

MMC 4936

Public Records

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What we're covering

- Election Previews — What We've Learned
- Interview Types Pros/Cons
- Public Records Overview
- Intro to Court Procedures

Types of Interviews

- **In person**
 - > What are the pros/cons?
- **On the phone**
 - > What are the pros/cons?
- **Email**
 - > What are the pros/cons?
- **Social Media**
 - > What are the pros/cons?

FOIA vs Sunshine

The Freedom of Information Act (FOIA) has to deal with records held by the federal government (campaign finance records for U.S. Senate, Congress) while the Florida Sunshine Law deals with records held by state and local agencies (city business records, salaries of city workers.)

For the most part, we're going to be focused on the state stuff.

Who's covered?

All state and local agencies, including any employee or officer of that agency, and boards or commissions created by that agency. Often boards are required to have written policies regarding public records.

For those who are curious, that would be Title XIX, Chapter 286 of the Florida code. It is one of the most open states in the union. Seriously.

Who's not covered?

- State courts, which have their own records
- The Legislature (though the governor's office and all state agencies that report to that person (i.e. Dept of Corrections) are)
- Federal agencies (that's FOIA)

What's covered?

“Records” mean all communications related to public business. This means reports, agendas, tax receipts, and emails between officials. It also means computer records, data and all matter of things. Including, as it turns out, this particular document you’re reading.

Things to keep in mind:

- **An agency does not have to create a record or a report. They must have it already or they may (and probably will) charge you a fee.**
- **If they have the report or document you're looking for, they can charge you for a copy, but they can't charge you to just look at it.**
- **If you are denied, they have to explain why.**

Planning to make your request:

- Plan out what you're looking for, and understand what exceptions may apply and find a way to counter them
- Ask informally before making a formal request under the law
- Do you best not to require the agency to make a report or list, though sometimes this is not possible
- A written request is not required under the law, but it can be helpful if your request is complex or you anticipate denial...Documentation is very often a good thing
- Put date limits on any search

Planing (cont)

- **If the agency claims the records you seek don't exist, ask your contact what databases were searched, as this may give you clues on what does exist and what follow-ups you can perform**
- **Ask for help from the agency. They're not supposed to be hiding documents from you, and often your discovery of them provides them with legal cover**
- **Limit pre-authorized costs**

Your turn

Sign up for a free account on Guidestar (link below) and find the Income Tax records for a nonprofit within your beat. See what other links you can draw.

Is it a particularly effective or ineffective charity? How would you go about trying to find out?

Guidestar

<http://www.guidestar.org>

Criminal Court Procedure

Basic Terms

- **Arraignment**
 - > After being charged with a crime - plead “guilty” or “not guilty”
- **Discovery**
 - > Information to be used at trial, must be shared between the sides
- **Indicted**
 - > Requires the involvement of a grand jury; incorrect otherwise
- **Voir Dire**
 - > Jury selection; Each side has a limited number of “preemptive challenges”
- **Preliminary hearing**
 - > If not charged by a grand jury, defendant entitled to prelim hearing

Who's in court

- **Prosecutor**

- > Representative of the state; sits closest to the jury box

- **Defense attorney and defendant**

- > They will be seated together

- **Judge**

- > The man or women in charge; they have complete control

- **Bailiff**

- > Usually a Sheriff's deputy; charged with keeping order

- **Clerk**

- > Person usually just to the right or left of the judge; very vital person

Preparing to write

- Read any previous coverage
 - > Make sure you know as many as any of your competitors
- Ask the clerk to read any documents
 - > They can refuse, so be nice to these people. Always.
- Research any other documents available
 - > Other cases involving defendant may be available in main clerk's ofc
- Read out to the District Atty PIO
 - > Make sure your questions can't be found elsewhere, however
- Read out to the Defense Atty.
 - > The defense attorney is more likely to talk than the prosecutor

Other items

- Conviction requires “beyond reasonable doubt”
 - > The jury must be unanimous in its decision
- Court proceedings are public by default
 - > If a judge attempts to close a courtroom, you can (and should) protest
- Be aware of the rules of particular courts
 - > Judges can (and will) throw you out for gum, inappropriate clothing, recording by iPhone if they don't want it. Ask beforehand.
- Be nice to everyone
 - > Even if that courtesy is not returned. It's not worth it.
- Remember who else may be there
 - > The family of the accused or the defendant may be in court. They may be good sources, but it means you need to watch what you say.

Questions?

Homework

Reading:

- *Miami Herald* and *New York Times* (daily)

Upcoming:

- We will be having a field trip to the downtown Miami Courthouse next **Weds, Oct. 19.**
- The deadline for the first project has been given a second (and final) extension to **Oct. 26 at 12 pm.**

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