

Googling the Requester: Identity-Questing and Discrimination in Public Service Provision

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Innovating upon previous field experiments and theories of identity-based discrimination, we test whether public officials are using searches (‘identity-questing’) to profile citizens and acting on latent biases. Pairs of ‘institutional’ and ‘non-institutional’ requesters send lower and moderate burden freedom of information (FOI) requests – providing no identity cues apart from undistinctive names, emails and ID numbers – to nearly 700 of Brazil’s largest municipalities. Results show institutional requesters receive one-fifth more responses than non-institutional comparators. For moderate versus lower burden requests, non-institutional requesters are 11% less likely to receive a compliant response than their institutional comparators. The only plausible explanation for these results is identity-questing, a phenomenon that has far reaching policy implications. Most of the world’s FOI laws, for example, contain vague ID obligations, which translate incoherently from laws to regulation and practice. Results enjoin public service providers to protect the identities of citizens by default or upon request.

Introduction

Just as information and communication technologies have made it easier for citizens to access government services, so too have they made it easier for government officials to Google service-seeking citizens and explore their profiles. We call this phenomenon *identity-questing*. As a form of profiling – the analysis of a person’s physical, psychological or behavioral characteristics to ascertain their identities or potential capabilities – identity-questing can prime biases and is thus inconsonant with principles of equal treatment and impartiality in the provision of public services. But how common is identity-questing?

Field experiments on identity-based discrimination and preferential treatment show that public servants frequently react in a biased manner to explicit cues placed in an ask, particularly when these cues are related to race and ethnicity. Yet while the paradigmatic ‘cue-in-the-ask’ field experiment sheds light on the fact of discrimination and causal mechanisms, it tell us little about the scope or scale of discrimination. Yes, “DeShawn” (Butler and Brookman, 2011) is a putatively black name that may activate one public servant’s bias against blacks. Yet for another biased public servant this racial name might trigger the instinct to act in line with impartiality duties, forestalling possible accusations of race-based discrimination. John Elster (1998, p. 46) would call this indeterminate situation a “Type A Causal Mechanism”, wherein a cue may trigger “mutually incompatible” mechanisms. Moreover, the modal ask received by public servants probably contains few explicit cues. Is ‘George Jackson’ (g.jackson29@gmail.com) black or white? And is ‘Joana Montero’ (jo.montero1979@hotmail.com) white or Hispanic? Moving beyond guesses will imply identity-questing.

The current study tests the identity-questing hypothesis in a policy area known for the surreptitious investigations of petitioners – freedom of information laws (FOI). We sent FOI

requests to municipal governments representing nearly two-thirds of Brazil's population (130 million people). Here, two pairs of individuals (male/female) – whose full names, emails and ID numbers (all legal requirements) provide no distinctive cues regarding class, race, or ethnicity – sent an equal number of requests, one per municipality, differentiated only by the alternately low and moderate administrative burdens imposed by their asks. The first set of requesters are professors from a top Brazilian university (henceforth, “institutional requesters”) who, if searched on the Internet (Google, Bing, Yahoo), return unequivocal search results: all of the top results correspond to the professors in question. The second set of requesters consist of volunteers who provided their identities for this field experiment, a housekeeper and a doorman (henceforth, “non-institutional identities”). Searches of their names produce ambiguous results, multiples of the same name and no one with any clear institutional affiliation.

By now it should be clear that the experimental design involves certain tradeoffs. First, our study does not disambiguate what might be triggering bias (if any) in officials. The study is ‘double-barrelled’ in that ‘institutional’ and ‘non-institutional identities’ are differentiated not only by their salience and distinctiveness within search engine results but also by their professional and perhaps even socio-economic cues (non/institutional affiliations). Officials may be reacting to perceived attributes (profession, class, prestige, etc.) from many possible cognitive states (sympathetic, threatened, etc.).

Yet these tradeoffs have a logic. First, the field experiment is foremost a means of evaluating the identity-questing hypothesis, not the fact of preferential treatment or its causes. Put differently, the goal is about the ‘how’, looking to a salient vehicle for priming bias (the Internet), rather than shedding light on the ‘whether’ or ‘why’ of bias. That clearly identified professors receive significantly more and better responses than individuals with no apparent

distinction (based on search results) would not be surprising; that is, *if it did not constitute clear evidence of identity-questing* (i.e. Googling requesters). Given identical asks and the absence of explicit cues apart from undistinctive names, emails, and ID numbers, more and better responses for ‘institutional’ requesters can only plausibly be explained by the identity-questing hypothesis.

The second reason why the experimental design makes sense is that it evinces high levels of representativeness or ecological and face validity – it is what one might expect of a real instance of identity-questing. Put differently, it avoids the potential pitfalls associated with explicit identity cues or manufactured identities.

In order to further buttress evidence for or against our identity-questing hypothesis, we administered a secondary treatment to our requests. All requesters sent two types of requests, low burden (x) and moderate burden ($x + y$). The proposition is that officials’ responses will depend not only on *whom* they encounter but also on *what* is requested. We theorize that – if identity-questing is taking place – officials should be more willing to ‘go the extra mile’ and respond to higher burden requests for citizens they perceive to be important, potentially problematic, likable, or identifiable. The stronger evidence of bias provided by the interaction of the ‘who’ and the ‘what’, in turn, should strengthen our claims regarding identity-questing.

To preview our findings, non-institutional identities received nearly a fifth fewer responses from municipal officials. Furthermore, the degree to which a request imposes work (administrative burden) moderates the extent of discrimination: a non-institutional requester who sends a moderate burden request (as opposed to a low burden request), is 11% less likely to receive a compliant response than a similar request sent by an institutional requester. In other words, officials appear to be more willing to put in extra work for institutional requesters than their non-institutional counterparts. These and our main findings support claims of preferential

treatment that have long littered the scholarly and grey literatures on FOI. We review some of these claims and furnish testimonial and archival evidence from Brazil while formulating a case for the identity-questing hypothesis.

Other findings revealed by the current study include a significant and positive correlation between more compliant responses and the use of web-based request-and-response platforms for sending FOI requests (as opposed to via email or a generic contact form); and, contrary to other FOI field experiments (e.g. Rodríguez and Rossel, 2018), we find no significant difference in the probability that males receive more compliant responses than females.

The implications of identity-questing in FOI regimes and other public services range from preferential treatment, to intimidation and even violence (Rodrigues & Michener, 2018). If identity-questing is as widespread as we theorize, then scholarship on governance has paid far less attention to identity-neutral policy provisions than they deserve (McDonagh & Paterson, 2010). Take FOI laws, for example. Fewer than ten of the more than 130 FOI laws around the world provide provisions for identity-neutrality, and most laws incoherently translate protections from law to regulation and implementation (Rodrigues & Michener, 2018). Analogous situations are likely encountered in other policy domains, from health and social security, to policing and beyond. In this sense, the disclosure of citizen identities may represent one of the most significant deterrents to the greater use and concomitant effectiveness of certain types of public services.

This article is organized as follows. The first section reviews relevant theories on preferential treatment, discrimination and identity-questing. The second and third sections describe the design of the field experiment, procedures for analyzing results, and findings. The last section concludes.

Moving Beyond the Paradigmatic Field Experiment on Discrimination and Preferential Treatment

To date, the canon of field experiments testing identity-based preferential or discriminatory treatment in the public sector exhibit two key commonalities. First, when one excludes studies about ethnic or race based bias in societies divided along these lines (e.g. the US or South Africa), evidence of public sector preferential treatment appears to be relatively mixed. Second, all field experiments have included experimental treatments in their ‘asks’.

With regard to preferential treatment in the context of FOI regimes, two experiments shed light on the effect of identities. Lagunes and Pocasangre (2018) test if clear cues on social class included in FOI requests (backed up by fictitious websites for requesters) impact responses by Mexico’s federal agencies. Their results show striking impartiality, a result we later question while specifying our own experimental design. In Uruguay, Rodríguez and Rossel (2018) test the effects of professional cues (e.g. journalist, business person), gender, as well as the effect of demonstrated knowledge about the country’s FOI law. Only signaling knowledge about the FOI law has an effect, but exclusively for men, which means that women appear to be the subject of bias. The above experiments therefore present different conclusions regarding bias in FOI regimes.

All other published field experiments that test public sector identity-based discrimination or preferential treatment focus on ethnicity, race, or political-partisan affiliations, principally within the United States. Scholars have found limited evidence of partisan discrimination for US election clerks (Porter & Rogowski, 2018), race and ethnic-based discrimination for US public housing aid officials (Einstein & Glick, 2017), and ethnic discrimination for German local government officials (Grohs, Adam, & Knill, 2016). However, the findings of other studies,

particularly those on race or ethnicity undertaken in divided societies (e.g. Butler, 2014; McClendon, 2016), run counter to these studies, encountering significant evidence of public service identity-based discrimination. It is important to note that this last set of findings is consistent with similar experiments in the private sector (see, for example, Becker, 2010).

Unlike the private sector, however, officials in the public sector are reported to perceive impartiality as an important value (Van der Wal, De Graaf, & Lasthuizen, 2008; Van der Wal & Huberts, 2008). Given the importance of impartiality, it would seem appropriate to explore other plausible channels through which discrimination and preferential treatment may be taking place. Moreover, several issues counsel questioning the paradigmatic cue-in-the-ask research design, including quandaries surrounding the univocal direction of the treatment (to what extent do cues trigger bias or impartiality?), and the representativeness and ecological validity of some types of cues.

Identity-questioning by Government Authorities

Identity-questioning refers to the use of searches – whether they be executed through in-house information systems, via contacts or the internet – to identify citizens or inform guesses regarding identities. We may assume that most petitions – applications of certain types, complaints, or FOI requests, among others – will not require citizens to include information containing explicit identity cues. Yet we may also assume that public servants may be curious about petitioners. As a surreptitious means of discovering identities (Wu and Atkin, 2018), identity-questioning provides public servants with ‘cover’ to act on their curiosity. In this sense, testing the likelihood of identity-questioning is a more ecologically ‘valid’ means of researching public sector preferential treatment than explicit or extreme cues.

The theoretical underpinnings of our assumptions regarding identity-questioning originate in uncertainty reduction theory (URT). URT holds that people have a strong drive to clarify context, especially in the sense of gaining an understanding of actual inter-personal power dynamics (Rains & Scott, 2007). URT has spawned a number of axioms (Knobloch, 2016), several of which may be relevant to the context in question. To cite a few of the more relevant, URT assumes initially high levels of information-seeking activity when one individual is introduced to another; individuals seek to obtain information on the “quantity and probability” of outcomes that might occur (Berger & Bradac, 1982); and increases in uncertainty lead to lower levels of “liking”. Transposed to the context of FOI, these axioms appear to suggest that officials may be: a) strongly inclined to engage in identity-questioning to clarify context; b) inclined to calculate how different types of responses may affect outcomes; and, c) officials may be less sympathetically disposed to requesters who cannot be identified. Assumptions regarding identity-questioning fit into the explosion of literature on citizen profiling, a phenomenon that is obviously facilitated by information communication technologies (Prins, Broeders, & Griffioen 2012).

Available evidence has established that requester profiling occurs in FOI regimes, although scholars have not yet marshaled evidence to demonstrate the extent of identity-questioning. For example, Roberts’ (2006, 86–93) analysis of “amber-lighting” requests in Canada – a means of designating sensitivity – suggests that governments frequently pay as much attention to identities as to what is requested. Because the Canadian Access to Information Act does not permit the revelation of names, information officers tend to query the profession of requesters and flag accordingly (p.91). Yet as Roberts’ discussion of the British Columbia FOI Act shows, the law is not always followed (p.97-98): “*Requests from legislators, journalists, and advocacy*

groups were typically classified as highly sensitive, and the identities of requesters were routinely disclosed to communications aides, in violation of provincial privacy law.”.

The lack of protections for the identity of requesters clearly appears to be a legal blind spot, especially in a bureaucracy as recognizably professional as Canada’s. What about countries with less ‘professional’ bureaucracies? Anecdotes and FOI audits show that preferential treatment abounds. An oft-cited study by the Open Society Justice Initiative (2006) demonstrated that minorities received nearly three times fewer responses than requesters from non-governmental organizations (NGOs). Of 1926 total requests in 14 emerging democracies – 7 countries with FOI laws, 7 without – nongovernmental organizations received responses 32 percent of the time on average, journalists 26 percent, business people 19 percent, and minorities 11 percent (p.162).

The lack of identity protections has implications that travel far beyond preferential treatment, however, especially in societies where the state and criminal activity are frequently intertwined. In India, for example, the Wikipedia page “RTI [FOI] attacks on activists in India” reports 30 murders and 130 assaults of FOI requesters since this country’s law took effect in 2005. Identity exposure can also hamper the efforts of those transforming transparency into policy and social change. An employee of one Rio de Janeiro-based NGO, IBASE (Mazotte, 2013), recalled the experience of attempting to conduct a participant-based study of municipal transparency in a dangerous satellite city outside of Rio de Janeiro, Duque de Caxias. People at first agreed to participate, but later refused when they became aware of the need to self-identify. The deterrent effect of identity obligations may be contributing to what the literature has recognized as a demographically limited pool of requesters, namely those that are male,

university-educated professionals (Cuillier & Piotrowski, 2009; Michener, Niskier & Contreras, 2018; Neuman, 2016; Piotrowski & Ryzin, 2007).

The impetus for the current study arose during classes given to government officials in Brazil. Over the course of five years, six different FOI officials (‘information officers’) unabashedly admitted to identity-questioning citizens who asked for government information. Given a clear body of anecdotal and archival evidence, our first and central proposition is the following:

Hypothesis 1: Authorities will respond in a more compliant fashion to our ‘institutional identities’ than to our ‘non-institutional’ identities.

This hypothesis is only a means to an end – to lend evidence toward the identity-questioning thesis – as opposed to proposing some invariant truth or postulating specific characteristics that render our ‘institutional’ requesters more likely to receive compliant responses. Common sense and extant theory suggest several possible explanations for why our institutional requesters might receive more compliant responses. Officials may be more sympathetic to requesters they can pinpoint (identify) or identify with (as per the axioms of URT); or they may perceive our institutional requesters as more prestigious, which may prime prosocial behavior (see, for example, Fetchenhauer et al., 2006). Alternatively, officials may respond better to institutional requesters because of perceived capabilities, such as exposing non-compliance and seeking redress (see Fried, Lagunes & Venkataramani, 2010). Because our institutional and non-institutional requesters vary in terms of search salience, identifiability, and socio-economic identifiers, disentangling causal mechanisms is an undertaking that goes beyond the objectives of this study.

Theorizing the Relationship between Identity and Burden

Scholarship on FOI makes clear that several variables associated with the requesting process may impact preferential treatment. These include the tone of a request (Cuillier, 2010) or the means by which requests are submitted or services procured – e.g. through a bribe (Peisakhin & Pinto, 2010; Peisakhin, 2011), a casual ask, or via legal (FOI) means (Worthy, John & Vannoni, 2017). All things being equal, we postulate that one particular variable is critical in moderating the effects of identity on the extent of FOI compliance, namely, the *burden imposed on officials by what is being requested* (see Gell-Redman, 2018, for a comparable design).

Following the extant literature on administrative burden (Burden, Canon, Mayer, & Moynihan, 2012; Heinrich, 2016) we conceptualize burden as “policy implementation as onerous”, but emphasize both literal and figurative dimensions of burden peculiar to FOI laws. FOI laws impose two principal types of burden: burden in the classic literal sense (hands-on work) and, in cases when governments have statutory obligations to collect certain types of data but have not, a request may impose a reputational burden. Put differently, if a government answers, denies, or ignores a request for information it does not have, it may find itself in a compromising position, especially if its failure is publicized.

The proposition behind our hypothesis is that the degree of ‘burden’ imposed by a request and corresponding responses will elicit a curvilinear relationship, whereby preferential treatment is weak when burden is low or high, but strongest at moderate levels. Our rationale is that authorities should be more forthcoming about responding to requests with lower burdens, independent of identity, whereas higher burden requests are more likely to be stonewalled no matter who is asking. Along these lines of thinking, identity should have the greatest impact on the likelihood and quality of response at moderate levels of burden. In other words, we propose

that *who* will influence *how much* attention and effort is devoted to fulfilling requests. Our second proposition is therefore the following:

Hypothesis 2: The burden of the request moderates the relationship between the identity of the requester and FOI compliance. When requests reflect a moderate as opposed to a low burden, the magnitude of identity-based preferential treatment – measured in term of FOI compliance – increases.

In operationalizing the burden of requests, we rely on an additive formula, such that low burden requests ask for x information, and moderate ones ask for $x + y$. Table 1 contains our requests.

[Table 1 about here]

Law 12.527 on access to information regiments constitutional provisions for FOI in all parts of the Brazilian state, including all levels and branches of government and state-owned-enterprises. Municipalities ought to have records to fulfill the requests laid out in Table 1, pursuant to Article 30 of Brazil’s Law on Access to Public Information. If municipalities indeed possess these records, then the moderate request merely imposes a moderate administrative burden (compilation and disclosure) on the responder. If officials do not have the requested information, however, the request may signal the potential for reputational damage, which we also take to be a burden.

Finally, we add to our main hypotheses – preferential treatment and burden – the effect of gender as a secondary hypothesis. Findings of discrimination against women are common, especially in a country with a long legacy of *machismo* (see for example Santos & Hilal 2018; Ceratti, 2014).

Hypothesis 3: Officials will respond in a more compliant manner to requests from male identities than from female identities.

To summarize, our primary proposition is that public servants are identity-questing FOI requesters. Evidence to support this proposition should come from more compliant responses for institutional identities as opposed to non-institutional identities. We also expect the burden of a request (low v. moderate) to have an interaction effect. Officials issue more and better responses for institutional identities than non-institutional identities when requests reflect moderate as opposed to a low burdens. Finally, we predict that women should receive less compliant responses than men.

Experimental Design¹

The field experiment is a between-groups design where a total of 684 requests – randomized as low or moderate burden and male-female pairs of institutional and non-institutional requesters² – were sent to 684 of Brazil’s largest cities – one request per municipality (refer to online supplementary appendix¹ for details). Altogether, these municipalities account for nearly two-thirds (63%) of the country’s population.

Our sample contained attrition, as we attempted to send requests to 820 cities and successfully sent only 684. Whenever a request failed the first time, we attempted a second time during a different period. Yet some municipalities were unreachable. Given that we performed a randomized assignment of treatment, the loss of these 136 municipalities was distributed in all the experimental conditions defined, providing sufficient grounds to dismiss the possibility of bias. In effect, dropping cities that lack the means to receive requests should, if anything, make our treatment more credible; the inability or unwillingness of these omitted municipalities to receive FOI requests suggests unprofessionalism and, by extension, an administration that may be more susceptible to bias or shirking due process.

The focus on Brazil's *largest municipalities* stems from several considerations. First, by comparison to smaller cities, larger cities generally tend to have better resourced and more capable bureaucracies. They also tend to be scrutinized more assiduously by citizens, media, state and federal governments. One reason we chose Brazil's largest cities for our sample, then, has to do with a higher probability that FOI requests would receive responses, providing our study with greater statistical power.

A second reason for choosing cities is the *autonomy and isolation* of cities, which provides a significant safeguard against a much under-estimated danger, the possibility that subjects communicate with each about the requests they receive and figure out they are being 'tested' – i.e. the Hawthorne effect (reactivity). Unlike the federal government and many state governments, Brazilian municipalities do not have a common internal channel for communications on matters concerning FOI (Vidal, 2017). Their isolation may have to do with their autonomy as full constitutional units (unlike in the US and Canada, for example). Thus, the relative isolation of the largest municipalities – in administrative terms, inter-municipal communication, and often, geography – diminishes the risk of reactivity. We argue that this aspect of the design has significant advantages over the only other study similar to ours, that of Lagunes and Pocasagre (2018), which focuses on the Mexican federal government. Mexican federal agencies have well-established channels of communication that permit them to share information regarding FOI requests.

We took two other precautions to reduce the probability of reactivity. We sent requests starting with the largest municipalities and proceeded to smallest, which implied a pronounced geographical dispersion of requests. We also staggered the sending of requests over the course of

one year (November 2016 to October 2017). No common significant exogenous shocks relevant to our variables of interest occurred during this period.

Treatment, Covariates, and Measures

Treatment.

Our first experimental manipulation was the profile of four consenting requesters, two ‘institutional’ requesters (treatment) and two ‘non-institutional’ requesters (control condition), with each pair having one female and one male. All requests were sent using standard Google mail addresses, with similarly generic formats – name.lastname##@gmail.com – where “##” is a two-digit random number.

Our requests provided no identity cues apart from undistinctive male and female names, emails, and ID numbers, but if officials searched the names of requesters on the Internet – as we assumed – they would find clear clues. For our institutional requesters, the first three results correspond to the same person: a professor at a top-ranked university. For non-institutional requesters, a doorman and a cleaning lady, internet search results correspond to multiple people who have no institutional affiliations within the first page of results. In considering the reactions of officials to search results, it is important to remember that officials would probably look to fit the request to an identity. As such, we would expect better responses for professors, not only because of the impression they might have on officials (e.g. identification, prestige, potentially problematic, etc.) and their legitimate interest in obtaining data on FOI regimes (the subject of our requests), but also because they can be clearly identified. None of our requesters have particularly distinctive names² and apart from these, they provide only matching emails and

identity numbers. If professors do receive better responses, therefore, the only plausible explanation is identity-questing.

Two requests, reflecting low and moderate levels of burden were sent to municipalities. As illustrated by Table 1, both requests contained an identical ‘baseline’ query (x), but the more burdensome request imposed additional queries. On the practical side, this $x + y$ strategy allowed us to gather ‘common denominator information’ (x) for other research agendas. Because maximizing the number of responses was critical for achieving the statistical power to measure our principal hypothesis, we did not send high-burden requests that may have likely garnered few responses.

To summarize, the field experiment consists of a between-groups design whose experimental conditions are: (a) requesters’ identity (institutional or non-institutional), (b) the burden of requests (moderate or lower), and the (c) requester’s gender (male or female). This summary is plotted-out in Table 2.

[Table 2 about here]

We performed complete random assignment of requests in order to allocate treatment and control conditions to municipalities. After randomizing requests and excising unreachable municipalities, we performed balancing tests. The objective was to verify the comparability of municipalities assigned to each experimental condition in relation to three pre-treatment covariates: per capita income, population, and the channel through which the request was sent (see the comparison of means in Table 2). Balance tests showed no significant results for all the combinations between covariates and independent variables, except for one: income per capita seems to be correlated with burden ($b=0.18$; $SE=0.11$; $p<0.1$). This result, however, appears to be driven by chance. Furthermore, joint orthogonality tests of covariates via probit models

showed no significant results when the dependent variable was the Identity of the requester ($\chi^2(4, N=684)=1.69; p=0.79$), Burden ($\chi^2(4, N=684)=3.82; p=0.44$) or Gender ($\chi^2(4, N=684)=3.73; p=0.44$). These results validate the comparability of groups.

Covariates.

We include as a covariate a three-point categorical variable (transformed into two dummies) representing channels through which requests could be sent: a specific platform for FOI requests, a general channel for communication between citizens and the agency, or an email. Not all municipalities start from the same level when it comes to complying with FOI laws (Worthy, John & Vannoni, 2016). We assume that the difference in our sample – which represents Brazil’s largest cities – generally has to do with commitments to FOI (Michener, Contreras & Niskier 2018). According to evidence presented by Bizzo and Michener (2017) and Michener, Contreras & Niskier (2016), responsiveness is significantly higher where municipalities have implemented a web-based request-and-response platform. Thus, we included this variable in order to control for this effect.

The two additional covariates included as controls are income per capita and population in the municipalities under scrutiny. Data on income per capita and population was sourced from the Brazilian Institute of Geography and Statistics (IBGE, 2015).

Measurement.

Studies using field experiments to evaluate governmental compliance with FOI obligations typically employ two separate dependent variables. The response rate measures

whether or not requests receive responses and a second variable evaluates some substantive or procedural aspect of the response.

The response rate is a straightforward metric that divides the number of responses received by the total number of requests. Our definition of what constitutes a ‘response’ is broad and comprehensive: a response is any kind of communication sent via email or accessible through a platform *that is not* an automatically generated message or an update on the internal processing of a request. Employing this definition, denials or claims regarding the unavailability of information are considered responses.

In evaluating the substance of responses, however, FOI field experiments have not used a uniform approach. Most leave considerable wiggle-room for subjective judgments, assessing “whether responses provided the information or not” (Cuillier, 2010) or qualifying responses as ‘good’ if they directly answer the question posed by providing “relevant information” (Lagunes & Pocasangre, 2018). By contrast, we follow the lead of Worthy and his co-authors (2017) in using a construct-based measure that assigns scores to each response based on predefined ‘completeness’ coding protocols and benchmarks that conform to an *m of n* logic (Goertz, 2006). Table 3 illustrates this measurement strategy. This strategy reduces the potential for subjective assessments and increases accuracy through the use of ordinal scales.

[Table 3 about here]

We aggregate response rates and completeness benchmarks into a single variable: ‘*FOI Compliance*’. For each request, the ‘completeness’ of the response is graded on a six-point ordinal variable (0 to 5), but we also standardize our results by rescaling the dependent variable dichotomously. Responses are viewed as “more in than out” (Ragin, 2000) in terms of FOI compliance if they score from two points to five; and noncompliance is when responses earn a

zero or a one. Table 1, adapted from Worthy et al. (2017) corresponds to possible responses and benchmarked degrees of FOI compliance. The coding rules used for assessing the responses are found in the online appendix.¹

In line with better practice standards, we adopted double-blind coding procedures: one researcher collected all responses, erasing any explicit references to jurisdictions or requester identities in order to preclude any source of possible bias. Two coders then scored all responses independently. Inter-coder reliability, assessed through Krippendorff's alpha, was “substantial” (Landis & Koch, 1977) for the ordinal dependent variable ($\alpha=0.72$, $SE=0.02$, $p < .0001$) and “almost perfect” for the dichotomous dependent variable ($\alpha=0.83$, $SE=0.02$, $p < .0001$).

Results of the Experiment

Only 34.1% percent of requests receive some form of response (233 out of 684), which is similar to other studies at the municipal level in Brazil (Michener, Niskier & Contreras, 2018), but significantly higher than what was encountered at the Parish level in the UK by Worthy and his co-authors (2017). In our study, the two *institutional identities combined* sent out 326 requests, with a 37.73% (123/326) response rate, while the two non-institutional identities combined sent out 358 requests, with a 30.72% (110/358) response rate. In other words, at first glance, the results of the experiment show that the non-institutional identities received nearly one-fifth fewer responses than institutional identities.

For the statistical analysis, our initial strategy was to test the hypotheses running an ordered logistic regression using a 6-point ordinal dependent variable to measure ‘FOI compliance’. However, after performing a likelihood-ratio test ($\chi^2(20)=51.9$; $p<0.001$) and a Brant test ($\chi^2(20)=46.81$; $p<0.01$), we concluded that the proportional odds assumption had

been violated. This violation can be partially explained by the unbalanced distribution of observations (scores for responses) in each category of the dependent variable. For instance, only 13 requests earned a score of two on the dependent variable, and only 39 cases earned a score of one. Given the intrinsic difficulty of anticipating and evaluating responses to FOI, the unbalanced distribution of values across the dependent variable's ordinal categories (zero through five) is to be expected. Given these considerations, we opted to use a dichotomous operationalization of the dependent variable, employing the coding scheme described in Table 3. Table 4 shows the mean values for each of the eight experimental conditions using this dichotomous dependent variable (for further details, refer to supplementary online appendix¹).

[Table 4 about here]

In order to test our hypotheses using this dichotomous variable, we employ a Linear Probability Model with robust standard errors. Although this approach may have drawbacks, such as the possibility of predicting response probabilities outside the [0;1] interval, the robustness of least squares adjustment in randomized controlled trials is supported by theory and simulations (Lin, 2013; Judkins & Porter, 2016). Moreover, the coefficients facilitate ease of interpretation – a significant benefit.

The results are presented in Table 5. The first row shows the estimate probabilities of obtaining a compliant response to a request sent by an institutional compared to a non-institutional requester, holding other variables constant. Model 2 adds the substance of the request, Model 3 adds the gender of the requester, and Model 4 adds the interaction between identity and the burden of the request. Since the experiment was undertaken based on a complete versus stratified randomization, we add the means of request, income per capita and population as covariates in all models, in order to remove any possible bias due to initial differences.

[Table 5 about here]

The results show that the probability of receiving a response in compliance with FOI is 7% higher ($SE=0.03$; $p<0.05$) for institutional requesters than for non-institutional requesters, while other variables are held constant. This finding supports our first hypothesis. Overall, moderate burden requests have an 8% lower ($SE=0.03$; $p<0.05$) probability of receiving a compliant response, compared to their low burden counterparts. Shedding light on the interaction between both variables, Model 4 shows that when the request is of low burden, there is no evidence of preferential treatment based on identity. When the request is of moderate burden, however, the probability of an institutional requester obtaining a compliant response is 11% higher ($SE=0.07$; $p<0.10$) than it is for a non-institutional requester. Thus, the interaction effect that corresponds to hypothesis 2 is marginally significant, and is illustrated by Figure 1.

[Figure 1 about here]

The results did not, however, support our third hypothesis related to the effect of gender. No significant evidence of discrimination along gender lines was found ($b=-0.01$; $SE=0.03$; $p>0.1$).

Even though this study advances no causal estimation for the impact of channels in the sending of requests, it is worth noting that web-based FOI request-and-response platforms were significantly correlated with FOI compliance, as expected based on previous findings (Bizzo & Michener, 2017; Michener, Niskier & Contreras, 2018). These results indicate that sending requests through a specific access to information platform is associated with a 27% increase ($SE=0.04$; $p<0.01$) in the probability of receiving a compliant response, as compared to requests submitted through an agency's email. Using a general communication channel does not make a significant difference.

As a robustness check, we ran the models without covariates, finding very similar effects on identity ($b=0.08$; $SE=0.03$; $p<0.05$) and burden ($b=-0.07$; $SE=0.03$; $p<0.05$), but non-significance for their interaction ($b=0.08$; $SE=0.07$; $p>0.1$).

As a second robustness check, we ran the above models through a sensitivity test, using an alternative operationalization of the dependent variable. Here, the dummy variable's zero corresponds to the levels 0, 1 and 2 on our 6-point scale dependent variable (FOI compliance), and the dummy's 1 corresponds to 3, 4 and 5. Although the original dichotomization of the dependent variable (0,1 and 2, 3, 4, 5) is a more realistic measure of compliance with greater face validity, a robustness check allows us to ascertain if effects persist at higher thresholds of compliance. With this alternative dependent variable, we found very similar effects on identity ($b=0.07$; $SE=0.03$; $p<0.05$): burden evinces a slightly lower but still significant effect ($b=-0.06$; $SE=0.03$; $p<0.05$), while the interaction of burden and identity becomes non-significant ($b=0.10$; $SE=0.06$; $p>0.1$). The full results for these robustness checks are available upon request.

Conclusions and Implications

The current study found compelling evidence to support the prevalence of *identity-questioning* – the practice of searching citizens to form a profile from a name or other identifier. The evidence we offer is based on significant levels of preferential treatment experienced by different freedom of information (FOI) requesters in a field experiment, as well as archives, anecdotes, and testimonies. The field experiment involved FOI requests sent to 684 municipalities by two sets (male/female) of ‘identities’, which we refer to as ‘institutional identities’ (professors, clearly identifiable via internet searches) and ‘non-institutional identities’ (custodial workers,

ambiguous search results). Apart from undistinctive names, emails, and IDs, all requests were identical, providing no cues as to the requester's identity. We find that institutional requesters receive a fifth more responses and have a 7% higher probability of garnering a compliant response than their non-institutional counterparts. They are also 11% more likely to receive a response to a request that reflects a moderate burden (as opposed to a low burden) than non-institutional requesters. Although the study finds meaningful evidence of identity-questing and preferential treatment, it also encounters positive outcomes: men were no more likely to receive better or more responses than women; and we find correlational evidence to suggest that FOI applicants received higher response rates when they submitted requests via web-based request-and-response platforms (the e-SIC in Brazil). This last finding contains considerable implications for the design of transparency systems and e-government systems, more generally.

Just as the findings of the current study provide new directions for future research, so too does the experimental design. With high levels of ecological validity, the design moves the focus from testing bias to reflecting upon how bias might be activated through different channels, in this case, search (identity-questing). And because it sheds light on a *practice*, rather than *biases to one particular cue* (e.g. a racial name), it is much better suited to gauging the scope and scale of potential discrimination. At the same time, however, the experimental design is highly unorthodox. It is practically impossible to determine what the full range of treatments are or which treatment(s) is having an effect. In the current study, preferential treatment may be explained via multifarious logics: officials may have responded better to institutional identities because they could identify them (pinpoint them), or identify with them (likability), or perhaps because they saw institutional requesters as more prestigious or potentially more problematic when faced with non-compliance. The design, however, does not purport to cast light on causal

mechanisms. Rather, it serves as a means of showing that significantly discrepant levels of responsiveness to identical FOI requests (save undistinctive names, emails, and ID numbers) can only be explained via identity-questing – i.e. “Googling the requester”.

Identity-questing is an intuitive concept that feeds as much on power relations as it does on simple human curiosity. Because the urge to understand the other is so powerful, the prevalence of identity-questing is likely much more widespread than commonly believed. Governments ought to take note. The civic costs of anachronistic identity requirements are not justified by any possible administrative benefits, especially because digital technologies afford simultaneous administrative efficacy and protection. In short, identity requirements may be imperiling the use and effectiveness of public services and the rights and safety of citizens. As Jonathan Fox (Fox, 2015, p. 349) points out, “for citizens to be able to act on information, an enabling environment needs to reduce fear of reprisals.” Reprisals take many forms, including preferential treatment, brazen discrimination, intimidation and – as illustrated by the Wikipedia page, “Attacks on RTI [Right to Information] Activists in India” – violence (Wikipedia, 2019).

Brazil’s Federal Comptroller General (CGU) recognizes the problematic nature of identity in FOI processes and in 2018 became the first Latin American government to give citizens the (check-box) option to make their requests identity-neutral. The CGU acted on civil society demands channeled through Open Government Partnership dialogues, contracting a Fundação Getulio Vargas-authored report, which was then circulated among the Federal Ombudsmen General, the Auditor General, and other agencies. Ultimately, the CGU secured the internal political support it needed to create a provision in a new law, “The Public Service User’s Defense Code” (law 13.460, article 10). It was not an easy battle, given that Brazil’s Constitution prohibits anonymity (article 5 IV). In order to achieve this victory, the CGU relied on the FGV

report (which detailed a preliminary version of the current field experiment and legal provisions around the world) and the argument that many requesters seek information on maladministration and should therefore enjoy protected disclosure (ombudsman) entitlements. This same argument may be useful for other jurisdictions considering identity protections.

Arguably, the best solution is to have identity-neutrality (protection) as the default option for public services such as FOI, allowing citizens to ‘opt-in’ and voluntarily reveal their identities if they believe it will be to their benefit. As it stands, citizens who make requests within the Brazilian federal government register their identities with the CGU, but can send their petitions to individual agencies without being identified. This appears to be pragmatically prudent, but activists have complained that since only a minority of requesters will likely ‘check the box’ to have their identities protected, ‘anonymous’ requests are likely to ‘raise red flags’, triggering differential processing of requests. Among the many threads of new research these issues raise is the question of “FOI-ing the FOI-ers”. In the U.S. and other countries, FOI requests and requesters are part of the public record and subject to requests from potentially problematic powers (Williamson, 2018).

The sagacity of protecting identities obviously depends on context. In this sense, research on testing and identifying contexts for such protections constitutes an important avenue for future public management research (Laurent & Bouzefrane, 2015). Protections require a systemic approach and strict monitoring and enforcement. Rodrigues and Michener (2018) find little consistency in the way that identity provisions in Latin American FOI laws are translated into regulation and online procedures. Brazil and Peru, for example, do not define identity requirements in their federal laws, but official identification is required by regulation or requesting systems. Some identification requirements are extreme. El Salvador’s FOI law, which

ironically ranks among the top ten in the Right-to-Information Rating, requires that requesters submit a scanned image of official identification in order to request information. Of the 111 FOI laws analyzed, only 6 countries with FOI laws establish clear identity protections in their federal laws; 13 countries clearly demand identification; 38 countries ask for general personal information, and 54 (49%) of the countries say nothing about identification, leaving the question vague and open to discretion.

Very little empirical work has yet investigated the impact of identification requirements in public policy provision or the consistency of identity requirements as translated from laws into regulation and practice. A first order of investigation might be to replicate the current study in other countries, using identities with clearer salience on the internet, among different levels and branches of government, and among the large number of public services in which identity-based discrimination may be occurring. This study is obviously limited by several contextual particularities, including culture, political and bureaucratic systems and the age and usage of Brazil's FOI law, among a host of other factors.

The current study suggests that a relatively small and at first glance insignificant policy provisions may be having negative multiplier effects. In this sense, it fits into the prevailing institutionalist framework that has dominated studies on transparency. In analyzing the dynamics of transparency, Albert Meijer posed a key question about the *de facto* operation of governmental transparency: "How do institutional rules influence the construction of government transparency? How can institutional rules be used strategically to strengthen—or limit—government transparency?" (Meijer, 2013, p. 437). The same question could be posed about public service provision more generally. This paper contributes preliminary answers to both of Meijer's questions, albeit answers that will surely benefit from further development and testing.

¹ For data on individual requests, please see the online supplementary appendix:
<http://bit.ly/2MJta39>

² The names were submitted in confidentiality to the editor, and are available upon request.

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FIGURES

Figure 1 – FOI Compliance by Requesters and Request Burden

TABLES

Table 1 - Description of Requests

Table 2 – Summary of Experimental Conditions

(a) Standard deviations in parenthesis.

Table 3 – Summary of the Dependent Variable

Table 4 – Mean Values for Each of the Eight Experimental Conditions using a Dichotomous Dependent Variable

Table 5 – Linear Probability Model (Dichotomous Dependent Variable)