This is the print version of the Skeptical Science article 'Freedom of Information (FOI) requests were ignored', which can be found at http://sks.to/foi.

Climategate and the Freedom of Information (FOI) requests

What The Science Says:
The Independent Climate Change Email Review found the CRU scientists were unhelpful and unsympathetic to information requesters and at times broke FoI laws. However, CRU is a small research unit with limited resources, and they perceived the requesters were not acting in good faith. The same inquiry found the rigour and honesty of the scientists are not in doubt, and their behaviour did not prejudice the advice given to policymakers.

Climate Myth: Freedom of Information (FOI) requests were ignored
"The emails suggest that the authors co-operated (perhaps the word is “conspired”) to prevent data from being made available to other researchers through either data archiving requests or through the Freedom of Information Acts of both the U.S. and the UK." (Pajamas Media)

Exhibit No. 1 of the climate conspiracy theory is a collection of emails stolen from the Climatic Research Unit (CRU) of the University of East Anglia (UEA), which appeared on the internet in November 2009. Though some of these "Climategate" emails can sound damning when quoted out of context, several inquiries have cleared the scientists. The most comprehensive inquiry was the Independent Climate Change Email Review.

One allegation arising from the emails (and arguably the only instance where there is actually a case to be answered) is that Freedom of Information requests received by CRU were wrongly denied. Meanwhile, defenders of CRU “have suggested that a number of these FoIA requests were inappropriate or frivolous.” [10.2]

Below I have reproduced some of the emails often quoted in support of these allegations (all were written by Phil Jones):

> 7/5/2004: Many of us in the paleo field get requests from skeptics (mainly a guy called Steve McIntyre in Canada) asking us for series. Mike and I are not sending anything, partly because we don’t have some of the series he wants, also partly as we’ve got the data through contacts like you, but mostly because he’ll distort and misuse them. Despite this, Mike and I would like to make as many of the series we’ve used in the [Reviews of Geophysics] plots available from the CRU web page.
>
> 2/2/2005: [D]on’t leave stuff lying around on ftp sites — you never know who is trawling them. The two MMs have been after the CRU station data for years. If they ever hear there is a Freedom of Information Act now in the UK, I think I’ll delete the file rather than send to anyone. Does your similar act in the US force you to respond to enquiries within 20 days? - our does! […] Tom Wigley has sent me a worried email when he heard about it—thought people could ask him for his model code. He has retired officially from UEA so he can hide behind that.
>
> 21/2/2005: I’m getting hassled by a couple of people to release the CRU station temperature data. Don’t any of you three tell anybody that the UK has a Freedom of Information Act!
>
> 27/4/2005: I got this email from McIntyre a few days ago. As far as I’m concerned he has the data — sent ages ago. I’ll tell him this, but that’s all — no code. If I can find it,

> it is likely to be hundreds of lines of uncommented fortran ! I recall the program did a lot more than just average the series. I know why he can't replicate the results early on — it is because there was a variance correction for fewer series.
>
> 29/5/2008: Can you delete any emails you may have had with Keith re AR4? Keith will do likewise. […] Can you email Gene and get him to do the same? […] We will be getting Caspar to do likewise.
>
> 3/12/2008: When the FOI requests began here, the FOI person said we had to abide by the requests. It took a couple of half hour sessions — one at a screen, to convince them otherwise showing them what CA was all about. Once they became aware of the types of people we were dealing with, everyone at UEA […] became very supportive. […] The inadvertent email I sent last month has led to a Data Protection Act request sent by a certain Canadian, saying that the email maligned his scientific credibility with his peers! If he pays 10 pounds (which he hasn't yet) I am supposed to go through my emails and he can get anything I've written about him. About 2 months ago I deleted loads of emails, so have very little — if anything at all.
>
> 10/12/2008: Haven't got a reply from the FOI person here at UEA. So I'm not entirely confident the numbers are correct. One way of checking would be to look on CA, but I'm not doing that. I did get an email from the FOI person here early yesterday to tell me I shouldn't be deleting emails — unless this was 'normal' deleting to keep emails manageable! […] According to the FOI Commissioner's Office, IPCC is an international organisation, so is above any national FOI. Even if UEA holds anything about IPCC, we are not obliged to pass it on, unless it has anything to do with our core business — and it doesn't. I'm sounding like Sir Humphrey here! McIntyre often gets others to do the requesting, but requests and responses all get posted up on CA regardless of who sends them.

The general allegation is that CRU incorrectly denied FoI requests. In particular, the Review focused on the question of whether UEA's formal processes for dealing with FoI requests were "fair and impartial".

The Review Team interviewed the relevant UEA and CRU staff, as well as representatives of the Information Commissioner's Office (ICO). UEA's FoI process is centred around their Information Policy & Compliance Manager (IPCM). In the two years after current laws came into effect at the start of 2005, no requests for information were logged with the IPCM, though we know from the emails that there were such requests. We know from the IPCM log that CRU received four requests in 2007, two in 2008, and one in the first half of 2009 (four were fully granted and three rejected).

Then came the storm. Between 24 July and 28 July, CRU received no less than 60 FoI requests, and 10 more between 31 July and 14 August. The requesters demanded access to both raw temperature station data and any related confidentiality agreements. The Review found evidence that this was an organized campaign (one request asked for information "involving the following countries: [insert 5 or so countries that are different from ones already requested]"). The Review says "such orchestrated campaigns [have] literally overwhelming impacts on small research units."

The Review found there was "insufficient priority given from the UEA centre to motivating staff and to prompting continuing education" about their legal requirements under FoI law. Similarly, they found "a lack of engagement by core CRU team", as well as "a tendency to assume that no action was required until precedents had been set". Some of the emails suggest a "lack of sympathy with the requesters" and "a tendency to answer the wrong question or to give a partial answer." [10.5]

"There seems clear incitement to delete e-mails, although we have seen no evidence of any attempt to delete information in respect of a request already made." (The former is legal but not the latter.) The email dated 3/12/2008 included "a clear statement that e-mails had been deleted […] It seems likely that many of these 'deleted' e-mails subsequently became public following the unauthorized release from the backup server." [10.5]

The Review found that the IPCM "may have lacked […] the authority to challenge the

assertions of senior professors" and "the UEA senior staff need to take more explicit responsibility for these processes". He told the Review he felt "very much the bull's eye at the centre of the target". He explicitly denied that he "became very supportive" as suggested by Jones. The 10/12/2008 email provides "evidence that the IPCM did try to warn Prof. Jones about deliberate deletion of information". [10.5]

In general, "[t]he Review found an ethos of minimal compliance (and at times non-compliance) by the CRU with both the letter and the spirit of the FoIA and EIR. We believe that this must change". The Review also made it clear that CRU did not receive enough support from UEA management, and made recommendations to the university on how it should handle future information requests. It also recommended to the ICO that it engage more with universities and clarify how FoI law applies to research.

However, as Steve Easterbrook commented, the Review "never really acknowledges the problems a small research unit (varying between 3.5 to 5 FTE staff over the last decade) would have in finding the resources and funding to be an early adopter in open data and public communication, while somehow managing to do cutting edge research in its area of expertise too." The Review does point out that in the years since CRU was founded climate science has developed from "a relatively obscure area of science [...] into an area of great political and public concern."

The Review concluded:

> [W]e find that a fundamental lack of engagement by the CRU team with their obligations under FoIA/EIR, both prior to 2005 and subsequently, led to an overly defensive approach that set the stage for the subsequent mass of FoIA/EIR requests in July and August 2009. We recognize that there was deep suspicion within CRU, as to the motives of those making detailed requests. Nevertheless, the requirements of the legislation for release of information are clear and early action would likely have prevented much subsequent grief. [10.6]

As Phil Jones has admitted, CRU did the wrong thing with regard to Freedom of Information requests. However, they clearly perceived that the requests were not being made in good faith. The Review apparently made no attempt to investigate the motivations of the requesters.

But all this must be considered in the context of the Review's general findings (summarised here): although the scientists failed to display the proper degree of openness, their rigour and honesty are not in doubt, and their behaviour did not prejudice the advice given to policymakers. Despite being heralded as "the final nail in the coffin of anthropogenic global warming", Climategate has not even invalidated CRU's results, let alone the conclusions of the climate science community. In any case, the entire work of CRU comprises only a small part of the large body of evidence for anthropogenic global warming. That mountain of evidence cannot be explained away by the behaviour of a few individuals.

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