ZYLAB

TAKE CONTROL OF PUBLIC RECORDS REQUESTS: A MATURITY MODEL

Management summary

Federal, state and local government agencies are working to develop more efficient and effective practices to ease and improve their efforts in disclosing records in response to requests sent under the Freedom of Information Act and other public records acts.

We created the FOIA/Public Records Act maturity model to aid them in their decision-making processes. The maturity model provides a comparison framework of 5 different methods and tools government agencies use when completing public records disclosures.

• Ad Hoc
• Tooling
• Platform
• Analytics
• Smart fact-finding

This white paper describes the technology tools and procedures used (or not) in each of these categories and analyzes their effectiveness in supporting agency disclosure practices in five critical areas:

• Financial
• Quality & risks
• Ease of use & automation
• Security
• Processes & collaboration.

The maturity model helps public officials easily identify areas for improvement as they determine the strengths and weaknesses of their agency's public records disclosure practices.

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Introduction

Today, government agencies are able to provide more thorough and accurate responses to public records requests faster and with less risk for errors than ever before. Armed with appropriate technologies and procedures, governments manage 21st-century digital challenges to develop the open transparency that public records acts are designed to achieve.

These abilities have arrived not a moment too late. In 2017, the federal government received over 820,000 Freedom of Information Act (FOIA) requests, continuing record high trends. The federal government also censored, withheld or said it couldn't find records more often last year than at any point in the past decade, according to an Associated Press analysis.

As we saw in the white paper, The Hidden Costs of Public Records Requests, defending appeals and lawsuits that claim government officials illegally deny requests, withhold information for invalid reasons, and fail to respond within the required timeframe cost federal agencies over $40 million in 2017.

The situation sounds grim. But we know through decades of working with government agencies that the reasons for the delays, incomplete responses, and denials are not intentional and can be brought under control. In the white paper, FOIA: 50 Years of Freedom of Information, we discuss why government agencies have struggled to respond to public records requests (PRRs) over the years.

Here, we provide a model for designing the solutions that can overcome those challenges. The FOIA/public records request maturity model guides agencies in achieving the most effective FOIA/PRR practices possible today. And in doing so, it equips them to efficiently handle new challenges that are sure to arise in the future.

Failure to respond within the required timeframe cost federal agencies over $40 million in 2017

The FOIA/public records act maturity model

The U.S. Freedom of Information Act grants members of the public access to details about the daily activities, decisions, and communications of officials in the federal government. "Sunshine" or "open records" do the same in state and local governments. Each agency develops its own public records disclosure practices.

With completely manual processes representing the base end of the spectrum, and fully optimized, automated processes offered by integrated platforms in place as an ideal, the maturity model provides a framework to which agencies can compare how their current practices measure up in these key areas:

- **Financial:**
  What areas of time savings and cost reductions are present? Which are yet to be tapped?
- **Quality & risks:**
  Are employees searching all agency records and coming up with accurate and thorough results? What's getting left behind?
- **Ease of use & automation:**
  Are the tools user friendly? Do they relieve agency burdens and stresses?
- **Security:**
  Do records remain secure against hacking and leaks? Is there an unacceptable potential for accidental disclosure of private or exempt information?
- **Processes & collaboration:**
  Are workflows simplified and improved? Is there easy collaboration and cooperation across internal departments as well as among external agencies?

	AD HOC Ad-hoc Disclosure Process	TOOLING Managed Disclosure Process	PLATFORM Integrated Disclosure Process	ANALYTICS Optimized Disclosure Process	SMART FACT FINDING Automated Disclosure Process
Financial	No budget control	High pressure on agency, many hidden costs	Cost reductions attributed to use technology and formal workflow	Save additional costs due to better prioritization and use of technology and collaboration	Save additional costs due to better prioritization and use of advanced technology
Quality and risk	No quality control possible, no consistency	High risk, dependant on functionality tool, risk is "in-between" systems	One platform, less data risks, stil risk for inconsistent human decisions	Data driven decision, more consistent decision making	Highest possible quality and consistency
Ease of use and automation	Chaos and stress	Managing data lots of work, every tool works different	Start of FOIA automation	Data organized, workflow easier, data driven decisions	Ultimate ease of use due to advanced technology
Security	No control over security	Risk in-between systems	All data secure in one system	All data and audit of withholdings and review decisions in on system	All data and all decisions in one system
Processes and collaboration	No collaboration possible	Possible collaboration but through manual or unsuitable actions	All parties can collaborate	Decide together on complex matters	All parties collaborate on all aspects

Ad hoc disclosure process

Here, agencies have not established procedures for responding to PRRs and do not have any particular set of tools designated for that purpose.

When a request comes in, the reaction goes something like this:
- A memo is passed around in an interoffice envelope
- As the request bounces from desk to desk, each employee separately performs a manual search for relevant documents
- Searches involve dragging out and sorting through boxes of paper files or looking through individual folders on the computer
- People print documents that seem potentially relevant (better safe than sorry) and add them to a pile.

The employee stuck with reviewing the documents for private and exempted information needs to look up the exemptions to be sure which apply. Redactions are made with a black marker, redaction tape, or in a pinch, even duct tape (it's true). Exemption reasons are noted by hand and added manually to an index. The fact that there's a deadline for response gets lost in the shuffle. Disclosure may consist of mailing off hard copies of the responsive documents or scanning them into the system and emailing PDFs.

Effects of ad hoc disclosure processes

Financial:
Employees waste colossal amounts of time manually searching records. Multiple employees perform the same searches again and again, printing the same documents over and over. Yet, searches still fail to locate all the relevant information, which feeds the growing numbers of appeals and lawsuits. Shipping or scanning in large sets of documents can also get expensive.

Quality & risks:
Watchdog organizations note they can send the same request to the same agency multiple times and get different responses every time. Individual rationale determines relevancy and appropriateness for disclosure, which leads to wide discrepancies in responses. Also with ad hoc processes, documents are found by chance. Many file types are difficult to search including:

- Voicemails
- Blueprints
- Social media posts
- Online chats
- Body cam videos
- and so on…

These are often excluded from disclosure, or their manual review adds months-long delays.

Ease of use and automation:
Searching for relevant information is never actually complete; it's just given up on. Large numbers of duplicates and irrelevant documents are manually extracted, and every record is combed through individually to redact exempted and private information. Security: No electronic security exists or only that which is available to an email system.

Processes & collaboration:
No established workflows are available to push the project forward in a timely manner or determine when efforts to respond are adequate. Many people are involved, but no true collaboration occurs. Much of the work is redundant. The request is never shared with other departments or agencies that may have relevant information.

Tooling: managed disclosure process

Agency officials patch together provisional tools and develop point solutions to assist in preparing responses to PRRs. But tools and strategies thus far remain insufficient to deal with today's exponential growth of electronic records.

Technology such as Microsoft search tools find relevant documents more efficiently than ad hoc processes. And Adobe Acrobat speeds manual redaction. Indexes are better organized in Excel spreadsheets. Perhaps the IT team develops an algorithm to search individual hard drives.

The letter "f" is rubbed off everyone's keyboards because CTRL+F is one of the sharpest tools in the shed. Searches must be extremely precise. For example, searchers must individually search every variation of the spelling of a person's name. They are likely to miss documents in foreign languages and handwritten text as well as audio, video, text messages, and other new media types.

Effects of tooling disclosure processes

Financial:

Tooling presents many of the same costs as ad hoc processes and adds new expenses for a growing number of software tools needed. The time needed for employees to search for and redact records may be reduced but often at a cost to accuracy. Makeshift technology tools add to project management burdens.

Quality & risk:

Whether a relevant document is found or not depends on the tool's functionalities and the strength of an individual's search skills. As with ad hoc processes, documents are located based on overly simplified identification such as file names rather than their more relevant content.

Ease of use and automation:

Each tool is different, and employees have varying degrees of success using each. Review remains tedious and time consuming. Manually creating indexes and reports is prone to human errors, as are redactions.

Security:

Security is only as effective as the controls for each tool. Risks for exposure arise as files move between tools and systems. Makeshift tools introduce an element of the unknown that can be difficult to defend in legal proceedings.

Processes & collaboration:

Practices lack definition and standardization. Collaboration may be possible but the tools used often introduce unacceptable security risks.

Platform: integrated disclosure process

The 2017 FOIA Search Survey revealed that most federal agencies lack the ability to search large portions of their records, and federal employees often perform slow, unthorough, or otherwise imprecise searches for requested records. Integrated platforms solve two major difficulties preventing their success:

1. All records are preserved electronically and maintained in a single, centralized repository; and
2. Virtually all file types are made accessible and searchable through a process of standardization, including the new media files (IMs, body cam video, etc.) that ad hoc and tooling processing leave behind.

Effects of integrated platform disclosure processes

Financial:
A single employee searches all agency records, eliminating costly redundancies and employee burdens. Integrated platforms are typically available on subscription and/or per usage bases, which gives officials flexibility to design customized cost-effective solutions.

Quality & risk:
Centralized records management and standardization provides the access needed to handle 21st century data challenges. Searches are not only easier; they are also much more reliable. Officials can definitively report that they reasonably and thoroughly searched all agency records.

However, review and redaction processes are still laborious and remain culpable to inconsistent human decision-making practices and errors, as does the creation of indexes and reports.

Ease of use and automation:
Searches are performed through user-friendly, customizable dashboards. All responsive records are collected from the same location where they are reliably maintained. Officials easily share searchable records with the public through secure web interfaces without need to transfer information in and out of systems.

Security:
With all data in one system, security is tightly controlled. Strict authentication measures are required for access. The consistent, up-to-date security of cloud-based platforms is more effective than that of traditional IT systems.

Processes & collaboration:
A single platform is the starting point needed to establish agency-wide standards and procedures for handling PRRs. Agencies and departments with overlapping responsibilities collaborate with secure access to shared data. Officials easily work together through platforms that integrate directly with existing software such as Office 365, Adobe, SharePoint, Exchange, FileNet or other document repositories.

Analytics: optimized disclosure process

Analytics speed and ease disclosure processes while simultaneously improving the accuracy of responses. Efficiencies introduced by analytics swiftly resolve even the most complex PRRs.

AI-driven data analytics is the toolset officials have been searching for to uncover relevant information they've always known goes overlooked but never had the resources to find. Advanced search capabilities such as "fuzzy" searches locate variations and misspellings of names, which is a particularly relevant issue when it comes to the many acronyms used by government agencies. Other features include the ability to:

- Reconstruct email threads and find missing emails
- Identify spoken words and phrases in videos and audio files
- Find specific numbers within a range (e.g. all dollar amounts between $45K and $50K)
- Search text laid out in any direction (e.g. architectural or construction plans)
- Filter records by a particular custodian, file type, keywords, date ranges and other metadata to include or exclude documents for further review

As employees identify and organize records, culling techniques such as deduplicating and deNISTing remove irrelevant documents and automatically reduce the number of documents that need human review. Processes such as auto-classification of documents and auto-redaction of private and exempted information relieves employees of the most redundant and time-consuming parts of review.

# Effects of optimized analytics disclosure processes

Financial:

Though the total number of records processed is greater than ever, the majority is handled automatically and fewer records need manual review. Faster identification of relevant information along with easier review and redaction correlate to savings of up to 30-50% in time and expense.

Quality & risk:

Advanced search capabilities applied to standardized, centralized records mean that for the first time, results are more thorough and trustworthy. Automation never overlooks or misses information by mistake. AI-driven analytics also drive more consistent decisions about relevancy and exemptions.

Ease of use and automation:

Culling and automated processes reduce massive sets of documents fast, sometimes by up to 98%. More organized and efficient records classification make identification of relevant information easier. Disclosure decisions and exemption reasons are automatically documented. Employees produce detailed indexes and reports through easy-to-use dashboards and customizable reporting tools. Online public libraries and reading rooms are proactively populated with commonly requested information.
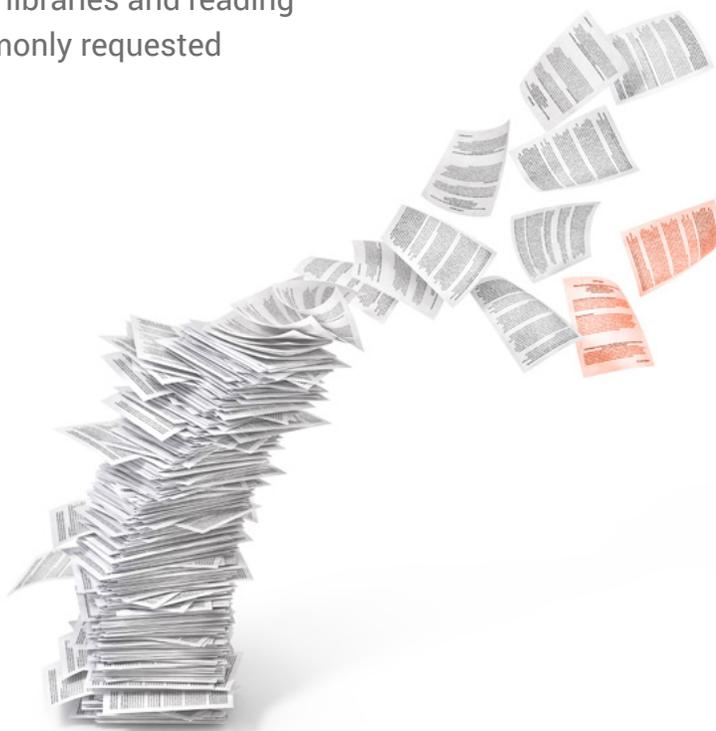
Security:
When used through an integrated platform, all data remains in a single system, eliminating and reducing security risks.

Processes & collaboration:
Workflows are better organized and prioritized with clear steps outlined for moving forward to completion. Officials are empowered to collaborate on complex matters and make more informed decisions with the assurance that results are thorough and accurate.
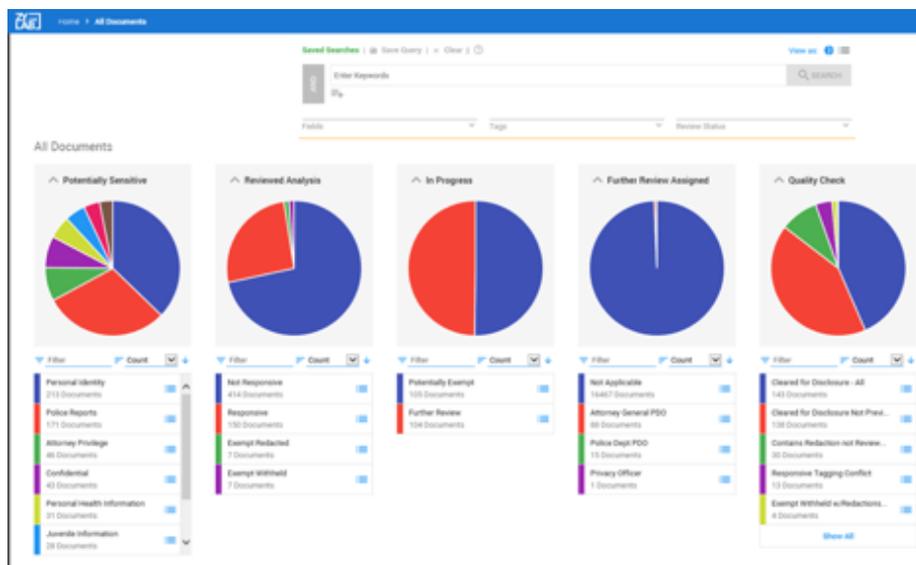
Auto-categorization at work on a user-friendly dashboard.

Smart fact-finding: automated disclosure process

A major challenge in responding to PRRs is that officials never know what relevant information is left behind. Nagging feelings persist that they didn't perform a query for every possible potentially relevant search term (how could anyone?) and information that legally should be disclosed remains out there, somewhere, hidden.

Smart fact-finding processes use artificial intelligence to apply the much sought-after level of human understanding needed to find information people aren't able to on their own.

"Smart" AI goes beyond just finding the information it is told to look for. It scrutinizes the context of the language surrounding specific names, dates, events, etc. it's told to locate. Because it better understands the intricacies of human language, it finds records that match the search for intent, not necessarily exact terms. When responding to search queries, it goes a step further and suggests other potentially relevant information for review.

Financial:
Significant savings stem from dramatically reduced review times and much greater accuracy in locating additional relevant records. Because more records are produced, smart AI technologies are powerful weapons for reducing the $40 million spent in 2017 to handle FOIA appeals and lawsuits.

Quality & risk:
Using data analytics and smart fact-finding processes through an integrated platform delivers the most consistently accurate and thorough results possible with the least amount of effort and in the shortest amount of time. More relevant records are found, the review process is accelerated, and irrelevant, exempted, and private information is automatically removed or redacted.

Ease of use and automation:
Powerful search and review capabilities unearth relevant documents regardless of the search skills of agency employees through processes that are 15 to 20 times more efficient than manual efforts. Indexes and reports are automatically available through interactive, informative, and intuitive dashboards. And, criteria can be set to establish automatic publication of proactive disclosures.

Security:
Again, all agency data in maintained in one secure system. Integrated platform provided by eDiscovery vendors (discussed in greater detail in the white paper "Why machines are better at handling public record [requests](#)") use processing, security, and auditing features that withstood repeated scrutiny by U.S. courts to become the recommended technology of choice in the legal industry.

Processes & collaboration:
Employees collaborate and use clearly defined, repeatable processes in response procedures that can be implemented government-wide.
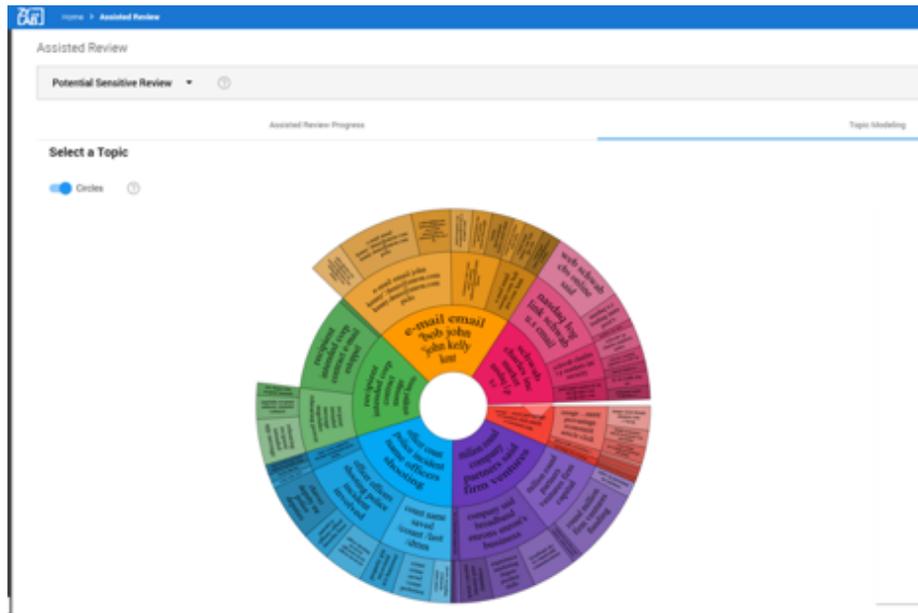
Smart Fact Finding – Topic Modeling at work

Next steps

Through the framework of the maturity model, public officials assess the strengths and weaknesses of their agency's current PRR response procedures. The model shows which tools and processes currently undermine their efforts and which work to the fullest. After identifying areas where improvements are needed, officials are better prepared to determine which tools and strategies will lead to the best possible outcomes for their agency. From there, they develop the appropriate action plans.

Government officials also use the maturity model to uncover important talking points during discussions with technology vendors. The model is a helpful comparison tool for assessing whether procurement of a certain technology tool or software will resolve all agency needs.

Controlled progress

As the maturity model shows, PRRs are often best managed with integrated technologies that optimize and automate processes that produce smart results.

But, not every agency needs or wants to jump straight into a fully integrated solution with all the bells and whistles. And that's okay. Because smart technology platforms are available by subscription and/or a per usage basis, progress can be controlled. Officials can initially process smaller data sets while taking time to get comfortable with how the technology works. They can use the features that best suit their needs without worrying about paying for a bunch of extras they don't need.

For more on how this is possible and, as mentioned above, how eDiscovery platform help agencies respond more effectively to PRRs, please download the white paper "Why machines are better at handling public record requests."

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