

**Tip Sheet**  
**Fighting for Access to Open Records**  
2011 IRE Annual Conference (Orlando, Florida)  
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**I. Emerging Trends in State Public Records Cases and Legislation:**

1. efforts to close 911 tapes from public inspection or use (N.C's S.B. 98):<http://www.ncga.state.nc.us/Sessions/2011/Bills/Senate/PDF/S98v1.pdf> & pending in Tennessee:  
<http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB1539>
2. Florida law closes death photos/videos:  
<http://static.lobbytools.com/bills/2011/PDF/0411ER.PDF>
3. Texas law closes photographs of police officers, with limited exceptions (H.B. 2006): <http://e-lobbyist.com/gaits/text/290607>  
*See also* (re: access to IA files): [Romero v. City of Fountain \(Colo. App. 2011\)](#) & <http://www.rcfp.org/newsitems/index.php?i=11890>
4. Continued battles over access to public officials' appointment calendars, telephone logs, e-mails, etc.:  
[http://www.mercurynews.com/rss/ci\\_18211066?source=rss&nclick\\_check=1](http://www.mercurynews.com/rss/ci_18211066?source=rss&nclick_check=1)  
[http://www.denverpost.com/news/ci\\_17962571](http://www.denverpost.com/news/ci_17962571)  
<http://www.examiner.com/hispanic-community-in-miami/herald-to-obtain-mayor-s-phone-records-following-lawsuit-settlement>
5. Efforts to put public employees' dates of birth out of reach, to protect against identity theft.  
  
*Compare:* <http://www.supreme.courts.state.tx.us/historical/2010/dec/080172.pdf> & [http://openrecords.state.pa.us/portal/server.pt/document/1021130/20100845\\_purcell-  
oa\\_pdf\\_3](http://openrecords.state.pa.us/portal/server.pt/document/1021130/20100845_purcell-oa_pdf_3)  
  
*Pending:* <http://newsok.com/sunshine-week-state-employee-birth-date-issue-in-limbo-as-oklahoma-supreme-court-considers-appeals/article/3549328>

## II. Recent Developments Under the Federal FOIA:

1. Supreme Court's rejection of a right to "personal privacy" for corporations:

<http://www.supremecourt.gov/opinions/10pdf/09-1279.pdf>

also: elimination of "high-2" judicially-generated exemption (court limits exemption to its textual terms, "related solely to the internal personnel rules and practices of an agency.")-

[http://www.rcfp.org/newsitems/docs/20110307\\_170737\\_milner\\_opinion.pdf](http://www.rcfp.org/newsitems/docs/20110307_170737_milner_opinion.pdf)

2. federal court's ruling that metadata must be produced in response to a FOIA request:

<http://proteggallc.files.wordpress.com/2011/02/ndlo-vs-ice-metadata-fields-production-scheindlin.pdf>

(as have several state courts, *see O'Neill v. City of Shoreline* (Wash. 2010):

[http://www.rcfp.org/newsitems/docs/20101008\\_151627\\_shoreline\\_opinion.pdf](http://www.rcfp.org/newsitems/docs/20101008_151627_shoreline_opinion.pdf) &

<http://www.steptoe.com/assets/attachments/4095.pdf> (surveying state court rulings)).

3. federal appeals court upholds Bureau of Prisons' withholding of a security video showing a prisoner's murder, despite that it was played in open court:

<http://ca10.washburnlaw.edu/cases/2011/01/09-1511.pdf>

### **Helpful FOIA/Public Records Resources:**

1. IRE FOIA Links: <http://www.ire.org/foi/links.html>
2. Reporters Committee for Freedom of the Press: <http://www.rcfp.org/foia/index.php>
3. NFOIC FOI Center: <http://www.nfoic.org/foi-center>
4. SPJ'S FOI FYI (blog): <http://blogs.spjnetwork.org/foi/?p=879>
5. SPJ's Journalist's Toolbox: <http://www.spjvideo.org/jtb/archive/public-records/>
6. WikiFOIA: <http://sunshinereview.org/index.php/Portal:WikiFOIA>
7. U.S. DoJ's People-Finding Tools:  
<http://newtonplks.org/wp-content/uploads/2009/09/Public-Records-Resources-from-the-U.S.-Dept.-of-Justice.pdf>
8. Negotiating tips: <http://www.nreisner.com/KnowHowtoNegotiateforRecords.htm>