



Journalist Fellowship Paper

Unlocking the investigative potential of Freedom of Information Acts

By **Luiz Fernando Toledo**

June 2021

Trinity Term

Sponsor: Facebook, Trust in News Initiative

Contents

| | |
|---|----|
| Acknowledgments | 3 |
| Introduction | 4 |
| What is Freedom of Information? | 6 |
| Who uses FOI? | 8 |
| What happens when journalists use FOI? | 9 |
| The Abraji survey | 10 |
| Results | 10 |
| How to use FOI: Advice from experts | 13 |
| Keep your requests organised centrally and share proactively | 13 |
| Keep track of secret documents that are due to be declassified | 15 |
| Use the Judiciary as an ally | 17 |
| In the absence of public data, you may need to collect your own | 19 |
| Share data and documents received | 19 |
| Make monitoring a lack of transparency a journalistic routine | 21 |
| It's worth hiring specialists when you can | 24 |
| Conclusion | 26 |

Acknowledgments

This project was completed for the News Trust Fellowship at the Reuters Institute for the Study of Journalism (RISJ), sponsored by Facebook, and had support of the Brazilian Association of Investigative Journalism (Abraji). Special thanks to Maria Esperidião, a former RISJ fellow who organised the access-to-information research among Brazilian journalists with me.

Introduction

When you first start working at a newspaper in Brazil, they call you a *foca* (“seal”). Seals in the newsroom, like their animal equivalent, don’t get much love: no assigned beat, no contacts, no favour... forced to perform silly tricks for fish.

But while I was still a seal cub, with no sources of my own to speak of, I decided to go and catch my own fish by using Freedom of Information (FOI) requests. I landed a whale: [scooping my colleagues](#) with a story about the Secretaria Estadual de Educação de São Paulo (São Paulo State Education Secretariat) who claimed to have “scientific reasons” to close 100 schools in São Paulo.

Ever since then, I have been passionate about helping newsrooms and individual journalists to do the same with their own FOI requests – also known as FOIA, Right to Information Act, RTI, Access to Information and various [other names](#).¹ This paper is for anyone who is interested in using FOI to find important news stories and make governments more transparent. I explore the topic from a Brazilian perspective here, but the findings can be applied to any country with a similar law.

While FOI is often upheld by journalists and scholars as a tool to improve democracy and support investigative journalism, newsrooms struggle to make the law work in practice for many different reasons: undue secrecy, abusive delay in responses, lack of investments in investigative journalism, and even lack of interest from journalists, who prefer to use other sources of information because of the difficulties presented when using these laws.

¹ Right to Information Rating. 2021. Right to Information Rating. [online] Available at: <<https://www.rti-rating.org/country-data/>> [Accessed 3 June 2021].

Experts say having a law for access to public information is important to enhance public transparency, but it's only the starting point in the battle against state secrecy. How can journalists benefit from such laws and why should the news media care about it?

This paper is divided into four parts: the first chapter gives a brief summary of what FOI is and some practical examples of stories that have been published with it. The second chapter explores the data from a national survey about how journalists are using the law. The survey was conducted with the help of Maria Esperidião at the Brazilian Association of Investigative Journalism (Abraji), an association where I am also a director.

The third chapter is a series of interviews with experienced Brazilian journalists from different fields to see their views on FOI and what journalists can do to improve its use. The questions that I asked them were based on the Abraji survey results.

The final chapter is a small guide on how to start a FOI section in your newsroom – a combination of guidance obtained during the interviews and my own previous experiences.

What is Freedom of Information?

There has been a significant increase in the number of countries with access-to-information laws in place since the 1990s. Canadian researcher Gregory Michener, now a professor of Public Administration at the Getulio Vargas Foundation in Brazil (FGV-Ebape), recalls that there were only a dozen examples at the end of the 20th century. By 2011 – the year he wrote [a paper](#) to question whether such legislation was working – there were already 85.²

Today, according to the Right to Information Rating, [there are more than 120 countries](#) with a law of this type.³ There are many different names for information laws, like Freedom of Information Act or FOIA (United States), Right to Information or RTI (India), Access to Information Law or LAI (Brazil) or simply Freedom of Information or FOI (UK). In this paper, we will use the term “FOI” from here on.

In his 2011 article, Michener notes that access to information laws, and laws guaranteeing open government data, are innovations that can serve an important role in democracies and should be considered part of the Information Revolution. He reflects on how international organisations such as the United Nations and World Bank had pinned their hopes on transparency as a means of controlling corruption and promoting good governance. FOI, they believed, would “make governments more professional, predictable, and accountable, and citizens more proactive in public life”.

The laws were designed to reduce the gap that exists between citizens and the State by guaranteeing the right to ask and access public data and documents in order to

² Michener, G., 2011. FOI Laws Around the World. *Journal of Democracy*, 22(2), pp.145-159.

³ Right to Information Rating. 2021. Right to Information Rating. [online] Available at: <<https://www.rti-rating.org/country-data/>> [Accessed 3 June 2021].

track what is done with public resources, how public policies are produced, and monitor who implements them.

FOI laws codify the rules for the provision of public information: whether these be deadlines for responses, digitization of documents, storage of information in an open format, and even the punishments when public servants and bodies demonstrate a lack of transparency.

For the most part, much of this is true: a study by Adriana S. Cordis of Winthrop University and Patrick L. Warren of Clemson University found that the introduction of FOI in the U.S. led to a 20% reduction in corruption convictions there.⁴

FOIs can be used by anyone, whether you are a citizen interested in overseeing your child's school or a researcher interested in public policy. Looking at these definitions, the connection with journalism's mission as a watchdog of authorities seems obvious.

But are these laws working, in practice, for journalism? Journalist José Roberto de Toledo, one of the founders of Abraji, once predicted: "If journalists are not looking for stories and provoking citizens to seek information, this law could become a dead letter, just a piece of paper." He was speaking in an [interview](#) given in 2012, a few months after the Brazilian law was passed.⁵ "If no one provokes the public bodies, the law will not be used," he said.

⁴ Cordis, A. and Warren, P., 2014. Sunshine as disinfectant: The effect of state Freedom of Information Act laws on public corruption. *Journal of Public Economics*, 115, pp.18-36.

⁵ Portal da Imprensa. 2012. Roberto de Toledo diz que cidadãos precisam saber que a lei de acesso à informação existe. [online] Available at: <<https://portalimprensa.com.br/noticias/brasil/47442/oficinas/oficinas/oficinas.asp>> [Accessed 3 June 2021].

Who uses FOI?

Surveys show that the use of FOIs is frequent, but not necessarily by journalists. In the U.S., a [study](#) carried out by Max Galka in 2017 found that journalists accounted for only 7.6% of the total requests made to the federal government.⁶ “The biggest users of [FOI] are commercial businesses. Including law firms, commercial businesses account for 55.7% of all requests in this sample,” he said. “Private individuals are the second biggest [FOI] requester category with 20.1%.”

Another survey carried out by Francisco Eduardo Gonçalves with data from the federal government in Brazil [reached the conclusion](#) that "the use of FOI is still uncommon among journalists, with 64.72% of users in this professional category having submitted only one request in 2012 and 2018".⁷ Those who identified themselves as journalists accounted for only 2% of the total requests for information made to the federal government in the same time period.

In India, the media “has not done enough to explore the potential of the RTI Act” in comparison to the media in other countries, according to Shyamlal Yadav, author of [Journalism through RTI: Information Investigation Impact](#).⁸ Yadav notes that there is resistance among journalists to using the RTI, stating that “several journalists have preferred approaching activists to file an RTI for them” and suggesting that “a greater number of journalists need to accept the RTI Act as a crucial tool of journalistic investigation”.

After checking FOI application data from local authorities in Birmingham, Manchester and Leicester, Information Governance Manager Lynn Wyeth found that only 13.9% of applications were filed by journalists. “For many council FOI officers,

⁶ Galka, M., 2017. Who uses FOIA?. [online] FOIA Mapper. Available at: <<https://foiamapper.com/who-uses-foia/>> [Accessed 3 June 2021].

⁷ Gonçalves, F., 2020. A Lei de Acesso à Informação como ferramenta de apuração : uma análise do uso da LAI por jornalistas. Repositório UNB.

⁸ Yadav, S., 2017. Journalism through RTI. 1st ed. SAGE Publications, Inc.

it can feel like a disproportionate amount of requests are submitted by the media. The reality is sometimes quite different to this perception when statistics are analysed. Journalists can account for a relatively small proportion of requests, especially where a council has a good working relationship with the media,” she tells the authors of the book [FOI 10 Years On: Freedom Fighting or Lazy Journalism?](#), written by Tom Felle and John Mair.⁹

What happens when journalists use FOI?

While journalists are not the main users of this law, the impact of reports produced when they do use it is remarkable.

In the UK, investigative journalism team Guy Basnett and Paul McNamara have used FOI to [reveal](#) how hospitals in the UK were incinerating miscarried and aborted fetuses as clinical waste, sometimes in waste-to-energy power plants, and how police officers used 50,000-volt Taser stun guns on [children](#), including a mentally ill 12-year-old girl.

In the U.S., of the articles deemed worthy of nomination in the annual Investigative Reports and Editors Awards (IRE) between 1979 and 2010, 14% used a FOI request.¹⁰

And in Brazil, one of the most impactful FOI stories [revealed](#) how many people died after failing to receive organ transplants, and how often the aircraft that were supposed to transport these organs were used by politicians for travel for other purposes.¹¹

⁹ Felle, T. and Mair, J., 2021. FOI 10 Years on: Freedom Fighting Or Lazy Journalism?. 1st ed. Abramis Academic Publishing.

¹⁰ Pozen, D. and Schudson, M., 2018. Troubling transparency. 1st ed. Columbia University Press.

¹¹ Sassine, V., 2016. Sistema de transplantes no Brasil sofre com falta de transporte aéreo. [online] O Globo. Available at: <<https://oglobo.globo.com/brasil/sistema-de-transplantes-no-brasil-sofre-com-falta-de-transporte-aereo-19444859>> [Accessed 3 June 2021].

The Abraji survey

Two decades ago, Abraji helped create a national movement calling for the creation of FOI in Brazil.¹² The resulting law is called Lei de Acesso à Informação (LAI) in Brazil. This year, Abraji [published](#) its fourth biannual report on the journalistic use of FOI, including the results of a nationwide newsroom survey.¹³

The objective of this survey was to identify who does and doesn't use FOI, what the main challenges of using the law are for journalists, and the differences between public bodies and powers in law enforcement.¹⁴

There were some differences in the 2021 edition of this report: in previous years, the survey was sent to journalists via social media and email. This year, we proactively partnered with newsrooms to respond to the questionnaire, which took the number of responses from around 80 in previous years to 384 this year. In return for participation, we offered [a course](#) about how to use FOI to generate new stories.

Results

One of the main results of the survey was that almost half (48%) of respondents had never used FOI for journalistic reporting in Brazil.

¹² As mentioned in the introduction, I am one of the directors of the Brazilian Association of Investigative Journalism (Abraji).

¹³ Toledo, L., 2021. Uso da Lei de Acesso à Informação por jornalistas - quarta edição. [online] Associação Brasileira de Jornalismo Investigativo (Abraji). Available at: <https://abraji-bucket-001.s3.sa-east-1.amazonaws.com/uploads/publication_info/details_file/a80318f3-2729-4686-8c52-287cdf85e36/relatorio_abraji_-_v7.pdf> [Accessed 3 June 2021].

¹⁴ The 2021 report was launched by Abraji at an international webinar, with the support of the US and UK embassies in Brazil. It included conversations between journalists from Brazil, USA, UK and India, who shared experiences of using access to information laws in their countries. The full event can be watched on the Abraji YouTube channel.

The main reasons selected for not using FOI were: "I find it difficult to register requests" (14.75%), "I prefer to ask the public relations department for information" (18.03%), and "I never needed to use it" (59.02%). Other reasons accounted for 22.4% of the responses.

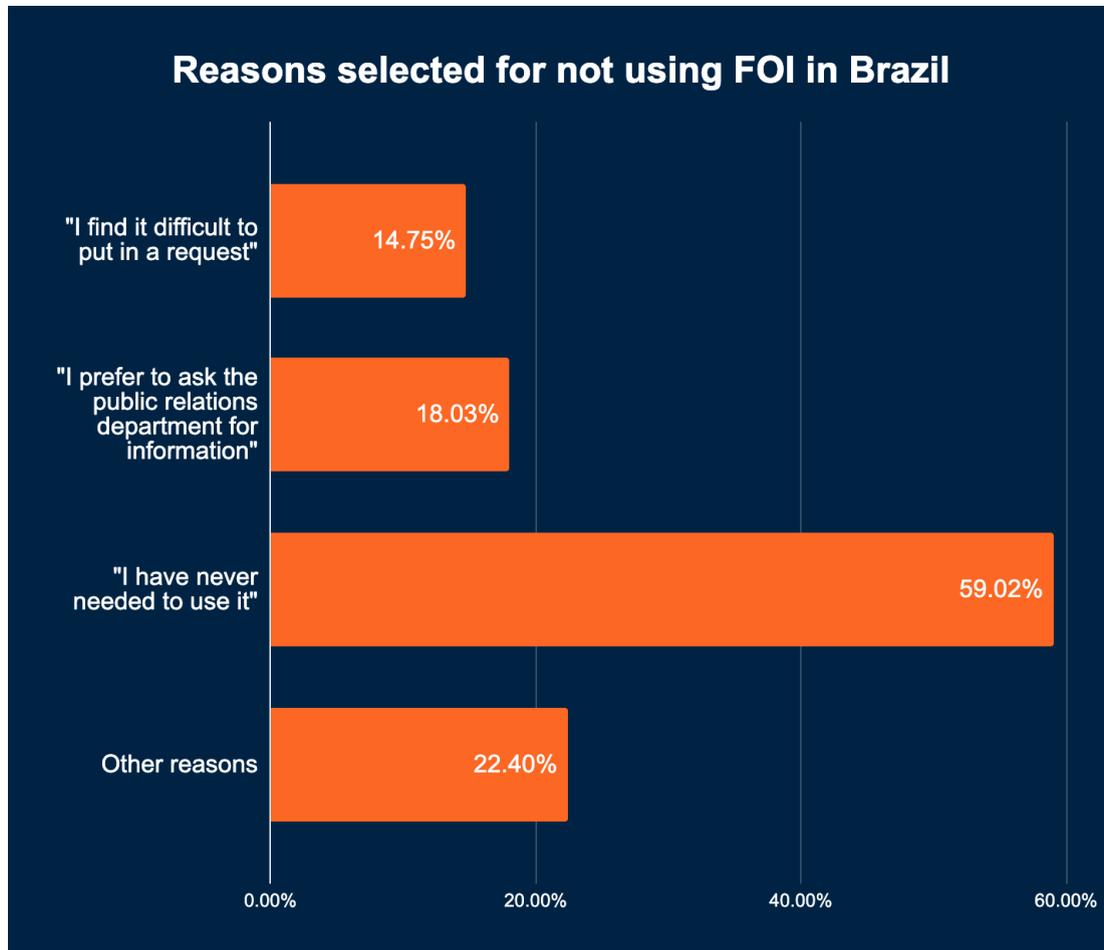


Table 1: Reasons given for not using FOI

Journalists working in television were the least likely to make use of FOI (only 37.66% of those polled said they use it), while digital media journalists were the most likely (70.97% use FOI).

Among those who used the law, these were the most common problems encountered:

- information provided in an inappropriate format for data analysis (such as PDF instead of CSV or XLS)

- alleged secrecy (withholding information)
- information provided is different to what was requested
- the agency cannot answer request as it "requires additional data analysis"
- slow responses

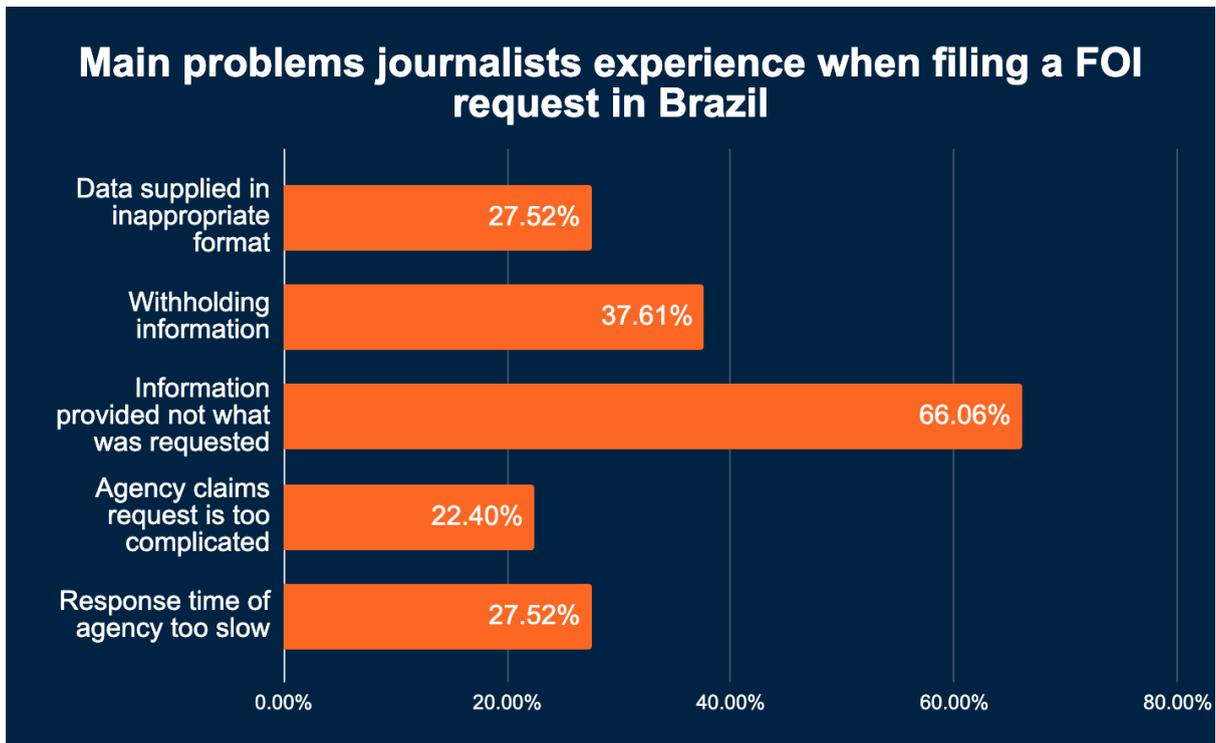


Table 2: Issues journalists face when filing a FOI

How to use FOI: Advice from experts

As the Abraji research data shows, not every journalist uses (or needs to use) FOI. The practical application of the law presents some difficulties, and many journalists prefer to find information in other ways. But there are professionals who have adopted FOI as a journalistic tool – especially in investigative journalism – and they prove that, despite the challenges, FOI still holds a lot of potential for those willing to try.

I interviewed 12 journalists who frequently use FOI, as well as a lawyer, looking for strategies to help other professionals make effective use of the laws. Although they are all from Brazil, their suggestions are relevant in other contexts too.

Below is a compilation of advice from Rubens Valente (*Portal UOL*), Francisco Leali (*Jornal O Globo*), Juliana Castro (*Revista Veja*), Cecília Olliveira (*El País and Fogo Cruzado*), Cléber Cândido and Ana Carolina Moreno (TV Globo São Paulo), Naira Hofmeister (*Matinal Jornalismo*), Juan Torres, Vitor Villar, Clarissa Pacheco, Fernanda Santana and Wladimir Lima (*Correio da Bahia*) and the lawyer Bruno Morassutti (*Agência Fiquem Sabendo*).

Keep your requests organised centrally and share proactively

Television newsrooms were the least likely to make use of FOI, according to the Abraji survey. Many professionals said TV's focus was on breaking news and that there was less time for investigative reporting and, as a result, less willingness to make slow-to-yield FOI requests. But at São Paulo's TV Globo, the most popular channel in Brazil's most populous region, journalists decided to work differently. They noted a growing lack of quality public data and an over-reliance on press offices to produce stories a few years ago. “We saw that, with data, there would be an

opportunity to [...] not disclose only what the authorities would like to disclose,” said the head producer Cleber Cândido.

Globo created the position of a Data Producer in 2016: a professional journalist responsible for finding potential stories in spreadsheets and open data on government websites. That role included registering requests for information to public bodies and assisting teams in the use of this data. Four journalists have held the position since it was created. (I was the third.)¹⁵

The position itself even became news: a [leaked audio recording](#) of a high-ranking official at São Paulo City Hall captured him calling one of the broadcaster's producers, Roberta Giacomoni, “the most boring” because she filed the most FOI requests.¹⁶ The public official was fired following coverage of his remarks.

Administração. Em áudio da Comissão Municipal de Acesso à Informação obtido pelo 'Estado', Lucas Tavares, nº 2 da secretaria de Comunicação, diz que vai 'botar pra dificultar' e que faz ranking mental de autores dos pedidos. Prefeitura nega irregularidades

Gestão Doria dificulta acesso a dados e viola Lei de Acesso à Informação

Luís Fernando Toledo

Gravação oficial de reunião da Comissão Municipal de Acesso à Informação (Cmai) obtida pelo Estado mostra que a gestão João Doria (PSDB) viola a Lei de Acesso à Informação (LAI). Em áudio de uma hora, o chefe de gabinete Lucas Tavares, número 2 da Secretaria Especial de Comunicação, age para dificultar o acesso de jornalistas a dados solicitados. Ele afirma que, dentro do que for "formal elegante", vai "botar pra dificultar" e que, se a resposta demorar a chegar, o jornalista vai "desistir da matéria". Para especialistas, a prática pode constituir improbidade administrativa e prevaricação. A Prefeitura nega irregularidades.

Em vigor no País desde 2012, a lei foi criada para garantir o acesso da população a informações de órgãos públicos. O pedido pode ser feito por qualquer cidadão.

histórica possível segundo dados divulgados pela Prefeitura), ante o mesmo período de 2016. Já o número de solicitações que tiveram prazo prorrogado aumentou de 295 (13%), em 2016, para 521 (19%). A Prefeitura aponta que os indeferimentos (informação não fornecida com justificativa) vêm caindo desde 2013 e negaria ao Estado uma análise "qualitativa".

Ao fazê-la, a reportagem encontrou pedidos sem retorno por mais de 60 dias e respostas genéricas, que mandam o solicitante buscar os dados no Diário Oficial da Cidade sem informar data ou página. A lei prevê como punições por seu descumprimento advertência, multa e rescisão do vínculo com o poder público, entre outros.

Nu gravação, Tavares demonstra saber quem são os autores dos pedidos analisados no reunião. "Ela (Roberta Giacomoni, jornalista da TV Globo) hehehe, já me conhece". Toledo também ouviu no áudio

TRANSPARÊNCIA

• Legislação federal garante a qualquer cidadão o acesso a informações públicas

Como funciona a lei

- 1 Pedidos são registrados por qualquer cidadão no sistema
- 2 Para fazer qualquer pedido, é preciso informar:
 - Nome completo
 - CPF / RG
 - E-mail
- 3 Para fazer uma solicitação de informação, basta escolher o órgão (secretarias, autarquias, prefeituras regionais, etc) e escrever o pedido
- 4 O prazo legal para respostas é de 20 dias, prorrogáveis (com justificativa) por mais 10
 - Se o dado já estiver disponível, a resposta deve ser imediata, segundo a lei
 - Se a resposta for insatisfatória, é possível recorrer à 1ª instância com mais 5 dias de espera

HA POSSIBILIDADE DE FAZER SOLICITAÇÕES DE FORMA RESCINDIDA, NOS ÓRGÃOS, MAS O MAIS COMUM É PELO SITE <http://esic.prefeitura.sp.gov.br>

ARREBAS DA OBRIGAÇÃO DE FORNECER DADOS PESSOAIS A RESPOSTA DEVE SER IGUAL PARA TODOS

O CANAL NÃO DEVE SER USADO PARA FAZER RECLAMAÇÕES OU DENÚNCIAS. MAS ÚNICA E EXCLUSIVAMENTE PARA PEDIR INFORMAÇÕES E DADOS JÁ EXISTENTES NO PODER PÚBLICO

Nº 2 de secretaria defende fatiar e atrasar respostas

O áudio obtido pelo Estado mostra que, para dificultar o acesso a dados públicos, a Prefeitura diz não ser possível reunir informações de vários órgãos regionais em uma única resposta. Em março, a própria gestão havia encaminhado ao Estado informações semelhantes, de modo centralizado. Chefe de gabinete da Comunicação, Lucas Tavares também determina que um repórter busque pessoalmente dados que deveriam estar na internet.

No reunião, é analisado pedido da produtora Roberta Giacomoni, da TV Globo, que havia solicitado à Secretaria Municipal das Desenvolvimento Econômico (SME).

My own report in Estadão newspaper about São Paulo's city hall's refusal to cooperate with journalists

¹⁵ Disclosure: I worked on Cândido's team between January and November 2019

¹⁶ Toledo, L., 2017. Gestão Doria age para dificultar a Lei de Acesso à Informação. [online] Estadão. Available at:

<<https://sao-paulo.estadao.com.br/noticias/geral,gestao-doria-dificulta-acesso-a-dados-e-viola-lei-de-acesso-a-informacao,70002075921>> [Accessed 3 June 2021].

Ana Carolina Moreno, who currently works in the role of Data Producer at Globo, makes use of both FOI and the government's open data repositories. She entered the role shortly before the start of the new coronavirus pandemic, when public health data became a priority. "Since I deal with data on a daily basis, I know how to analyse them and I can identify patterns and advise the teams so that we have a plan for the coverage," she explained.

One of the key strategies at Globo São Paulo is to automate the extraction of certain data to facilitate its use by reporters and editors. "We try to take the data that is already public and deliver it in a simplified way for other producers, editors and reporters to create their own reports," Moreno said. The submission of FOI requests happens only in cases where the information cannot be found online.

To ensure everyone on the team has access to requests for information that have already been made, TV Globo São Paulo maintains a spreadsheet with basic data, such as protocol number, request date, public body questions and answers. "We share to avoid repeated orders. It's a strategy I recommend for any team, because it helps to organise," he says.

Keep track of secret documents that are due to be declassified

Rubens Valente, a journalist at Brazil's largest news portal *UOL*, discovered in 2012 that Brazil had exported bombs that were banned in a convention signed by more than 100 countries. The documents, classified for a decade, [revealed](#) that Brazil sold weapons to Zimbabwean dictator Robert Mugabe. More than 1,500 pages delivered by the federal government were analysed to reveal 204 guns and ammunition export operations, totaling US\$ 315 million, from January 2001 to May 2002.¹⁷

¹⁷ Valente, R., 2012. Documentos inéditos obtidos pela Folha mostram exportação de modelo de fragmentação, vetadas em convenção por mais de 100 países. [online] Folha de São Paulo. Available at:

To get to these documents, Valente made use of a provision within the law that says documents produced by the State cannot remain confidential indefinitely. In the case of sensitive information related to national security, for example, the government must establish a period of secrecy, which cannot be more than 25 years. This means, therefore, that these documents need to be made available after the expiry of the confidentiality period.

Valente simply requested access to secret information with an expired confidentiality period. In Brazil, public bodies must publish an annual list on their websites of documents that have lost confidentiality (including a summary of content).

It's not always straightforward, and Valente said governments were using increasingly sophisticated ways to hide documents. One example he gave was the classification of information as a "preparatory document", which is when the public administration deems the required information cannot be disclosed without causing harm to an ongoing public policy matter, in which a decision has not yet been taken.

"Everything [is labelled] a preparatory document, even documents of public officials meetings and reports produced by the bodies," he said. In these cases, it is necessary to demonstrate to the public agency that the document is not linked to a decision to be taken. Another recurring reason given for denying information is the presence of personal information in the document. Under this argument, the law allows information to be hidden for up to 100 years. The strategy to avoid this type of denial, Valente said, is to say that personal information can be redacted (such as a person's address, for example), but not the entire report in which it is listed.

<<https://www1.folha.uol.com.br/fsp/mundo/55939-brasil-vendeu-bombas-condenadas-a-ditador-do-zimbabue.shtml>> [Accessed 3 June 2021].

Use the Judiciary as an ally

When all attempts to access information have been exhausted, it is possible to resort to the court system. This practice is already common in other countries like the U.S., but it has yet to be consolidated in Brazilian newsrooms. “[The courts] can put some broader decisions on track, determining what type of document should be considered personal, confidential or preparatory”, said journalist Rubens Valente.

“Over time, many exceptions to the right to access information were created. In order to maintain the integrity of the law, judicial activism may be necessary. Newspapers have the structure for this,” says journalist and editor Francisco Leali, from the newspaper *O Globo*.

It was through the use of the courts, for example, that newspaper *Estadão* [gained access to the Covid-19 exam](#) carried out by President Jair Bolsonaro.¹⁸ The government had refused to provide such a document on the grounds that the information was personal. The newspaper, on the other hand, understood that there was a public interest case, as Bolsonaro had continued to hold large rallies, even during the worst moments of the new coronavirus pandemic in Brazil.

When it comes to judicial activism, it’s not just about filing lawsuits against the public body – there are other alternatives. Attorney Bruno Morassutti, co-founder of the [Agência Fiquem Sabendo](#), is a specialist in the Access to Information Law in Brazil. He makes regular complaints about non-compliance with the law to various control bodies, such as the Public Prosecutor's Office and the Courts of Accounts.¹⁹

¹⁸ Rodrigues, L. and Moraes Moura, R., 2021. ‘Estadão’ recorre ao STF para obrigar Bolsonaro a divulgar exame de covid-19. [online] Estadão. Available at: <<https://politica.estadao.com.br/noticias/geral,estadao-recorre-ao-stf-para-obrigar-bolsonaro-a-divulgar-exame-de-covid-19,70003299596>> [Accessed 3 June 2021].

¹⁹ Disclosure: I am also a cofounder of Fiquem Sabendo.

"The more simple and clearer the non-compliance with the law – such as a delay in the response – the easier it is to file a complaint, since it is easy to prove non-compliance," he said.

Morassutti was responsible for filing a complaint to the Federal Court of Accounts (TCU) that forced the government of President Jair Bolsonaro to open data about the remuneration of pensioners throughout Brazil. The resulting information was published in most major news outlets in Brazil and was a [finalist for the Sigma Awards 2021](#), the world's best known data journalism award.

The screenshot shows the Sigma Awards website interface. At the top, there is a navigation bar with 'SIGMA AWARDS' logo and links for 'Home', 'Projects', 'Jury + Pre-jury', and 'Rules'. Below the navigation bar, a yellow box contains the text '2021 Shortlist'. The main content area features a large title '120 years of darkness: shedding light on government pensions in Brazil'. To the right of the title is a data visualization dashboard titled 'Ratio-x pensionistas - FS' with four charts: a bar chart of 'Pensionistas, Contingem. Aproximada por Ano' (2014-2020), a bar chart of 'Pensionistas, Contingem. Aproximada por Nivel Escolar' (Elementar, Secundaria, Superior), a bar chart of 'Pensionistas, Contingem. Aproximada por Tempo de Contribuicao' (0, 15, 30, 45, 60, 75, 90, 105, 120), and a bar chart of 'Pensionistas, Contingem. Aproximada por Tempo de Contribuicao' (0, 15, 30, 45, 60, 75, 90, 105, 120). Below the title, there are four metadata fields: 'Country/area: Brazil', 'Organisation: Fiquem Sabendo', 'Organisation size: Small', and 'Publication date: 13 Jan 2020'.

Fiquem Sabendo was shortlisted in Sigma Awards in 2021

There are several legal strategies to guarantee access to public data, and multidisciplinary dialogue between journalists, lawyers and accounting specialists may be essential in defining the one that best fits each case. “An ideal team would have a person with administrative law practice, a journalist who knows what is in the public interest, and someone who knows the public budget well,” he says.

In the absence of public data, you may need to collect your own

Journalist Cecília Olliveira noticed that no public agencies were monitoring the shootings that frequently take place in different regions of Rio de Janeiro, a state hit hard by armed conflicts between police, drug dealers and militias.

She was looking for data at the end of 2015 on injuries from stray bullets and the incidence of shootings in the city of Rio, but she couldn't find any. Her query was first triggered after seeing a report published in a community newspaper, *Voz das Comunidade*, which stated that Complexo do Alemão (a cluster of favelas in the northern zone of Rio de Janeiro) had been under fire for 100 days.

“I saw that this was not news in any major newspapers and started to monitor it, on my own, in a spreadsheet.” The work evolved and, the following year, the journalist created the platform [Fogo Cruzado](#), a database with a mobile phone app that alerts the public about shootings. Today, the project team has 19 people.

The work carried out by Olliveira has already generated strong criticism from public officials. “They said that they didn't trust our data because traffickers put information in the app. There was hostility,” she said. In 2018, during a federal military intervention in Rio de Janeiro, a source warned Olliveira that the government considered her platform as an “enemy” for revealing a different perspective of the “positive” police operations data released by the authorities.

Share data and documents received

Another example of a lack of public information – again in Rio de Janeiro – led journalist Juliana de Castro and her colleagues, at the time working at the newspaper *O Globo*, to create their own database of Brazilians in public office.

The data collected resulted in an award-winning report that revealed that, over the past 28 years, [102 people with family connections to President Jair Bolsonaro had been appointed to public jobs.](#)²⁰

“We had heard rumours about possible ghost employees [public employees who receive a salary but do not work] in the family and we decided to investigate. We filed requests for information with the FOI for the Chamber of Deputies [the federal congress], the Legislative Assembly of Rio [the state congress] and the Chamber of Councilors [city legislative power] – places where President Jair Bolsonaro and his sons acted, respectively, in the positions of federal, state and city councilor.



O Globo's article about Bolsonaro and his family connections

“With the Chamber of Councilors, it took so long to get a response that we had to go in person and read all the official gazettes,” Castro explained.

²⁰ Dal Piva, J., Castro, J., Guerra, R., Capetti, P., Couto, M., Mello, B. and Saconi, J., 2019. Em 28 anos, clã Bolsonaro nomeou 102 pessoas com laços familiares. [online] O Globo. Available at: <<https://oglobo.globo.com/brasil/em-28-anos-cla-bolsonaro-nomeou-102-pessoas-com-lacos-familiares-23837445>> [Accessed 3 June 2021].

Basic information about which public servants held positions in public bodies and for how long was not available on the internet, nor was it provided when they made a FOI request. “The good thing about going in-person to do research is that we found patterns that maybe we wouldn't have seen otherwise,” she said. The documents revealed a pattern that indicated there may be a fixed spot for relatives of the family Bolsonaro: when one left, another family connection entered the same job. The story also led to suspicions that some officials may have been committing a fraud known as “rachadinha” – when a politician takes part of the salary of a public official hired by him.

When the article was published, their entire database was made available online, fully searchable. “We made reporting a public tool. Even a competitor can use and will find out if a certain person has worked for the Bolsonaro family, in what period and in what position.”

Make monitoring a lack of transparency a journalistic routine

Access to information laws only work when citizens provoke the public agency to respond to requests for information. The fewer requests and complaints, the greater the chances there is a lack of transparency.

Journalist Naira Hofmeister from the website [Matinal Jornalismo](#) hoped to use FOI to generate more investigative news in Porto Alegre, capital of the state of Rio Grande do Sul and the second most-populated city in the southern region of the country.

Her repeated requests for information helped her to notice a series of flaws in the city's transparency mechanisms: there were problems with FOI requests at every level – municipal, state, and even the legislature. That's when she decided to start covering not only the traditional topics of journalism (like public health and safety), but also the FOI law itself and the lack of transparency in her state.

One of her reports, [published](#) on February 25, 2021, showed that the local government, despite having promised to improve transparency, was delivering inaccurate information, with serious flaws in the databases sent, as well as delays in the responses.²¹ After publication, the local government corrected the flaws.

In another report, on March 5, Hofmeister and her colleague Pedro Papini [showed](#) that, in addition to not delivering the data correctly, the municipal government also leaked license plates, residential addresses, e-mails and even reports of neighbourhood fights of people residing in Porto Alegre, showing serious flaws in the security of information held by the local government.²² The City Hall admitted the flaws and promised to treat private information more sensitively.



Matinal's article about lack of public transparency in Porto Alegre

²¹ Hofmeister, N. and Papini, P., 2021. Sistema de transparência da prefeitura é falho e omite informações ao cidadão. [online] Matinal Jornalismo. Available at: <<https://www.matinaljornalismo.com.br/matinal/materias/transparencia-da-prefeitura-falha/>> [Accessed 3 June 2021].

²² Hofmeister, N. and Papini, P., 2021. Falha de segurança em sistema da prefeitura expõe dados pessoais de quem usou a Lei de Acesso à Informação. [online] Matinal Jornalismo. Available at: <<https://www.matinaljornalismo.com.br/matinal/falha-de-seguranca/>> [Accessed 3 June 2021].

In addition to the journalistic value, her findings proved useful for the public administration itself by improving the standard and policies of transparency. Hofmeister and the *Matinal* team were called in to give suggestions for improvements to the government and to participate in meetings about the next steps to be taken by the local government.

Hofmeister also reported on the low quality of FOI available from her local City Council. “We thought it was important because, after our reports on the local City Hall, the City Council started to demand more transparency from the City Hall. But the City Council itself is chaotic and has no record of anything” she explained. The report showed that [the City Council ignored](#) half of all requests for information filed through FOI.²³

Her material, shared on social networks, gave rise to a conversation with other journalists, who decided to come together to create a project to monitor the transparency of municipal councils in other Brazilian cities. “We want to focus on a power that is forgotten by journalists,” she said.

A similar project, monitoring FOI, was carried out by journalist Katia Brembatti, in a series of reports published in the newspaper *Estadão*, one of the largest in circulation in Brazil. Brembatti tested the law by sending simple requests to all local governments in all cities in the state of São Paulo, the most populous in Brazil. Her article [revealed](#) that 441 out of 645 cities had flouted transparency rules by ignoring response deadlines or offering faulty data.²⁴

²³ Hofmeister, N. and Papini, P., 2021. Câmara de Porto Alegre ignorou quase metade dos pedidos de informação feitos por cidadãos. [online] *Matinal Jornalismo*. Available at: <<https://www.matinaljornalismo.com.br/matinal/reportagem-matinal/camara-ignorou-pedidos-lai/>> [Accessed 3 June 2021].

²⁴ Brembatti, K. and Lima, S., 2020. Dois terços das cidades paulistas desrespeitam Lei de Acesso à Informação. [online] *Estadão*. Available at: <<https://politica.estadao.com.br/noticias/geral,dois-tercos-das-cidades-paulistas-desrespeitam-lei-de-acesso-a-informacao,70003524397>> [Accessed 3 June 2021].

It's worth hiring specialists when you can

Journalist Fernanda Santana from the newspaper *Correio da Bahia* has become an “expert in practice” of FOI. She makes use of the law to produce stories for the weekend. Because these are weekly feature stories, Santana and her colleagues in this section of the newspaper have more time to think and produce them.

“I like to send requests for information even if the answer won't result in any articles – just for the exercise of asking and testing, seeing how I should press, what are the best ways to ask,” she said. Santana has adopted a strategy of requesting documents both through the public relations department of public bodies, and through the law. “As the staff does not always respond as I want, I am protected by FOI's responses as well.”

Santana used FOI requests to produce a [series of reports](#) that showed many housekeepers were forced to stay at their employers' homes during the COVID pandemic.²⁵



Correio da Bahia's article on how maids were forced to stay at their employers' homes "while the pandemic

²⁵ Santana, F., 2021. *Empregadas são obrigadas a ficar na casa dos patrões 'enquanto a pandemia durar'*. [online] Correio da Bahia. Available at: <<https://www.correio24horas.com.br/noticia/nid/empregadas-sao-obrigadas-a-ficar-na-casa-dos-pat-roes-enquanto-a-pandemia-durar/>> [Accessed 3 June 2021].

Her stories led the Public Ministry of Labour to investigate cases of non-compliance with labour laws.

Journalists at *Correio da Bahia* are frequently exposed to training on how to use FOI and data for investigations because their digital strategy manager, Juan Torres, is also director of Abraji and proficient in the law and its practice.

Conclusion

The number one piece of advice from Marcelo Trasel, president of Abraji, on how to make FOI work for your news organisation is to simply educate more journalists in the newsroom about how the law works.

“The Access to Information laws are a powerful tool in the hands of journalists, but unfortunately its potential is still little explored in newsrooms,” he said. “Perhaps this is due to the fact that it is a relatively new resource [in Brazil], still absent from most undergraduate curricula, and it requires adaptation of the traditional processes of verification and editing, due to the long deadlines.

“We need to encourage reporters and newsrooms of all sizes to use FOI. In addition to being in the public interest, FOI is an asset for all citizens that will only be consolidated if it is constantly used,” he said.

At the *Washington Post* they have created the position of [director of FOIA](#), held by journalist Nate Jones. The job description is to “help reporters obtain local, state and federal records and think strategically about public records in all formats”. Jones is also expected to advise reporters, help them write and refine requests, negotiate fee waivers and “navigate any delays or bureaucratic resistance”. He will also implement a “newsroom-wide system” to track open-records requests and “offer in-house training sessions”.²⁶

Adding an exclusive FOI role is an expense that is likely out of reach for most news organisations – none of the people I interviewed for this paper had a team member

²⁶ 2019. Nate Jones joins the Investigative Unit as The Post’s first FOIA Director. [online] Available at: <<https://www.washingtonpost.com/pr/2019/10/15/nate-jones-joins-investigative-unit-posts-first-foia-director/>> [Accessed 14 July 2021].

working solely on FOI. Some of them had data teams who took on the role, but most just had journalists who had learned to incorporate the law into their daily practice.

“There is space to teach people,” said journalist Francisco Leali, from *O Globo* newspaper, and a researcher on the use of the law among journalists. “In the past, newsrooms trained those who had difficulty with the Portuguese language. Then, they trained people to use computers. Then, Excel. But, ideally, this training should come at the university. Good professionals who want to get journalistic scoops have an obligation to know how to use access to information laws. I would consider it unforgivable for an investigative journalist not to know how to use FOI.”

Just as public security and health are core reporting issues, transparency is a beat that can also lead to impactful stories. And remember: FOI is a public policy that must be used to remain effective and impactful. Journalists should be the main protectors of these laws.