

What We Don't Know About the Courts:

The Far-Reaching Consequences of the Judicial Exemption from the Illinois Freedom of Information Act



Chicago Appleseed Center for Fair Courts uses mixed-methods research and collaborative advocacy to fight mass incarceration and interrupt the cycles of poverty and racial injustice pervasive in the legal system. Visit chicagoappleseed.org for more information.

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The Problem:

The courts in Illinois aren't subject to the Freedom of Information Act or any other public records laws.

The Illinois Freedom of Information Act (FOIA) ensures the public's access to requested information from the government and is one of the most important tools people have to hold public officials and agencies accountable. **Notably, though, the FOIA does not apply to the judiciary in Illinois, nor are there other open records acts or court rules requiring the judiciary to disclose requested information.** As a result, the courts and court-adjacent entities are not held to the same standard of transparency as other government entities in Illinois, and the public has no legal mechanism to compel them to release information. Illinois is one of the few states where this is the case.

Freedom of Information Act

The United States Congress passed the federal Freedom of Information Act in 1967, which requires federal agencies to release information requested by the public with some exceptions. State legislatures replicated the federal law with their own data disclosure laws; Illinois was the last state to do so, implementing its Freedom of Information Act (FOIA) in 1984. **Illinois' FOIA is the Freedom of Information Act referred to throughout this brief.**

By the time Illinois passed its FOIA, the state had been in great need of government transparency in large part due to various public scandals, including the indictments of three governors within 50 years. A 1972 lawsuit alleged that Cook County conditioned government employment on political party affiliation, campaign donations, and political party work while on duty at county offices, as well as in exchange for votes. In the 1980s, the FBI conducted Operation Greylord to investigate bribery and corruption in the Circuit Court of Cook County and ultimately indicted 17 judges and eight court officials.

Illinois' FOIA requires all public bodies—which includes most government bodies at all state and municipal levels as well as state universities and colleges—to disclose information requested by the public in a timely manner. Within five business days of any information request, a public body must either respond with the requested information, deny the request and explain why this information is exempt from the FOIA, or indicate in writing that they need to extend the response time. A “FOIA request” refers to any written request for information from a government entity subject to the FOIA; for example, a brief email asking for copies of certain records is sufficient.

“A FOIA without a clear, meaningful path to enforce compliance fails in its purpose of making information available to the public.”

Though courts initially interpreted the FOIA as applying to an expansive range of information requests, enforcing compliance was difficult because exemptions were extensive and ill-defined, and the oversight body created in statute had no enforcement capacity. When the Better Government Association evaluated the implementation of the FOIA in 2006, they concluded that “the overwhelming majority [of agencies do] not comply with the law and produce records that are clearly available.” **A FOIA without a clear, meaningful path to enforce compliance fails in its purpose of making information available to the public.**

In 2009, Illinois amended its FOIA—based in part on recommendations of the Illinois Reform Commission—to do the following:

- Establish a *presumption of disclosure* for records.
- Clarify that exempt information should be redacted from a record instead of withholding that record entirely.
- Impose a fine for intentional instances of FOIA noncompliance by a public body.
- Shorten the maximum response time (before an extension) to five business days.
- Prevent public bodies who fail to respond or extend within five business days from eventually imposing fees for records or claiming requests are too burdensome to comply.
- Create the position of Public Access Counselor (PAC) in the Office of the Attorney General to review denied FOIA requests.¹
- Require public bodies to designate at least one staff member as the trained FOIA Officer to oversee requests and make lists of records to be released immediately upon request.

¹ Public bodies are required to justify every denial of a FOIA request to the Public Access Counselor. Members of the public whose requests were denied may ask the PAC to review the denial.

Judicial Exemption

Illinois’ FOIA applies to “public bodies,” which the statute defines as “all legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities,” and some other state or municipal entities. The statute explicitly excludes a few select entities from this definition, all of which deal with sensitive data about children. Notably, though, the definition of “public bodies” does not mention the judicial branch, but records from the Illinois General Assembly make clear that “it was the intent of the Legislature that [the courts] be subject to investigation and audit just the same as everybody else.”

In 1995, however, Illinois’ Second District Appellate Court decided in Copley Press v. Administrative Office of the Courts that the judiciary isn’t subject to the FOIA. Interpreting the

definition of “public body,” the court argued that the legislature’s explicit naming of “the legislative and executive branches of government without listing the judicial branch . . . must be taken as an intent to exclude the judiciary” from the statute’s data disclosure requirements. [Since Copley, the Illinois judiciary has been interpreted as exempt from the FOIA, as has any “arm of the court directly accountable to the chief judge,” such as pretrial services agencies.](#)

“This judicial exemption makes Illinois...one of only six states that does not require the judiciary to disclose requested information.”

Later appellate decisions have clarified which court-adjacent government entities are and are not subject to the FOIA. In 2009, the First District Appellate Court decided that a Clerk of the Circuit Court was “a member of the judicial branch” and thus exempt from the FOIA, and this was affirmed as recently as 2017. On the other hand, the Illinois Supreme Court decided in 2014 that state’s attorney’s offices are part of the executive branch rather than the judicial branch, so they are subject to the FOIA.

Public defenders’ offices are a more confusing case. The Fourth District Appellate Court decided in 2024 that a public defender appointed by a chief judge—which is the case in every county other than Cook—“operates as part of the judiciary and is not subject to [the] FOIA.” The Cook County Public Defender is appointed by the Cook County Board of Commissioners and thus is subject to the FOIA. The State Public Defender will also be subject to the FOIA once the position is filled, as is required by the State Public Defender Act.

This judicial exemption makes Illinois a national outlier. [In fact, Illinois is one of only six states that does not require the judiciary to disclose requested information through either a Freedom of Information Act, another open records law, or a court rule.](#)

The Context:

Illinois has a unified court system with centralized, statewide supervisory and administrative bodies.

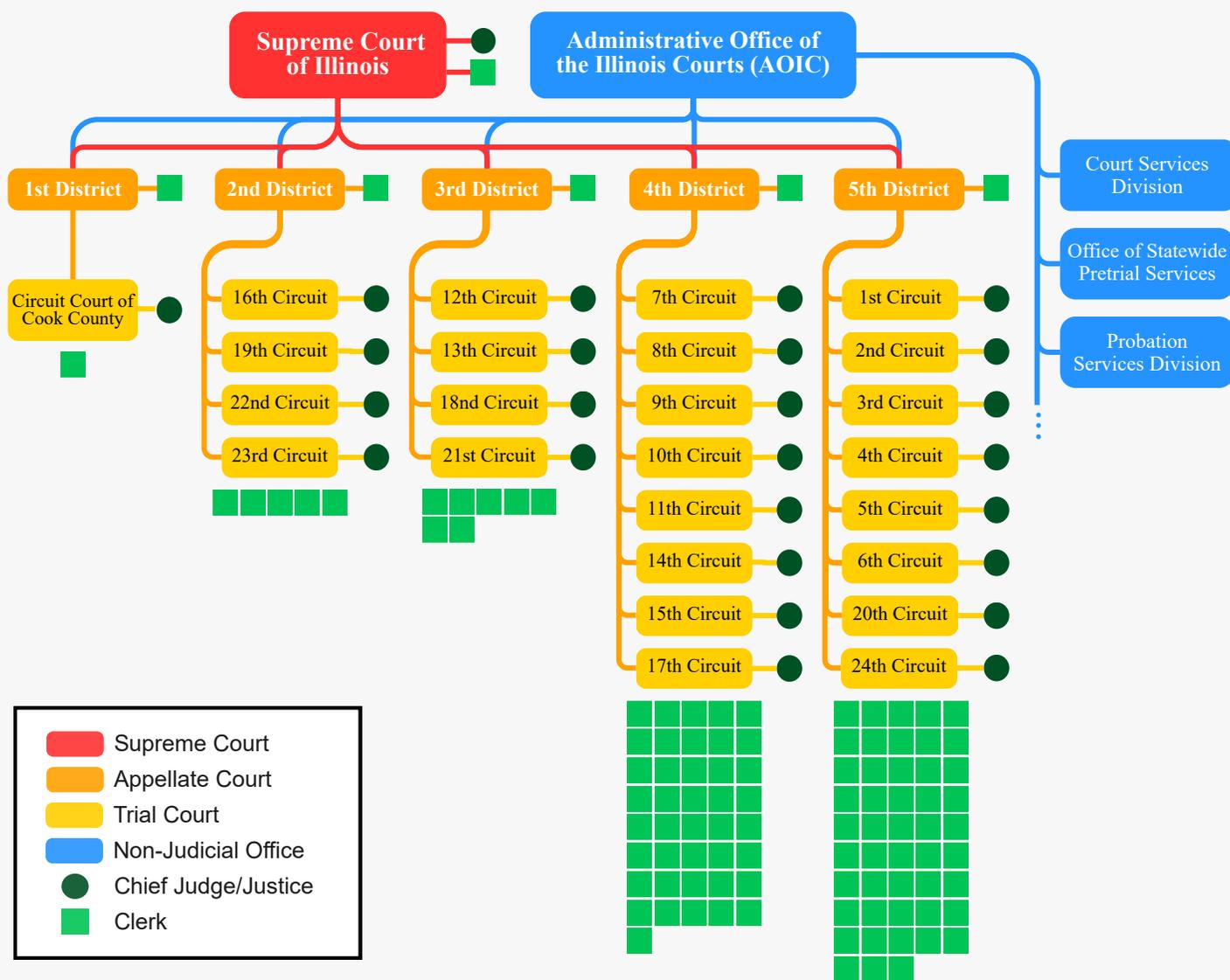
To understand the breadth of government activity shielded from public oversight because the judiciary is exempt from the FOIA, it is critical to know how the courts are structured and managed in Illinois. Like most other states, Illinois has a state supreme court, appellate courts, and trial courts (which are separated into 25 judicial circuits).

The Supreme Court of Illinois has general administrative and supervisory authority over all courts in the state, and the Administrative Office of the Illinois Courts (AOIC) assists in that authority. The state supreme court addresses some appeals from the appellate court and may exercise original jurisdiction in some cases pertaining to revenue. The AOIC supports the supreme court in its supervisory role and provides services and resources to courts across the state through its Court Services Division, Office of Statewide Pretrial Services, and Probation Services Division, among other offices. The supreme court also selects its own chief justice and appoints the Administrative Director of the AOIC.

The appellate court is divided into five districts with a total of 54 appellate court judges. With the exception of Cook County, multiple judicial circuit courts feed into each district. Litigants have the right to appeal circuit court decisions to their respective appellate district courts.

Organization of the Illinois Court System

Figure 1

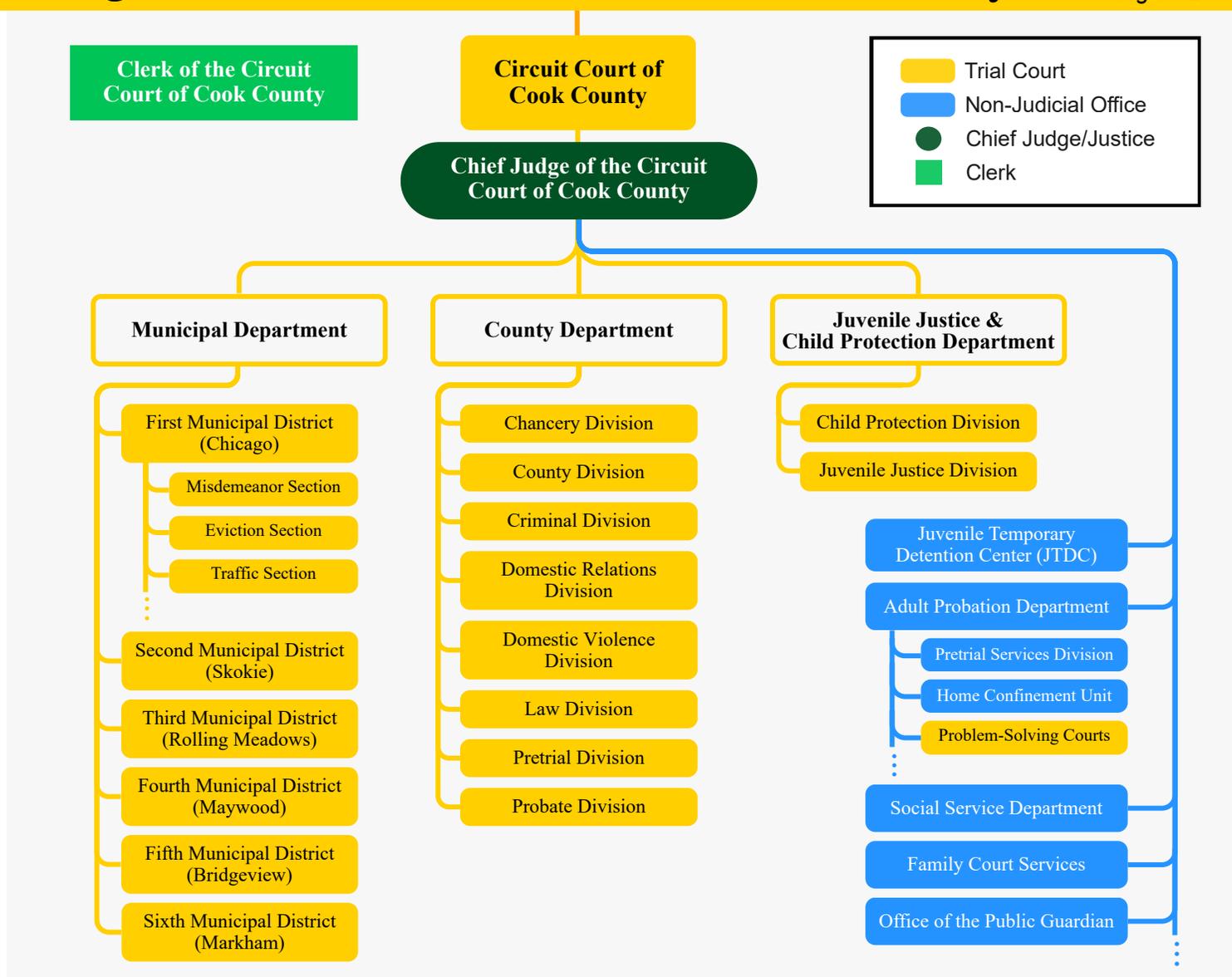


Most judges in Illinois are elected and must be retained via election at the conclusion of each term. The seven supreme court justices and 54 appellate court judges are elected from the five districts to serve 10-year terms. Trial court judges may be elected, chosen by sitting judges in their circuit, or appointed to fill vacancies by the supreme court to serve four- or six-year terms.

The supreme court and each appellate district appoint a clerk who operates within the rules of their respective courts to manage cases and records. **Clerks of the Circuit Courts, on the other hand, are heads of their own agencies who are independently elected at the county level rather than appointed; they serve the court and AOIC but are independent from the judiciary.** The 102 Clerks of the Circuit Courts administer offices responsible for maintaining complete records of cases, preserving court files, and documenting money received and disbursed through cases in their circuits.

Organization of Circuit Court of Cook County

Figure 2



² The information in Figure 2 is pulled from the Cook County Circuit Court’s [website](#) and the Board of Commissioners’ [FY 2026 Budget Recommendations](#), which have minor discrepancies between them.

Statutory Reporting Requirements for Courts

Several Illinois statutes require the courts to regularly report some information. The Clerks of Courts Act specifies that all records that clerks are legally required to maintain are considered “public records” and therefore open for free “inspection and examination” by the public. It also requires each county board to conduct an annual financial audit of the circuit clerk’s office, which is available to the public upon request. The Court Statistics Act requires clerks to “comply with the requests made by the [supreme court] for information, statistical data, and reports” concerning court dockets and operations. The Criminal & Traffic Assessment Act (CTAA) and the Safety, Accountability, Fairness and Equity–Today (SAFE-T) Act both have reporting requirements for the courts as well.

These statutory reporting requirements for the courts fall short of real transparency in multiple substantive ways. First, they represent a small, predetermined portion of the breadth of information maintained by the courts and their clerks, and the public has no mechanism to compel them to release new information. Furthermore, although compliance with the reporting requirements is not technically discretionary, these statutes do not impose any consequences for noncompliance.

The judicial exemption to Illinois’ FOIA “means that the public is denied access to an expansive set of information” about the courts.

The Missing Information:

The judicial exemption to the Illinois FOIA limits government transparency and fails to effectively hold court-related public officials accountable.

The Illinois FOIA fails to provide the level of transparency needed for people to be able to hold the judiciary and related public officials and government agencies accountable. This failure means that the public is denied access to an expansive set of information, including:

Summary statistics about cases. The public does not have the data we would need to calculate summary statistics about criminal and civil court cases in Illinois, such as the number of cases, average case length, most common criminal charges, distribution of case outcomes, demographics of litigants, and rates of representation.

Court costs and fees. Because not all Clerks of the Circuit Courts comply with the reporting requirements in the CTAA, the public has limited information about the percentage of cases in which cost waivers are requested and granted and whether costs are partially or fully waived. Additionally, the public is unable to analyze circuit court revenue resulting from legal financial obligations like fines, fees, and court costs. If the Clerks of the Circuit Courts were subject to FOIA requests, there would be an alternate means to access the information.

Judicial assignment, performance, and education. Judges are public officials³ who should operate with public oversight and be held to meaningful performance standards. Because the courts are not required to disclose their standards for judges, judicial training materials, performance metrics, or policies for assignments across divisions, the aftermath of judicial misconduct is mostly shielded from public view. **Many judges in Cook County, for example, have resigned, been reassigned, or been required to complete sensitivity training amid complaints of gender and racial bias or harassment—all without disclosure of the court’s investigatory procedures, improvement and discipline processes, or information about trainers’ credentials and content of trainings.**

³ Except for associate judges who are selected and retained by judges in their circuits, most of the judges in Illinois run for election after partisan primaries and are chosen by voters to obtain and keep their positions.

Utilization and administration of court services. In many circuits, the chief judge oversees court services like interpreters, which ensure language access to all litigants, and the public guardian, who acts as the court’s attorney to advocate for the best interest of some children in court proceedings or to serve as guardian of estates and assets of adults with disabilities. **The public does not have access to information about how often an interpreter is utilized or the public guardian is appointed, nor can they access to personnel policies, manuals, trainings, or performance reviews for these offices and officials.**

Program management information. The chief judge also manages non-judicial programs in some circuits. The public is not guaranteed access to local policies and processes for these programs, nor can they compel the release of data on them. This includes pretrial, diversion, and probation programs managed by the chief judge, such as pretrial electronic monitoring programs.

Without the FOIA, Illinoisans aren’t provided “sufficient oversight into how the courts spent...over \$500,000,000.”

How courts use public funds. Illinois courts are funded through a variety of sources, both statewide and local to the counties: The state income tax, county property taxes, case filing fees, court-imposed fines and assessments, and other fees all fund the courts. Clerks of the Circuit Courts are required to report revenues and expenditures to the AIOC, which makes

high-level statistical reports available to the public. These [high-level reports](#) do not give sufficient oversight into how the courts spent their 2025 appropriation of over \$500,000,000.

General operations. The general lack of data transparency among the Illinois' courts and the clerks can also have internal consequences for the functioning of these entities. For example, when the court worked with external consultants to consolidate the Cook County Domestic Relations (DR) Division in 2017, the Clerk of the Circuit Court of Cook County did not have the appropriate infrastructure for data reporting.⁴ Because of this, information available for the consolidation was inconsistent and contradicted individual judges' records, which ultimately made it unreliable. More extensive reporting requirements would lead to stronger and smoother internal communication and facilitate cooperation among these government entities.

⁴ Chicago Appleseed worked with the DR Division to consolidate the Domestic Relations and Parentage Divisions within it. This experience was one of many that informed [our recommendation](#) for the creation of a data management office in the Clerk of the Circuit Court's Office.

The Solution:

To ensure full transparency of the judiciary, Illinois must implement a comprehensive public records act or amend its Freedom of Information Act's definition of "public body."

Part of Chicago Appleseed's mission is to improve access to information about the legal system so that the public can effectively engage with stakeholders and hold them accountable. Over the years, we've advocated for transparency in many forms, including as a member of the [Court Transparency Coalition](#) (CTC), a diverse group of organizations across Chicago and Illinois who believe that the judicial branch should be subject to Illinois' FOIA. Below are our primary recommendations to systemically improve transparency.

Amend the FOIA. [The simplest way to resolve the judicial exemption is to amend the definition of "public body" in the FOIA to explicitly name the judicial branch.](#) To maintain privacy regarding nonpublic information in case files and preliminary drafts, an exemption should be added for judicial work product that should be withheld from disclosure to adhere to professional ethics and rules of evidence. Private personal information should be shielded by the privacy carve-out in the FOIA, as well as court rules governing disclosure of sensitive information when permitting public access to records.

Two such amendments have been introduced by the 104th Illinois General Assembly in [HB 4395](#)⁵ and [SB 1826](#) making similar additions to the [FOIA](#), such as:

- Including the “judicial branch” and judicial branch “components” in the definition of “public body” (Section 2(a)),
- Making “records that pertain to the preparation of judicial opinions and orders” exempt (Section 7(f)), and
- Providing that people cannot request review from the Public Access Counselor if their FOIA requests to the judicial branch or its components are denied (Section 9.5(a) and (b-5)).

⁵ A previously published version of this brief referenced [HB 1855](#); this brief was edited on February 5, 2026 to reference the reintroduced version of the bill instead.

“In 2024, only 83% of counties submitted [statutorily required reports] to...satisfy the Clerk of Courts Act and the CTAA.”

Pass a public records act for the judiciary. [Public records acts](#) (PRAs) generally predate the federal Freedom of Information Act. PRAs often cover a broad range of agencies and records held by them, although most limit coverage of the judicial branch to administrative and financial records of the court. **Importantly, public records acts generally have more diverse methods for assuring compliance than laws following the Freedom of Information Act model.**⁶

Examples of PRAs applying to the judiciary can be seen in other states. In [Indiana](#), for example, the judiciary is subject to the state’s PRA, allowing a court to impose a civil penalty against an individual working in a public agency if they continually or intentionally deny valid requests or knowingly charge an unlawfully high copy fee for a request. In [Missouri](#), the judiciary is only subject to the state’s PRA, the Sunshine Law, when acting in an administrative capacity, and the state imposes harsher penalties for noncompliance (removal from their position, impeachment, or even a misdemeanor charge). In keeping with Illinois’ current and historic support of progressive and transformative policies, the legislature should pass a PRA similar to Indiana’s, without criminal penalties from compliance mechanisms.

⁶ Enforcement mechanisms for compliance with the federal FOIA include legal suits against the respective agency, but all administrative remedies and appeals must be exhausted first (unless the agency fails to comply with the FOIA’s time limits). If a lawsuit is successful, the plaintiff may be able to recoup attorneys’ fees but, unlike in many states’ public records acts, the federal FOIA does not award monetary damages.

Amend the Court Statistics Act to include enforcement mechanisms. As an interim step to reforming the Illinois FOIA or passing a PRA, creating enforcement mechanisms for existing reporting requirements would help change the culture around data transparency and improve compliance with data reporting requirements.

Improve compliance with existing reporting requirements. Not all Clerks of the Circuit Courts are reporting the information that is statutorily required. In 2024, for example, only 83% of counties submitted a report to the AOIC to satisfy the Clerk of Courts Act and the CTAA. It would be helpful to work alongside the AOIC to implement enforcement mechanisms and useful to work with Clerks of the Circuit Courts to resolve barriers to creating these reports.

“The Illinois Supreme Court’s decision that the courts...are exempt from the FOIA defies...the original intent of the statute.”

Next Steps

The Freedom of Information Act is grounded in the commonsense idea that the public has a right to information about how their government functions. The Illinois Supreme Court’s decision that the courts, chief judges, and clerks are exempt from the FOIA defies this idea as well as the original intent of the statute. **Given the wide-reaching scope of these government entities, the judicial exemption prevents the public from obtaining data, records, and policy documents regarding criminal and civil cases, court fines and fees, judicial performance and training, court services, programming such as pretrial electronic monitoring, juvenile detention centers, and more.** There are many paths to increased court transparency in Illinois, and Chicago Appleseed is committed to advocating on all fronts to ensure the public’s access to information. Learn about our court transparency work at chicagoappleseed.org/court-transparency.

More Resources

- **Fair & Just Prosecution:**
[Court-Watching for Accountability: Lessons from Chicago](#) (2025)
- **Better Government Association:**
[Make the Judicial Branch Subject to FOIA](#) (2024)
[How the Courts are Hidden from FOIA](#) (2022)
- **Injustice Watch:**
[It’s Time to Make Illinois Courts Subject to the Public-Records Law](#) (2023)
- **The Civic Federation:**
[Breaking Down the Issue of Public Access to Judicial Branch Data in Illinois](#) (2021)



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