

Use of Public Record Databases in Newspaper and Television Newsrooms

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I. INTRODUCTION

The right of access to public record information can be found in the statements of this country's Founders,¹ state and federal statutes,² and

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1. See, e.g., WRITINGS OF JAMES MADISON 103 (G. Hunt ed., 1910).

2. See, e.g., 5 U.S.C. § 552 (1994); see also MARK A. FRANKLIN ET AL., MASS MEDIA LAW 669, 683 (6th ed. 2000).

decisions of the Supreme Court.³ A growing trend favoring privacy protection, manifested most recently in the federal 1994 Driver's Privacy Protection Act ("DPPA")⁴ and its 1999 amendments,⁵ poses a serious threat to First Amendment interests and threatens to substantially harm journalists. Surprisingly little effort has been expended, however, to determine the amount and nature of journalists' use of electronic public records, or to understand the full extent of harm threatened by recent privacy enactments.

The study on which this Comment is based systematically investigated journalists' use of public record databases. The study combined in-depth interviews and survey research to produce a more complete view of how journalists use these databases in television and newspaper stories and what they will lose if access to public record databases is substantially reduced or eliminated. Part II provides a brief overview of the history of public access to government records and the current privacy debate. Part III describes the survey methodology and presents the results. This Comment concludes that reporting and developing socially significant stories depends on access to public records. If legislatures restrict that access, not only would some stories prove more difficult or expensive to report, or be reported less completely, accurately, or quickly, but reporters would miss altogether those stories that result from routine searching of public records—so-called "enterprise stories." Given that enterprise stories often involve politics, government abuse, crime, safety violations, and other matters of exceptional public importance, the ultimate effect of restricting access to public records would impact not only journalists, but also the public at large.

II. THE HISTORY OF PUBLIC ACCESS AND THE CURRENT PRIVACY DEBATE

A. *Traditional Access to Public Records*

The democratic process relies on open access to government records. An informed citizenry is crucial to a functioning democratic government, and access to information about the workings of the government is key to that process. As James Madison wrote: "Knowledge will forever govern ignorance: And people who mean to be their own Governors, must arm

3. See, e.g., *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980); *Nixon v. Warner Comms., Inc.*, 435 U.S. 589 (1978).

4. 18 U.S.C. §§ 2721-2725 (1994).

5. Dep't of Transp. and Related Agencies Appropriations Act 2000, § 350, 18 U.S.C. § 2721 (Supp. V 1999).

themselves with the power which knowledge gives.”⁶ In addition, the American system of free expression relies upon access to information, as First Amendment theorists such as Thomas Emerson, Alexander Meiklejohn, and Vincent Blasi have repeatedly noted.⁷

The Supreme Court has explicitly recognized a right of access for the public to attend trials or obtain access to other judicial information,⁸ and has implicitly identified a right of access to other government information.⁹ Extrajudicial statements have further supported expansion of the right of access. Justice Potter Stewart wrote that the Constitution is “neither a Freedom of Information Act nor an Official Secrets Act.”¹⁰ Justice White wrote in *Branzburg v. Hayes* that “without some protection for seeking out the news, freedom of the press could be eviscerated.”¹¹

The prevalence of federal and state access statutes may have influenced the Supreme Court to refrain from recognizing a constitutional right to access public record information outside of the context of trials and related documents. Federal access laws developed after World War II, beginning with the Administrative Procedures Act of 1946,¹² which was amended in 1966 to include the Freedom of Information Act (“FOIA”).¹³ The FOIA mandates that all government information generated by executive branch agencies must be disclosed, except for material fitting within nine specified exemptions, such as matters of national security, law enforcement, or personal privacy.¹⁴ The exemptions reflect the presumption in favor of disclosure, however, whereas nondisclosure is permissive, not mandatory.¹⁵ The agency retains discretion to opt for nondisclosure, based on its assessment of the privacy risk. Today, every state has some type of open public record law.¹⁶

6. WRITINGS OF JAMES MADISON, *supra* note 1, at 103.

7. THOMAS I. EMERSON, *THE SYSTEM OF FREEDOM OF EXPRESSION* (1970); ALEXANDER MEIKLEJOHN, *FREE SPEECH AND ITS RELATION TO SELF-GOVERNMENT* (1948); Vincent Blasi, *The Checking Value in First Amendment Theory*, 1977 AM. B. FOUND. RES. J. 521.

8. *Press-Enter. Co. v. Super. Ct.*, 478 U.S. 1 (1986) (right to attend voir dire); *Press-Enter. Co. v. Super. Ct.*, 464 U.S. 501 (1984) (right to access certain judicial documents); *Richmond Newspapers, Inc.*, 448 U.S. 555 (1980) (right to attend criminal trials).

9. *Nixon v. Warner Comms., Inc.*, 435 U.S. 589 (1978); *Red Lion Broad. Co. v. FCC*, 395 U.S. 367 (1969).

10. Potter Stewart, “*Or of the Press*,” 26 HASTINGS L.J. 631, 636 (1975); *see also* *Houchins v. KQED*, 438 U.S. 1 (1978).

11. *Branzburg v. Hayes*, 408 U.S. 665 (1972).

12. Administrative Procedures Act, ch. 324, 60 Stat. 237 (1946) (codified as amended at 5 U.S.C. §§ 551-59, 701-06, and in scattered sections of 5 U.S.C.).

13. *Id.* § 552 (1994).

14. *Id.* § 552(b) (1994 & Supp. V 1999).

15. *Id.* §§ 552(b)(6), (b)(7)(C).

16. FRANKLIN ET AL., *supra* note 2, at 683.

The sweeping openness of public records, however, is beginning to change. Access rights derive from statutes, and legislatures frequently amend the laws, sometimes to benefit certain interest groups or to protect privacy interests. State legislatures, in the past year alone, have proposed or passed more than one hundred bills that would limit access to parts of the public record.¹⁷ One recent example of such legislative tampering with access to information at the federal level is the DPPA, enacted in 1994.¹⁸ The law bars states and their employees from releasing information, including names, addresses, photographs, and telephone and social security numbers, from motor vehicle records. Senator Barbara Boxer of California introduced the act as an amendment to the Violent Crime Control Act of 1994¹⁹ after the shooting death of actress Rebecca Schaeffer. A stalker murdered Schaeffer at her California apartment after obtaining her home address from a private detective, who found the information in state motor vehicle records.²⁰ Ironically, the law as enacted carves out an exemption for private investigators along with law enforcement officials, courts, and government agencies.²¹ Yet, no exemption exists for the news media, despite the First Amendment's free press guarantee.²²

Only one senator discussed the First Amendment during debate over the DPPA. Senator Orrin Hatch stated that restricting access to information under the DPPA would harm newsgathering. On the Senate floor, Hatch read a letter from the Utah branch of the Society of Professional Journalists, which outlined important journalistic uses of such information.²³ The organization cited several examples of important stories that resulted from searches of driver's license records.²⁴ For example, a reporter from the *Providence Journal* used a computerized list of driving records from the Department of Motor Vehicles ("DMV") to identify school bus drivers with dangerous driving records.²⁵ Another story uncovered Minnesota airline pilots who, despite losing their driving

17. See, e.g., KM Strategies, Public Records Legislation (Mar. 28, 2001) (on file with the FEDERAL COMMUNICATIONS LAW JOURNAL).

18. 18 U.S.C. §§ 2721-25 (1994).

19. 139 Cong. Rec. 29,466 (1993) (statement of Sen. Boxer) [hereinafter Sen. Boxer statement]. See also Driver's Privacy Prot. Act of 1994, 18 U.S.C. §§ 2721-25 (1994).

20. Sen. Boxer statement, *supra* note 19; 138 Cong. Rec. 7105 (1992) (statement of Rep. Moran); see also William J. Watkins, Jr., *The Driver's Privacy Protection Act: Congress Makes a Wrong Turn*, 49 S.C. L. REV. 983, 984 (1998).

21. 18 U.S.C. § 2721(b) (1994 & Supp. V 1999).

22. U.S. CONST., amend. I.

23. 139 Cong. Rec. 29,467 (1993) (letter from the Soc'y of Prof'l Journalists).

24. *Id.*

25. Drew Sullivan & Howard Goldberg, *Public Speaking Out On Privacy Concerns*, QUILL, Sept. 1, 1997, at 17-19.

privileges because of alcohol-related offenses, were still flying planes.²⁶

Testimony and editorials from journalists also indicated the wealth of stories that have resulted from searching these records. The *Miami Herald* used DMV records to document nearly five hundred drivers who retained their licenses, despite having six or more DUI convictions.²⁷ The *Orlando Sentinel* used driver records to locate home addresses for Kennedy Space Center workers who, when interviewed at home and away from watchful eyes, discussed government mistakes that led to the Challenger explosion.²⁸ WCCO-TV uncovered a ring of automobile title laundering where unsuspecting car buyers purchased cars that had been totaled and rebuilt.²⁹

Despite concerns from First Amendment advocates and professional journalists groups, Congress passed the DPPA, and President Clinton signed it into law. Media advocacy and professional journalists groups have continued to speak out against the DPPA,³⁰ as well as its 1999 amendment, which eliminates highway funds for states that release any personal information from drivers' records without the consent of the licensee.³¹ After a series of legal challenges and two Court of Appeals decisions ruling the DPPA unconstitutional,³² the Supreme Court upheld the act.³³ The Court confined its discussion narrowly to issues of federalism,³⁴ addressing neither the privacy concerns at hand nor the implications to the public and press of limiting information that had traditionally been available to the public.

The legislative history of the DPPA illustrates that privacy concerns

26. Lucy Dalglish, *Coming Soon: More Closure*, 24 NEWS MEDIA & L. 2 (2000).

27. Marilyn Adams & Richard Wallace, *Equal Justice in DUI Cases? It All Depends*, MIAMI HERALD, Oct. 28, 1991 (page unavailable).

28. See, e.g., Dan Tracy & Jim Leusner, *Past, Present Workers Attack Safety, Quality Center*, ORLANDO SENTINEL, Feb. 9, 1986 (page unavailable).

29. *Protecting Driver Privacy: Hearings on H.R. 3365 Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary*, 103d Cong. (1994) (statement of Richard A. Oppel, Washington Bureau Chief for Knight-Ridder), available at 1994 WL 212720 (F.D.C.H.); Christopher Callahan, *License Revoked*, AM. JOURNALISM REV., Nov. 1995, at 40-44; Michelle Millhollon, *Countdown to Closure: Don't Let the Door Hit You on Your Way Out of the DMV Office*, QUILL, Oct. 1995, at 26, 27; Dalglish, *supra* note 26, at 2.

30. Sullivan & Goldberg, *supra* note 25; Callahan, *supra* note 26, at 40; Millhollon, *supra* note 29, at 26.

31. Dep't of Transp. and Related Agencies Appropriations Act 2000, § 350, 18 U.S.C. § 2721 (Supp. V 1999).

32. Pryor v. Reno, 171 F.3d 1281 (11th Cir. 1999), *vacated by, remanded by* 528 U.S. 1111 (2000); Condon v. Reno, 155 F.3d 453 (4th Cir. 1999), *rev'd*, 528 U.S. 141 (2000).

33. *Condon*, 528 U.S. 141. The Court has ruled against access in two other key cases. L.A. Police Dep't v. United Reporting Publ'g Corp., 528 U.S. 32 (1999); United States Dep't of Justice v. Reporter's Comm. for Freedom of the Press, 489 U.S. 749 (1989).

34. *Condon*, 528 U.S. at 143.

motivated the legislation, however, and many fear the proliferation of such privacy-inspired legislation. Media advocate Lucy Dalglish wrote: “The bottom line is that a valuable source of public information has been shut down, and privacy advocates are setting their sights next on voter registration, property tax, and land transaction records.”³⁵ Dalglish expects legislative and congressional efforts fueled by the privacy wave to continue chipping away at access to these records.³⁶

B. Privacy and the Press

The conflict between the press and privacy advocates stems from opposing societal values assigned to individual privacy and the public’s right to know. Privacy concerns have often come on the heels of new technological developments. The advent of the printing press spawned the first concerns about privacy when mass-produced works threatened to turn private affairs into public fare. The benchmark 1890 Warren and Brandeis law review article attempting to establish the right of privacy was prompted by yet another new technology—photography.³⁷ These early concerns related to public figures and posed little threat to the average person, but this is changing.

Today’s privacy concerns stem from the use of data and computer technologies and affect the general population. Federal aid, credit and banking card transactions, insurance forms, and other agreements all leave a paper (and, now, electronic) trail of personal data. Marketers have realized the value of this information and the subsequent onslaught of telemarketing and mass mailing may have prompted the public outcry to be left alone. These issues raise serious concerns among journalists, even as surveys show that public support for access is waning.³⁸

The judiciary apparently favors different standards for public record databases and individual public records. The Supreme Court has distinguished between compilations of data and single sources, even when all the information at issue resides in the public record.³⁹ This distinction could signal the way courts plan to deal with access to databases of computer compilations of information in the future.

As a result, commercial database vendors, possibly anticipating

35. Dalglish, *supra* note 26, at 2.

36. *Id.*

37. Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890).

38. Sullivan & Goldberg, *supra* note 25, at 17.

39. United States Dep’t of Justice v. Reporter’s Comm. for Freedom of the Press, 489 U.S. 749 (1989).

government intervention, have developed industry regulations. To appease privacy advocate groups and ward off potential legislation, personal information such as social security numbers has been deleted from the databases.⁴⁰ This has hindered journalists' attempts to gather information and, because social security numbers are often used to verify information or confirm the identity of a person, could potentially make news less accurate.

To better understand the potential effect of regulation, one needs to understand how these public records, particularly databases, are being used. Only then can one understand the impact of future legislation on the media. The study on which this Comment is based combined survey research with in-depth interviews to show how often newspaper and television journalists use public record databases. The study aimed to provide a clearer picture of the types of stories that might not be reported if public record databases are restricted further.

III. THE CURRENT STUDY

A. *The Survey*

The study began with a national sample of daily newspapers and television stations with news departments. The newspaper sample was drawn from a list of all 1486 daily newspapers named by *Editor & Publisher*. A stratified probability sample of 250 daily newspapers was constructed based on circulation size, but three out of the 250 newspapers had disconnected phone numbers. Therefore, the sample size for the newspapers totaled 247. The study included 195 interviews out of the total sample of 247, for a response rate of 79%.

The television sample was selected from stations listed in *The Broadcasting and Cable Yearbook 1999*. Every third station listed was selected, resulting in the selection of 435 stations from the total of 1305 stations. Digital stations and noncommercial stations were excluded from the sample. The Center for Survey Research at Indiana University conducted the telephone surveys between November 1999 and February 2000.⁴¹ After phone surveying began, 189 stations were excluded that 1)

40. Individual Reference Service Group Principles were adopted in December 1997. FTC, *INDIVIDUAL REFERENCE SERVICES: A FEDERAL TRADE COMM'N REPORT TO CONG.* (1997), available at <http://www.ftc.gov/os/1997/9712/irs.pdf> (last visited Apr. 2, 2001).

41. Interviewers first asked to speak to the person at the organization who does the most database research in order to ensure that the most knowledgeable person on the topic completed the survey. If no one at the organization did database searching, the interviewer asked to speak to someone who searched public records and could address why databases were not used. Twenty-six percent (n=92 interviewees) surveyed said that no one at their

were not currently broadcasting, 2) did not have a news department, or 3) were satellite providers. Therefore, the actual sample size for television totaled 246. We completed 149 interviews out of the total sample of 246, for a response rate of 61%.

B. The Interviews

In-depth interviews were conducted with newspaper librarians, reporters, editors, and television producers before the survey questionnaire was developed to ensure clarity of the survey instrument and provide examples of innovative uses of database records. Information from these interviews and comments offered and transcribed during the phone interviews were used to flesh out the closed-ended responses in the survey.

C. Results

Of the people searching databases for public records, most are young, educated, male managers with journalism degrees. They have used databases an average of 47 times in the last year. More men than women use databases (66.6% compared to 31.6%). The majority are 45-years-old or younger (69.3%), and 86% have at least a college degree, almost half (47%) having majored in journalism. The vast majority (75.6%) are in management or editing positions, 20% are reporters or producers, and 3.5% are in research or librarian positions.⁴²

As one might assume, the larger television stations perform more database searches than the smaller ones. More than one-fourth (28.2%) of stations using databases operate in the largest fifty markets, in contrast to 16% of stations that do not use databases in the same markets. This is most likely attributable to larger staffs and budgets at the larger stations. Journalists report that they use criminal and court records most frequently, followed by personal background information, such as names and addresses (33.5% and 18.4% respectively). Voter information and campaign expense and donation records make up 16.9% of the most frequently searched records. Property, financial, or business information also represent hot areas (13.2%). This seems logical when considering how journalists use the information. As table 1 shows, employees at television

organization performed any database searches in the last year. They were then given a list of reasons why they did not use databases and were asked to rate the importance of that reason.

42. A profile is only useful for those journalists who use databases. For those who do not use databases, interviewers talked to the person who searches public records, but does not use databases, or, in some cases, the person who answered the phone and agreed to speak for the organization. Therefore, the individual characteristics of those who do not use databases are neither meaningful nor easily generalized.

stations and newspapers who search public record databases look most often for investigative stories, followed by crime stories, city-state stories and political campaign stories, and least often for features or sports stories. Thus, databases are used most often for what are considered to be the most important stories covered by the media: investigative, crime, and political stories. Because journalists rely heavily on databases to cover these topics, database regulation may seriously threaten the coverage of these stories.

Table 1.*Types of Stories That Use Public Records From Databases*

In the past year, how often, if at all, did you search public records for _____ stories?"

	Most of the Time	Often	Sometimes	Rarely	Never
Investigative	32.5%	23.4%	29.0%	12.7%	2.4%
Feature	1.2%	8.0%	36.1%	43.8%	10.8%
Sports	2.1%	5.4%	20.5%	46.9%	25.1%
City or state	17.1%	39.4%	35.1%	7.6%	0.8%
Political campaign	14.3%	32.7%	29.5%	16.3%	7.2%
Crime	25.6%	38.4%	28.0%	5.6%	2.4%

N=252

It seems that television stations are using public records slightly more often than newspapers for all types of stories. As table 2 illustrates, television stations featured information from public record databases significantly more often than newspapers in features, sports, city/state and political campaign stories. This may be because mapping information from databases can provide a much needed visual element for television stories.

Table 2.*Differences Between TV and Newspapers in Terms of Types of Stories That Use Public Records From Databases*

In the past year, how often, if at all, did you search public records for _____ stories?

	t	df	Newspaper <u>M</u>	TV <u>M</u>
Investigative	-.841	250	2.24	2.36
Feature	-4.294*	250	3.36	3.80
Sports	-3.016*	250	3.72	4.08
City or state	-2.295*	250	2.24	2.50
Political campaign	-2.422*	250	2.55	2.89
Crime	-.466	250	2.18	2.24

N=252

* statistically significant ($p \leq .05$)

Perhaps most interesting, the study showed that, on average, 11.3 stories originated solely from database searches, not when reporters are looking for specific information, but simply when they are cross-matching information from two databases, such as detecting voter fraud by cross-referencing voter rolls and recent deaths.⁴³ The genesis of these stories lies in the database search, and so without databases these stories would likely go unreported. Follow-up interviews with journalists showed that these stories would be virtually impossible to identify without database access; matching paper records would prove prohibitive. The databases provide a depth of information difficult to duplicate using paper resources, and are available at night and on weekends. Databases allow the researcher to combine resources in ways that may not be obvious or even possible with paper copies.⁴⁴

Public records databases have vastly reduced the time and effort involved in routine background checks, such as checks on public officials, candidates for public office, or other organizational leaders. One striking example comes from the *St. Petersburg Times*, which broke the story about Baptist Church leader Henry Lyons' alleged embezzlement.⁴⁵ After a series of events led to the revelation that Lyons owned an expensive second home, a reporter ran a routine database check of public records to further examine Lyons' personal and organizations finances.⁴⁶ Routine checks of public records by researchers at the *St. Petersburg Times* have also uncovered many instances of fraud or misleading conduct. For example, searches of financial records uncovered that a man running for the office of treasurer had filed for personal bankruptcy three times and corporate bankruptcy twice, and that the new director of a large arts organization that solicited donations had been charged with fraud in his home state.⁴⁷ Another routine check of professional licenses found that the new local school director of psychology who introduced himself as "Dr." had no advanced degree in psychology.⁴⁸

Most of the people interviewed at larger newspapers agreed that if

43. Example given by Nora Paul. Interview with Nora Paul, Leadership and Management Faculty and Library Director, Poynter Institute, St. Petersburg, Fla. (July 1999).

44. Interview with Kitty Bennett, Researcher, ST. PETERSBURG TIMES, St. Petersburg, Fla. (July 1999) [hereinafter Bennett Interview].

45. Mike Wilson, *Assets Raise Questions About Source of Money*, ST. PETERSBURG TIMES, July 9, 1997, at 6A.

46. *Id.*

47. Interview with Barbara Oliver, Research Librarian, ST. PETERSBURG TIMES, St. Petersburg, Fla. (July 1999) [hereinafter Oliver Interview].

48. *Id.*

using databases became more difficult or if vendors decided to delete more information from them, then routine checks such as these would no longer be useful. For example, a routine check of license plate numbers on cars parked at a council member's house, which showed that an illegal meeting in violation of the sunshine laws was taking place, would not have been possible.⁴⁹ Many fear that the information barriers posed by the DPPA will allow such illegal meetings and other abuses to go unnoticed.⁵⁰

In-depth interviews indicated that television stations use the databases more deliberately, often for investigative pieces based on tips. Producer Roscoe Glisson of Tampa's News Channel 8 said, "Television has a short attention span, so we only use public records pieces we work on for a long time." Glisson noted that reporters in ambush-style situations often use records to confront subjects with evidence of wrongdoing. Mapping—using the database to plot a graphic representation—is often used because it provides a visual element that can be used in the story. One example, from Tampa's News Channel 8, combined public records with mapping to show that at least two bodies were buried in each plot at the local cemetery.⁵¹ This story started because a caller to the station said he went to visit a deceased relative but could not find his gravestone.⁵² Although many television stations and newspapers use these databases in innovative ways, some do not use them at all. As table 3 shows, the main reason stations report for not using databases is a lack of time, followed by cost, complicated computer technology, concerns about accuracy, and difficulty navigating the Web.

Table 3.

Main Reasons for Not Using Databases

(Scale of 0 to 10, 0=not at all important, 10=very important)

	<u>M</u>
They cost too much money	4.43
There was not enough time	5.08
Computer technology is too complicated	3.20
Information may not be accurate	2.38
Navigating the Web is too difficult	1.74

N=92

49. *Id.*

50. *Id.*

51. Telephone interview with Roscoe Glisson, Producer, Tampa's News Channel 8, St. Petersburg, Fla. (Aug. 1999).

52. *Id.*

Survey subjects were given the chance to supplement the closed-ended questions with comments, most of which dealt with the reasons why they do not use these databases. One television news director from a mid-sized market summed up the sentiments of many by saying that his station does not search databases because there are “not enough people, not enough time, not enough money.”⁵³

Others commented on the lack of online access to local records, specifically government records. Many commented that they would like to use the resources more often: “It’s 100% a cost issue. Also, we have only ten reporters and unless you have an investigative unit, it’s not cost effective. Although I think it is the most valuable tool to journalists, and it’s a shame we don’t use it.”⁵⁴ Others expressed a general lack of audience interest in stories that use these resources, exemplified by this statement from a small market news director: “We don’t believe in covering that way. We prefer to stay locally. Studies have shown that people really don’t care about numbers and public records.”⁵⁵

Those who used databases were asked to rank the reasons that prevent them from using databases as frequently as they want. As table 4 shows, the expense of databases and amount of information available prevent journalists from using databases as frequently as they would like. Accuracy, computer skills, and Web knowledge are not major concerns. Nearly half of those journalists who use databases said high subscription rates prevent more frequent use. More than one-third reported that the lack of information available prevents them “a lot” or “somewhat” from using databases as much as they would like. Accuracy poses less of a concern, as only 8.3% reported that it prevents them from using databases “a lot,” and more than half said that accuracy concerns have nothing to do with how often they use. A majority said neither lack of knowledge about the Web nor computer skills impact their database searching. No statistically significant differences appeared between newspapers and television in terms of what prevents those who use databases from using them as much as they would like.

53. Comment offered during anonymous telephone survey (Jan. 2000) (on file with the FEDERAL COMMUNICATIONS LAW JOURNAL).

54. *Id.*

55. Comment offered during anonymous telephone survey (Feb. 2000) (on file with the FEDERAL COMMUNICATIONS LAW JOURNAL).

Table 4.*Reasons That Prevent Those Who Use Databases From Using Them as Much as They Would Like*

How much does _____ prevent you from using databases as much as you would like?

	A Lot	Somewhat	A Little	Not at All
Subscription rates	48.0%	27.0%	10.3%	13.9%
Concerns about accuracy	8.3%	32.1%	38.5%	19.8%
Lack of Computer knowledge	7.9%	19.8%	23.0%	49.2%
Lack of information available	6.0%	32.5%	26.2%	34.9%
Difficulty with using databases	5.6%	32.1%	29.0%	32.5%
Lack of knowledge about the Web	2.4%	13.1%	17.5%	67.1%

N=252

Again, comments added to the closed-ended survey questions provided further insight into the factors that prevent journalists from using these databases more often. One local television producer said that television news's local emphasis prevents use of databases:

Our primary function is local news. We don't do many stories about statewide or national trends, so the type of information available over the Internet or CD—that's not what we do. We do local, that is still available through the courthouse. If they put it on the Internet, we'll look at it over the Internet. That is the primary limiting factor. The databases that concern us are not available over the computer.⁵⁶

Another television journalist said that they are often not aware of the options for on-line searching:

Perhaps if these search groups or databases made themselves more available to the media and let us know who they are and what they do, we might use them more often.⁵⁷

One newspaper journalist expressed a similar sentiment:

My biggest problem is finding the database source to go to. I usually use more time finding the particular database than actually doing the searching. It is lack of knowledge that prevents me from actually getting to where I want to go.⁵⁸

Although many journalists discussed personal reasons such as time and difficulty with searches, some journalists touched upon the ways that difficulty with government agencies, violation of the FOIA and privacy concerns are stymieing reporters. These journalists said that government agencies are less cooperative about records in electronic formats. One

56. *Id.*

57. *Id.*

58. Comment offered during anonymous telephone survey (Dec. 2000) (on file with the FEDERAL COMMUNICATIONS LAW JOURNAL).

newspaper editor said that there is an “artificial barrier erected by bureaucrats.”⁵⁹ He added:

People that have the data in their files construe it to be too difficult to share or too expensive or don't have the knowledge or don't like what we're going to do with it. I would say that when they provide on paper rather than in electronic form that's an artificial barrier.⁶⁰

Others touched on the information removed from databases because of privacy concerns. One newspaper reporter said that this is a major reason he does not do more searching:

Databases are unavailable, for instance, if an investigation is in progress; certain information is cut off from the public. So information is blocked and it is unavailable to use and becoming more and more so. There are legal and privacy concerns that stop us from accessing a lot.⁶¹

Journalists apparently are already feeling the effects of regulation; nonetheless, they are still using public records. They are making more requests in person ($m=17.8$), however, than on the computer ($m=8.23$) or by mail ($m=2.38$). The data showed that newspaper journalists are more likely to make requests in person, an average of 24 times per month at newspapers, compared with just under ten times per month at television stations. This again may be attributable to staff or budget concerns or simply to the location of the organization.

Interviews confirmed that location of the organization affected how records are obtained.⁶² Many newspapers are located in the heart of the communities they serve and, thus, lie closer to courthouse and government agencies. By contrast, television stations often lie on the outskirts of town, where requests in person may be more cumbersome. Other journalists commented on the ease of finding necessary records when dealing with people familiar with those records.⁶³ Such comments resonate when taken together with comments that unfamiliarity with databases hinders their work and makes such searches too time consuming. Others complained that face-to-face dealings can inhibit the process, however, and that the anonymity of computer requests is also preferable, particularly in smaller towns.⁶⁴

When journalists use computers to access public records, 32% use

59. *Id.*

60. *Id.*

61. Comment offered during anonymous telephone survey (Jan. 2000) (on file with the FEDERAL COMMUNICATIONS LAW JOURNAL).

62. E-mail interview with Bill Fox, City Editor, The Greenville News (Dec. 17, 1999); e-mail interview with Daryl Huff, reporter, KITV, Honolulu, Hawaii (Feb. 2, 2000).

63. *Id.*

64. *Id.*

free Web sites “most of the time;” 8.3% use commercial vendors “most of the time;” and 4.4% use government-purchased databases “most of the time.” Again, no statistically significant difference existed between newspaper and television journalists in terms of how they search public records on the computer.

Many journalists do not use commercial databases that charge for time spent searching. A majority (74.6%) said they rarely or never uses these services; only about 8% use them most of the time. Of that small percentage who say that they use commercial databases almost half (47%) choose them because they have more information and are easier to use than free web sites or finding the records in person. Thirty-seven percent say they choose vendor databases because they are more accurate and only 12.2% say they use vendor databases because they are cheaper.

Again interviews touched upon the cost factor of using these databases, particularly among those interviewed from smaller newspapers and TV stations.⁶⁵ Budgets simply do not allow for vendor fees. Regular users of the paid services said that skilled searchers can often find the necessary information so quickly that cost becomes less of an issue.⁶⁶ In-depth interviews with those who rely on these paid services showed that vendor databases provide easier ways to find information.⁶⁷

IV. CONCLUSION

The study showed that television and newspaper journalists use public record databases in similar ways: to report on and develop socially significant stories. These databases give rise to some of the most important stories covered by the media: investigative, crime and political stories. In-depth interviews with journalists indicated that if databases were limited, some of these stories would still be followed up on in other ways, but stories that come about from routine searching—so called “enterprise stories”—would not be. Further, the public would miss out on stories of government abuse and safety violations, arguably the most important functions of the media.

Another main advantage of databases may be the time that they can save. Again, even though information can often be found in other ways, time and cost factors actually render other ways of gaining records impractical and in some noted cases of data matching, impossible. Paper requests would prove particularly cost-prohibitive for stories that involve

65. Numerous comments offered during anonymous telephone interviews (Nov. 1999-Feb. 2000) (on file with the FEDERAL COMMUNICATIONS LAW JOURNAL).

66. Bennett, Interview, *supra* note 44; Oliver Interview, *supra* note 47.

67. Bennett, Interview, *supra* note 44; Oliver Interview, *supra* note 47.

research in different states, which require sending someone to look at the records or paying someone to find the records locally. Also, finding a document with through an online vendor may take only minutes, whereas finding that same document on free Web sites or obtaining the paper version would take several hours or perhaps a full day.

Cost is cited as the main reason for not using general databases, particularly paid services. Government regulation of these paid services could drive up operational costs and negatively affect accuracy in reporting. A common complaint about current industry regulation is that it makes verifying information more difficult, because social security numbers are no longer available for cross-checking to see whether public records refer to the same person. Further regulation would only inhibit the ability to verify such information.

This study showed that public record databases are a necessity for journalists to uncover wrongdoing and effectively cover certain crime, political stories, and investigative stories that not be uncovered without the use of public record databases. Industry or government regulation would simply remove verification options for those researching stories and increased rates would prohibit vendor use for many organizations. All of these results would greatly hinder the journalistic mission of informing the public.