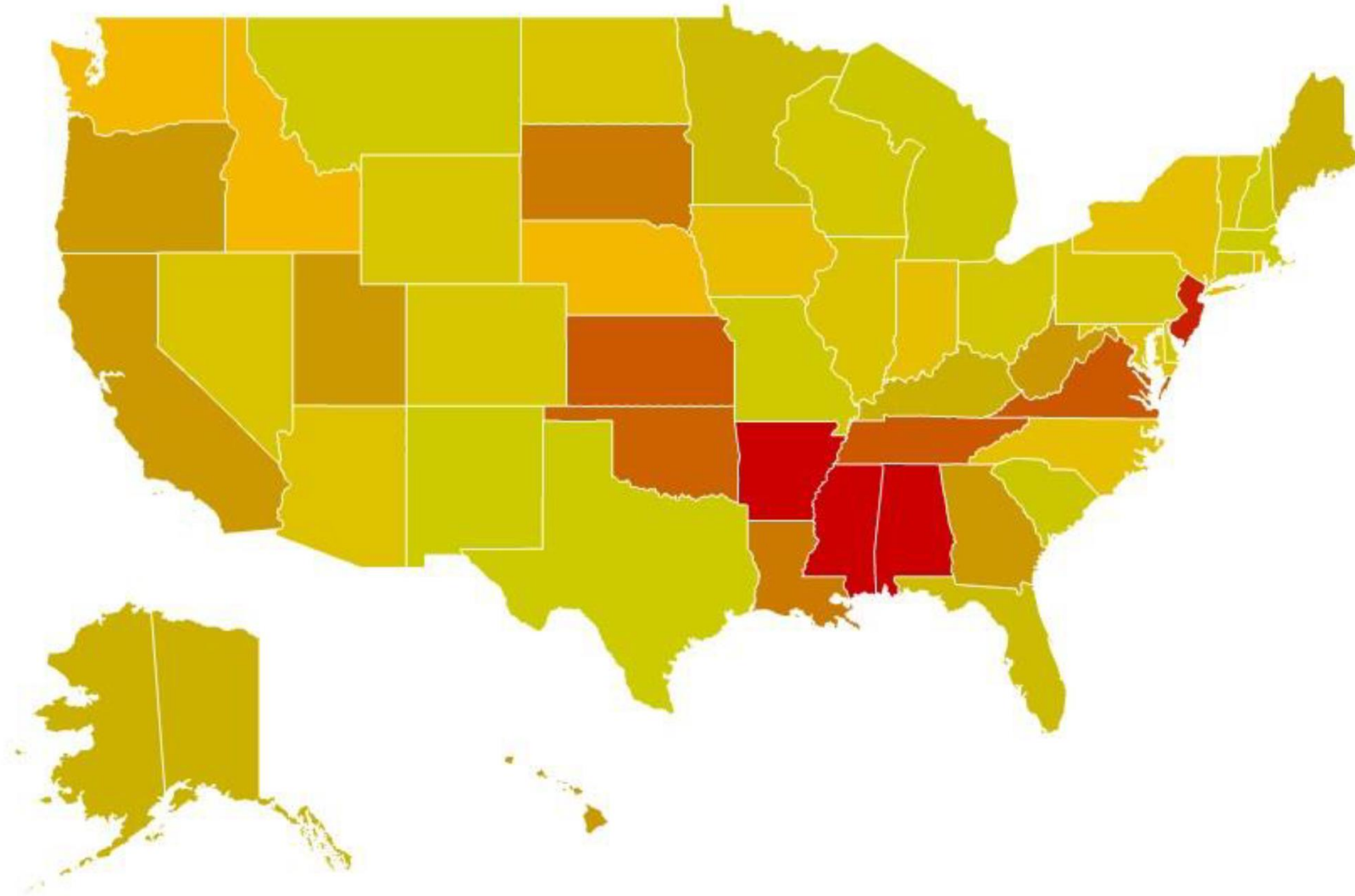
Transparency varies by state

Rank	State	Success Rate
1	Washington state	70%
2	Connecticut	65%
3	Illinois	63%
4	New Hampshire	63%
5	Wyoming	63%
6	Ohio	62%
7	Florida	61%
8	Idaho	60%
9	Rhode Island	59%
10	Arizona	59%
11	Massachusetts	59%
12	Nebraska	59%
13	Iowa	59%
14	Vermont	59%
15	California	59%
16	North Carolina	58%
17	Texas	57%

Rank	State	Success Rate
18	Wisconsin	56%
19	New Jersey	55%
20	Colorado	55%
21	New Mexico	54%
22	Nevada	54%
23	Georgia	53%
24	Michigan	53%
25	Virginia	53%
26	Maine	51%
27	Indiana	51%
28	Missouri	51%
29	North Dakota	50%
30	Maryland	47%
31	Oklahoma	46%
32	Kansas	45%
33	South Carolina	44%
34	Montana	43%

Rank	State	Success Rate
35	Utah	43%
36	Alaska	43%
37	Minnesota	42%
38	Kentucky	42%
39	Hawaii	41%
40	Oregon	41%
41	Louisiana	40%
42	Pennsylvania	39%
43	New York	39%
44	West Virginia	36%
45	Mississippi	33%
46	Tennessee	33%
47	Arkansas	31%
48	South Dakota	31%
49	Delaware	26%
50	Alabama	13%

Transparency varies by state



Exemptions: Death by a thousand cuts

- Legislature “exemptions” - North Carolina, Washington, Arizona
- “Executive privilege” - Nebraska
- Governor travel records – Florida and Arkansas
- University presidential papers & searches – Virginia, Ohio, etc.
- Public employee addresses
- Vexatious requests blowback – Iowa, Connecticut, etc.

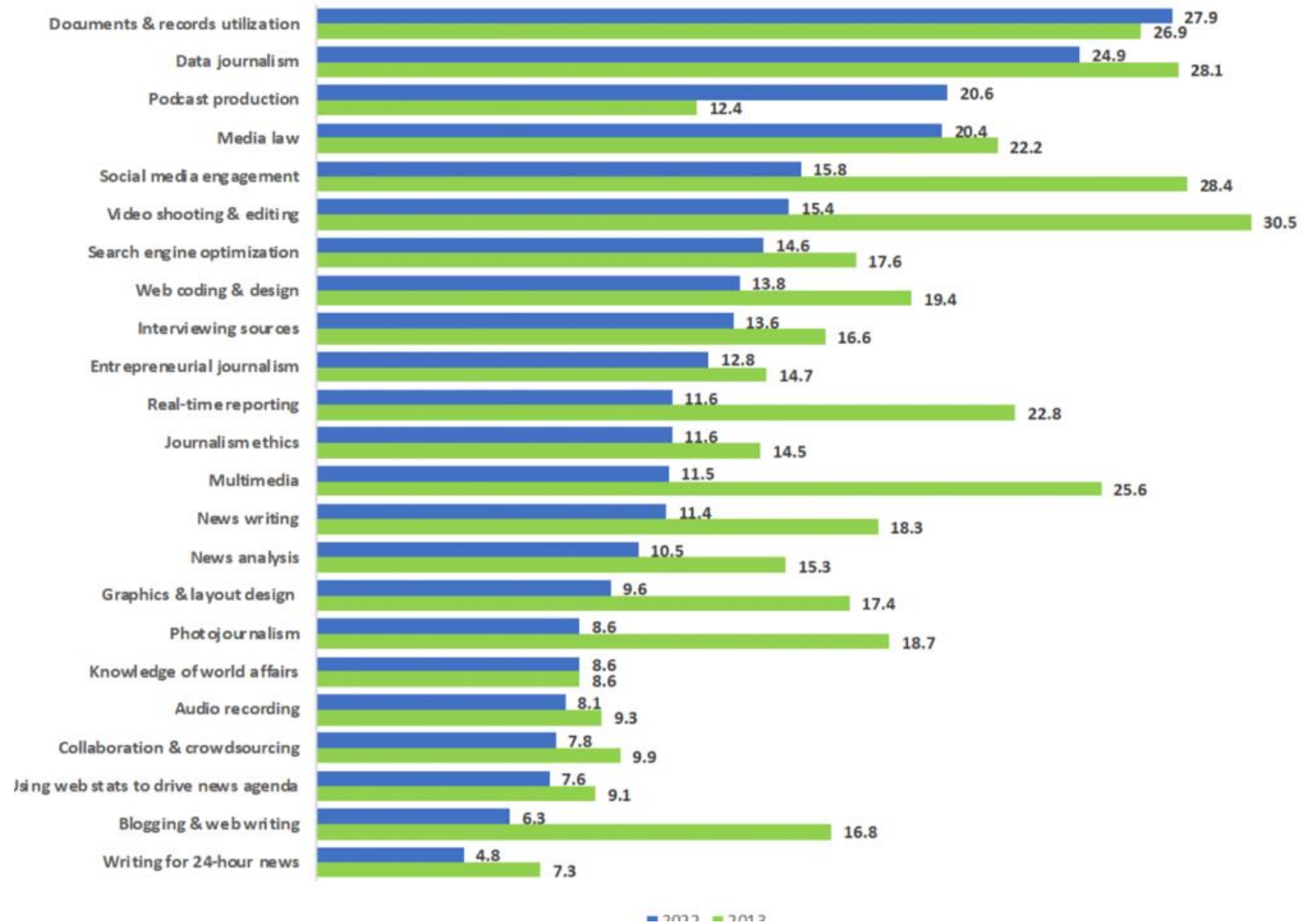
Access to public records is
'deteriorating terribly'



RICARDO MONTIEL AND CHRISTOPHER AMES VIA GETTY IMAGES

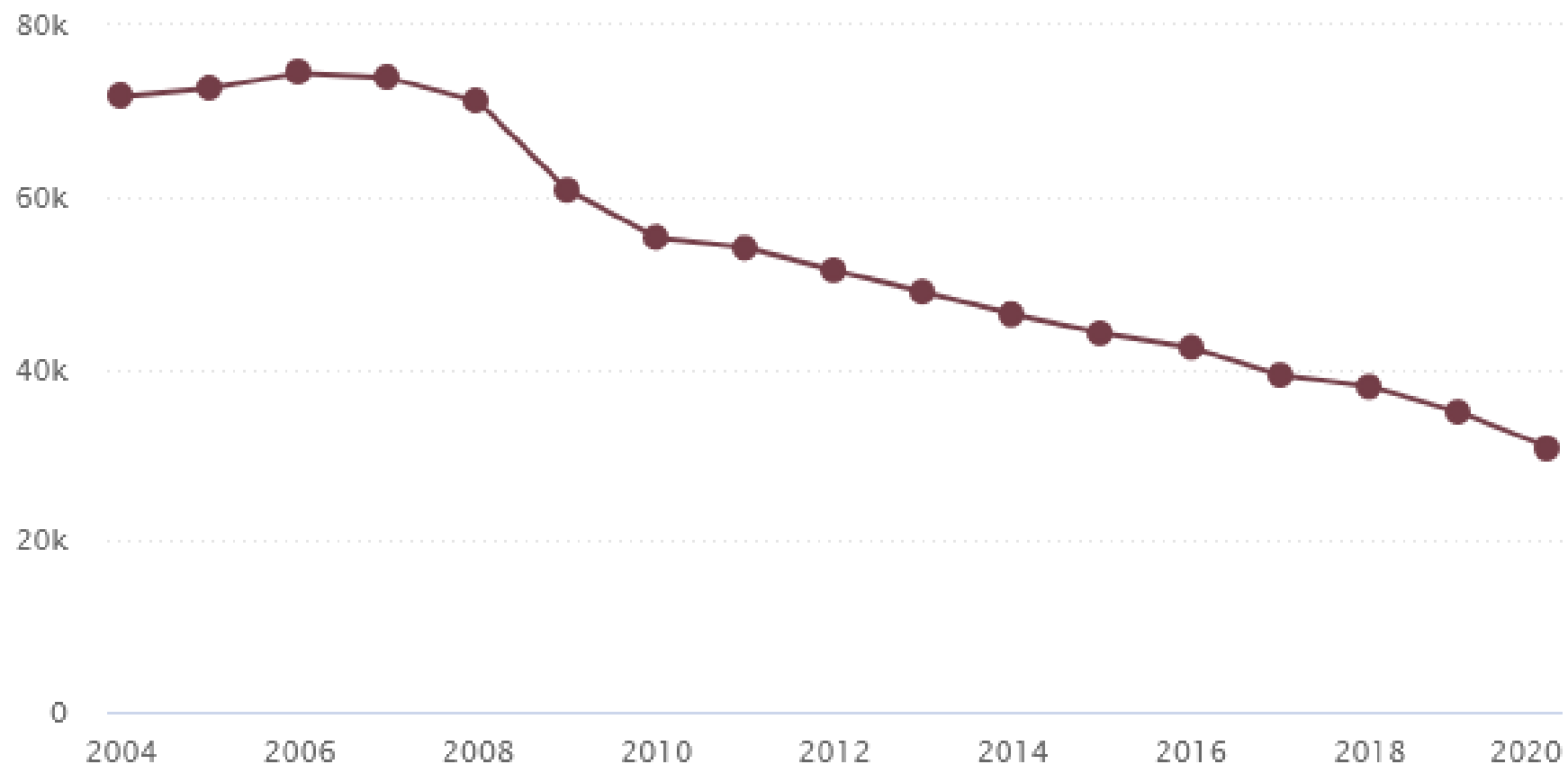
Journalists crave more FOI skills

Additional Training Sought by U.S. Journalists in 2013 and 2022 (in %)



Who will defend democracy?

Total number of newsroom employees in the newspaper sector



Pew Research Center, 2021

FOI groups struggle

National
Freedom
Of
Information
Coalition

Funding decline



Funding decline

OPEN
THE
GOVERNMENT

RIP-ish 2003-?



RIP 1922-2024



SUNLIGHT
FOUNDATION

RIP 2006-2020



The Sunshine in Government Initiative

Public oversight is the ultimate safeguard of democracy.

RIP 2006-2019



A time to work together: Sunlight Alliance

- Press/broadcast associations
- State FOI coalitions (38 nationwide)
- Law school clinics (31 nationwide)
- Campus statehouse news network
- Journalism nonprofits
- Commercial information providers
- Librarians, historians
- Good governance groups

The screenshot shows the homepage of the Free Expression Legal Network. The header includes the logo and navigation links: About, Resources, Jobs Board, Newsletter, Legal Clinic Fund, and FELN Policing Project. The main content area features a dark blue background with the headline "Protecting free speech, free press, and the free flow of information". Below this, there are three columns: "Potential Clients" (Contact our members to request representation on a potential matter), "Current Members" (Find resources for your work and connect with other members), and "Potential Members" (Join our ranks of those advancing free speech, free press and transparency). The footer includes a "News" section with two logos and a photo, and a "MEMBERS" section listing "ARIZONA ASU First Amendment Clinic".

Tougher laws and litigation needed

- Mandatory attorney fee shifting
- Stiff penalties
- Copy fee caps, remove search/redaction fees
- National trends/monitoring

NEWS > WASHINGTON

Tiny town of Mesa ordered to pay \$175,000 to former mayor over records dispute

Fri., June 15, 2018





SMART TRACKER

Catch the sneaks, avoid false positives

- Partnership with Big Local News, BillTrack50, and NFOIC
- Machine learning to reduce false positives and catch cloaked exemptions
- Spot national trends and model laws
- Email alerts with dropped bills (daily)
- Group channels for chains, member organizations
- Free to journalists and groups
- Start with FOI exemptions and expand from there (e.g., public notice)

The screenshot displays the BillTrack50 website. The main heading reads "The Search Engine for Your Legislative World". Below this, there are two paragraphs of text describing the service's capabilities and its value to users. The interface includes a search bar, a navigation menu, and a search results table.

BILL TRACK 50

The Search Engine for Your Legislative World

You research and track legislation, and it's hard, so very hard. BillTrack50 can help. We provide a simple search tool for state and federal legislation and regulations and assemble your results into a spreadsheet-style grid for you to view and enjoy.

You want to share your results with others. That's hard, too. BillTrack50 is here for you with lists, maps, tables, scorecards, even an app. We will help you keep everyone informed and make sure you look great doing it.

BillTrack50 offers real legislative bang for your policy buck. We offer free tools for citizens and affordable subscription services for professionals.

Bill Search

SEARCH BILLS SEARCH LEGISLATORS SEARCH COMM

State(s): Colorado

Contains All: Transportation

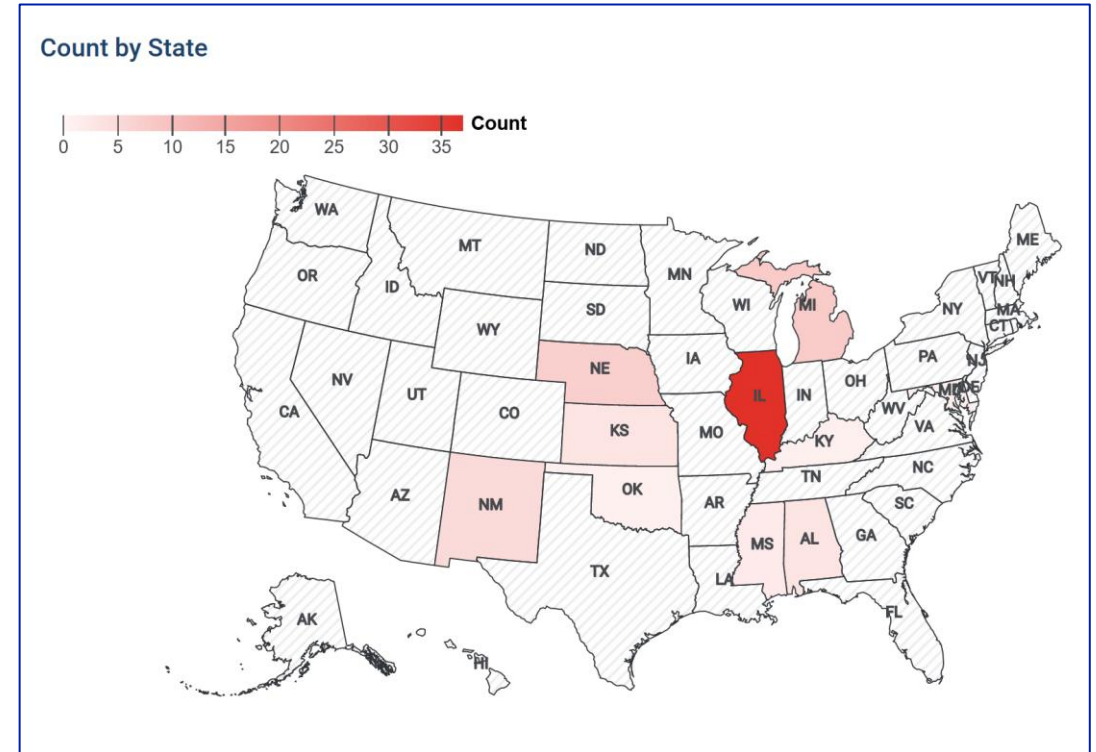
Search

Drag here to set row groups

State	Bill Number	Name
CO	HB1002	Fifth Year High School Concur
CO	HB1013	Microgrids For Community Res
CO	HB1026	Alternative Transportation Opt
CO	HB1028	Statewide Regulation Of Contr
CO	HB1035	Modernization Of The Older Co
CO	HB1043	Motorcycle And Autocycle Def

Gotcha! Bill found without keywords

- Keywords: “open meetings act, remote virtual teleconf* electronic”
- Got 72 hits nationwide (mapped)
- Found bill in Hawaii with no keywords
- Found FOI-related bill on capping copy fees (also no keywords)
- Experts to hone model to reduce false positives
- What would help press associations?



Brechner FOI Project: Here to help

- FOI resources (www.Brechner.org/FOI)
- FOI 911: 50-state comparisons
- National-level ‘context quotes’
- Research-based legislative testimony
- FOI training for journalists/conferences
- Public outreach and promotion
- Smart Tracker (welcome your help!)



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**THANK
YOU.**



UF | College of Journalism
and Communications
UNIVERSITY of FLORIDA