

Committee on Open Government

**Freedom of
Information Law**

FOIL

The New York State Seal is centered within the letter 'O' of the acronym 'FOIL'. The seal depicts two female figures, Liberty and Justice, flanking a shield with a landscape and a sun. Above the shield is an eagle with wings spread. Below the shield is a banner with the motto 'EXCELSIOR'.

NYS Committee on Open Government

Camille Jobin-Davis, Esq., Assistant Director

camille.jobin-davis@dos.ny.gov

(518) 474-2518

Google “coog” for website

Freedom of Information Law



“Records”



Reasonably Describe Records



- Locate with reasonable effort
- Electronic records

Not Required to Create Records

3 exceptions:

- Vote
- List: name, public office address, title, salary
- Subject matter list



Presumption of Access

THE VICE PRESIDENT
HAS SEEN

[People have made too much of the difference in how I described Karl and Libby.]

I've talked to Libby.

I said it was ridiculous about Karl and it is ridiculous about Libby. Libby was not the source of the Noack story.

And he did not leak classified information.

How to happen today
Call out to big press saying same thing about Scooter as Karl

Not going to protect one staffer & sacrifice the guy who has that was asked to stick his neck in the meat grinder because of our incompetence of others.

GOVERNMENT EXHIBIT 532 65 Cr. 384(D)

009502

11-001-00009



Data Analysis

Database: SQLiteDB

General

- Restore initial po...
- Save as
- Load cube
- Refresh
- Copy selected fe...
- Print

Exporting

- Export to Excel
- Export to HTML
- Export to text file
- Export to XML

Data Query

Drop Filter Fields Here

Date	Item	open	shipped	waiting	Grand Total
4/27/1993	other		20000.00		20000.00
8/1/1993	software		9000.00		9000.00
8/8/1993	hardware		959960.50		959960.50
8/16/1993	software		0.00		0.00
8/20/1993	software		18000.40		18000.40
8/27/1993	software		10000.00		10000.00
9/9/1993	software		12582.12		12582.12
9/20/1993	software		100.02		100.02
10/10/1993	software		490.68		490.68
10/27/1993	hardware	2693.00	120000.00		122693.00
10/30/1993	software		210.00		210.00
11/7/1993	software		27000.00		27000.00
12/12/1993	software	531980.49			531980.49
12/18/1993	software		1500.00	999.98	2499.98
12/27/1993	software			14850.00	14850.00
12/31/1993	software			0.00	0.00
1/4/1994	hardware		3999.99		3999.99
1/6/1994	software			1980.72	1980.72
1/17/1994	software		3399.15		3399.15
2/7/1994	hardware		422210.97		422210.97
2/13/1994	software		9000.00		9000.00
Grand Total		551072.63	1681687.70	17830.70	2250591.03



Exempt by law

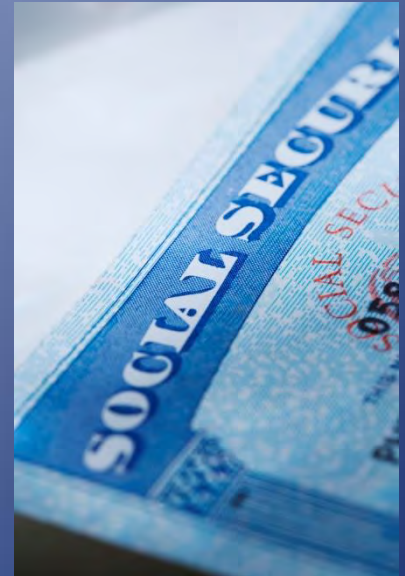


- Are exempt by state or federal law
 - Attorney-client communications – CPLR
 - Student records – FERPA
 - Mental health records – Mental Hygiene Law

Unwarranted Invasion of Personal Privacy

Some Examples:

- Employment application for someone who is not hired
- Medical records
- Social Security Number*
- Lists of names and addresses if used for solicitation or fund-raising purposes



Emails, Memos, Communications with other Agencies

Required to disclose:

- Statistical or factual information
- Instructions to staff that affect the public
- Final agency policy or determinations
- External audits

Time Limits

- 2008 amendments
- With reasonable effort



Email Requests

- If able, must
- Suggested form language on our website



Fees

- \$.25 per page for copies up to 9x14 inches
- Actual cost of reproduction
- Electronic records



Open Meetings Law



Public Bodies



- Two or more people
- Quorum
- Authority
- Membership

Are you having a Meeting?

- Quorum
- To discuss public business
- Regardless of intent or characterization



No Legal Distinction



- Workshop or work session
- Regular meeting
- Informal gathering
- Pre-board meeting

Other Gatherings

- Site visit
- “Retreat” or educational seminar
- Attendance at committee meeting
- Social



Intent

- “Be fully aware of and able to observe”
- “To attend and listen to the deliberations and decisions that go into the making of public policy”
- Make reasonable efforts to accommodate volume

Telephone Calls, Emails



- Definition of “meeting”
- Requires physical presence
- Videoconferencing permitted

Notice

- ✦ Time and place
- ✦ Prior to every meeting
- ✦ To the media
- ✦ Designated location
- ✦ ON THE WEBSITE*



Minutes

- Motions/Proposals/
Resolutions/Votes
- Regular meetings
- Executive sessions
- Unapproved or draft





CHENEY

Recording

- Agency
- Public
- Reasonable rules
- Disruption/interference



Executive Session



- Part of an open meeting
- Upon majority vote
- Specificity of motion

Grounds for Executive Session

- f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;

Public Participation

- Constitution, First Amendment
- Reasonable rules
- Hearings



OML Section 103(e)

- Records scheduled to be discussed at public meeting
 - Records that are public under FOIL
 - Proposed resolutions, laws, rules, regulations, policies or any amendment thereto
 - Public meeting

OML Section 103(e)

- Shall be made available upon request, prior to or at the meeting
- Fees: same as FOIL

OML Section 103(e)

- Shall be made available online prior to the meeting
 - If the agency maintains a regularly and routinely updated website and utilizes a high speed internet connection
 - Agency may, but not required to spend additional moneys to implement this section

Non-Compliance

- Article 78 proceeding
- Discretionary authority to
 - award costs and attorney's fees
 - invalidate action
 - require training

