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From \$37 to \$339,000: Why the Price of Public Records Requests Varies So Much.

The laws about public records differ from one government to the next and are further complicated by some technologies, like police body cameras.

In 2015, the editor of a newspaper in Florida filed a public records request with the Broward County Sheriff's Office asking for the email of every employee during a five-month period to be searched for specific gay slurs.

In response, the *South Florida Gay News* received a \$339,000 bill.

The office said fulfilling the request would take four years and require hiring a dedicated staffer. The exorbitant charge set off a year-long legal battle that attracted the Associated Press and its lofty resources. To show how arbitrary the number was, the AP and *South Florida Gay News* filed a similar request to the sheriff's office in other Florida counties. They were quoted fees ranging from as little as \$37 to more than \$44,000.

Why then is there such a big range of costs for similar information?

Local and state laws regarding what constitutes the public's domain are about as uniform as a patchwork quilt. And technology — or a lack thereof — further contributes to the increasing cost variance between jurisdictions.

New IT software, for the governments that can afford it, has certainly sped up the time it takes to fulfill requests and thus lowered the price of information. But in some cases, technology can complicate matters. This issue is particularly heightened when privacy concerns require time-consuming redaction work.

Take the emerging issue of police body cameras. People caught on video in homes or hospitals have a reasonable expectation of privacy, so faces need to be blurred or redacted — a process that some say requires a painstaking number of manhours. The New York City Police Department made news last year for charging a local TV station \$36,000 for access to 190 hours of body camera footage.

Partially in an attempt to avoid the labor, some governments have limited the public's access to police videos. So far, jurisdictions in 21 states have passed laws regarding body camera footage — most of them restricting it. The state of South Carolina has exempted the footage from public records requests altogether.

After receiving an imposing public records request for footage, the Seattle Police Department decided to hold a hackathon. The winner created software that automated some of the redaction process and now the police department uploads redacted body camera clips to YouTube for anyone to see.

Meanwhile, watchdog groups and media organizations that push for more transparency argue that

redaction technology has evolved in recent years. Companies like MotionDSP are retooling their software to work faster, while companies like PRI Management will redact videos for agencies either for a per-video or annual fee.

Body cameras are a new technology, so inconsistency is understandable. Emails, on the other hand, aren't so new and yet the cost of fulfilling a records request for them still varies greatly.

According to Frederic Smalkin Jr., a Baltimore City Law Department attorney, new software has easily cut down on the e-discovery process in his agency by half. Meanwhile, Andy Wilson, CEO of the data management company Logikcull, said he regularly speaks with governments that are still printing out emails and redacting by hand.

As new types of electronic records pop up — like text messages and Snapchats — governments will have to consider whether they apply to the public domain. The landscape will likely continue to be inconsistent from one jurisdiction to the next. But in the meantime, Adam Marshall of the Reporters Committee for Freedom of the Press, thinks governments could be doing better.

“The tools already exist for these types of records requests to be complied with,” he said. “The agencies need to be thinking about ensuring compliance with existing law when they adopt new technology.”

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