

The Midwest

Ohio

Cleveland Plain Dealer

A misfire on open-records bill

What started out as a public-spirited piece of legislation took a stunning U-turn in the Ohio House on Wednesday and became something of a farce. An open-records measure was slammed shut.

House Bill 9, which clearly spells out the training, requirements and penalties for custodians of public information who fail to follow the law, was an exercise steeped in good government. But at the last minute, an amendment that would end the public's access (through journalists) to Ohio's list of concealed weapons permit holders was attached to the bill and approved.

The result was no less destructive than a hollow-point bullet: It pierced and grotesquely deformed what had been a measure fashioned to be a giant step forward in open government and disclosure. It was a cheap and mischievous shot. Now it falls to the Ohio Senate to reverse the indefensible damage done to a critical piece of legislation.

Gov. Bob Taft already has said that he would veto any bill he receives that further limits access to the concealed-carry permit records (currently - and indefensibly - only journalists are allowed to obtain this list), but it shouldn't come to that point.

The Ohio Senate, which plans hearings on the bill, should strip HB 9 of the gun amendment, while preserving the strengths of the measure. Gun zealots who would rather weaken public access than strengthen disclosure cannot be allowed to hijack the measure.

If repaired, HB 9 would mandate public records training for custodians in all public offices, create stiff penalties for public offices that wrongfully withhold public records and create an Office of Public Access to help citizens access public records.

All of these useful measures would serve to improve the level of service that Ohio government provides to those whom it serves. But first, Senate President Bill Harris must remove the destructive amendment.

This important bill should not be destroyed because single-minded gun zealots put their own cause above open government.

Cincinnati Enquirer

<http://news.enquirer.com/apps/pbcs.dll/article?AID=/20060312/EDIT01/603120368/1090/EDIT>

Keep public-records laws shining

The administrative assistant in the Clermont County auditor's office works for you - as does the mayor of your town, the superintendent of your school district, the governor, your state legislator and your city manager.

That means you have the right to know what they earn, how they spend public money, how much tax you will likely spend on that new house you've been eyeing. Elected officials cannot discuss the public's business in private, nor can they keep you from seeing the minutes of what they talked about, say, two months ago.

The federal Freedom of Information Act and state open records/meetings laws afford you these rights. And state and local officials have a duty to educate themselves and anyone who works for them on these laws.

Access to public records is not just a concern of journalists. As this week's Forum section on Sunshine Week (March 13-18) points out, it's also about you and the kind of public records that you have a right to access as a citizen.

Ohio is now considering an update of its Public Records Act that would change a number of issues, including fining agencies up to \$1,000 for refusing to provide records. But some reforms being considered are flawed, including giving public offices more than 10 days to comply with a public records request and making citizens pay for litigation against the government to get access to public information that is rightfully theirs in the first place.

Last year in Kentucky, a statewide audit of public offices was performed, in which media asked various public offices for information. More than 70 percent of county jailers refused to tell reporters the names of people in their jails. In that refusal, they broke the law. What if a mother was looking for her son? Later, legislation was drafted that instructed Attorney General Greg Stumbo to explain open records laws to public staffs.

Some records should remain private. Medical records, for example, are no one's business but the patient's and the people the patient authorizes to view them. Neither should the public have access to the Social Security numbers of citizens.

However, it's too easy for policy-making bodies to go into closed sessions, knowing what they discuss may never come to public light.

It's too easy for a president to keep embarrassing information secret under the cloak of "national security risk."

It's too easy for a judge to be the final authority on whether to close court records to the public (as one of the Ohio revisions seeks to include).

With the efficiency of online access to information, governments and government officials should be rushing to give the public access to its business online, not closeting public information.

Having and keeping strong and effective sunshine laws are the only way the public can retain access to the public records they deserve. Without them, you could very well knock on your county jailer's door to ask if your son is there and be turned away with a broken heart and no recourse.

Indiana

Fort Wayne News Sentinel

Let the sun shine in

Despite a changing world, it's still important to keep government open to the public.

Hoosier government is becoming more open all the time. But many of those in government keep looking for new ways to keep secrets. That's the mixed-bag assessment of citizens' "right to know" in Indiana on the eve of the observance of Sunshine Week, which begins Monday.

And it is access to government by citizens that is most important, not access by the journalists who bring government news to those citizens, though Sunshine Week is sponsored by news organizations across the country. All next week, you will be seeing articles about the state of transparency in government at both the state and national levels. You should pay attention.

The trend toward more access to government records that goes all the way back to the 1966 Freedom of Information Act is now facing the trend to restrict access more because of concerns about terrorism in the wake of 9/11. FOIA is unchanged, but federal officials are interpreting it differently. And since 9/11, 20 states have proposed laws to more tightly control public records. How these competing trends play out will determine not only how we deal with security issues but how free we will remain as a result.

There is a similar tension in play over access to public meetings. New technology is opening up the workings of government in ways that have not been possible before. But the more public the meetings become, the more government officials yearn for a little privacy.

Indiana passed an open-meetings law some 30 years ago. But now it really means something. Hoosiers can now "virtually" attend the General Assembly with their computers even when they can't make it to Indianapolis. The House began letting people listen to debates by computer in 2002 and upgraded to video in 2005, the Senate jumping on board in the middle of the session. House Webcasts now include the budget- and tax-writing Ways and Means Committee. Meetings are even becoming interactive, with Hoosiers e-mailing questions to the legislators as a debate is going on.

On the other hand, this will likely be the second year in a row in which the General Assembly fails to pass a bill forbidding the “serial meetings” trickery public officials have been using to get around the open-meetings law. Under the law, “official business” can take place only when a quorum is present, and any meeting with a quorum must be open to the public. But public officials have found a loophole. Some government boards have been avoiding the public by meeting in small groups of less than a quorum. Two or three such meetings might happen in the same place, one right after the other – or “serially.” Then, when it seems like a decision has been reached, the group meets in full and announces its decision.

The bill to end serial meetings passed the Senate 49-0 last year but didn’t get a committee hearing in the House. The Senate approved it 48-2 this year, but, again, Jim Buck, R-Kokomo, wouldn’t let it come before his House committee. He says he has no problem with the bill’s content but, there “is not time” for it in the short legislative session. No time for such a simple proposal in a session that has seen such complex measures as Major Moves and telecom reform? Some observers suspect another reason, noting that the Indiana Association of Cities and Towns has lobbied against the measure. Have to protect those private meetings.

John McGauley, director of public information for Allen County government, thinks if public officials stop fighting open government, it will benefit them as well as the public. “It improves life for everybody on both sides. It makes it easier for the officials to do their job as well as easier for the public to get information.” Allen County has probably one of the most transparent governments at the county level in the state. Last year, it aired 900 hours of meetings on public-access TV, and this year it added informational programs on topics ranging from homeland security to home-improvement scams. Commissioners release an annual report and have begun a “night out” every six months to meet the public. Podcasts of their meetings have begun.

Television is a good example of the county’s moves to openness. County officials “were very reluctant to do television – until they did television. They found it wasn’t painful at all, and attitudes changed in two weeks.”

Many officials, we suspect, would similarly discover that openness in government isn’t quite the monster they fear. But sometimes it takes a little pushing to get to that point. That’s your job.

You wanted to know

Indiana has a public-access counselor, whose job it is to help citizens in their efforts to find out what their government is doing. The following numbers are from the counselor’s most recent yearly report:

Total inquiries received: 1,681

From the public: 824

From the media: 204

From government: 653

By Leo Morris for the editorial board

South Bend Tribune

<http://www.southbendtribune.com/apps/pbcs.dll/article?AID=/20060311/OPINION07/603110397/-1/OPINION/CAT=OPINION07>

Sunshine Week: To shine a light on government

TIM HARMON
Tribune Columnist

It doesn't necessarily mean relief from a rainy March in northern Indiana, but National Sunshine Week, Sunday through March 18, is nonetheless worth your attention.

The event, sponsored by the League of Women Voters and a coalition of library and journalism organizations, began last year. It's an effort to celebrate and preserve our right to open government.

Though it's a crucial component of our democratic heritage, it is also a fragile one. For every citizen seeking to discover what's going on behind the closed doors of government offices, there's often at least one bureaucrat coming up with reasons to keep things secret.

The struggle to keep government open has gotten harder during the past few years, for a variety of reasons. The Sept. 11 attacks made security concerns a catch-all excuse for official secrecy. A growing distrust of the media has fostered a climate in which officials may be quicker to deny a journalist's request for information, and courts and citizens may have less sympathy for the request.

This change in climate is palpable for those of us in the media. Some officials refuse information and access even when they're supposedly governed by strong, clear laws like Indiana's Open Records and Open Meetings acts. The Tribune has been one of a coalition of Indiana newspapers that twice, in 1997 and 2004, tested compliance with the open records act and demonstrated that even requests for basic information such as police logs and public employee salaries are sometimes denied. Nationally, the picture is worse. The nonpartisan openthegovernment.org reports, "In 2004, the federal government set a new record for keeping secrets. Last year, federal employees chose to classify information a record 15.6 million times ... The figure is 10 percent higher than the total in the previous year." And according to opengovernment.org, more government documents also are being kept secret longer.

Open government is too important a value to be tossed aside because of the war on terrorism, or because some journalists use other kinds of information irresponsibly. It's not that difficult for officials and judges to discern the difference

between legitimate security secrets and information we all have a right to know about. And as any legitimate journalist will tell you, when we misuse information, we quickly hear about it from the people who count the most with us -- our readers or viewers.

The people who need to be heard from most in the battle to keep government open are not officials or media representatives but you, the citizens. Nonjournalist citizens have a wide variety of needs for official information, and they seek it often. From midyear 2004 to midyear 2005, for instance, the Indiana public access counselor received four times as many inquiries about open-records issues from the public as from the media.

But more broadly, it is impossible to imagine a free, informed citizenry without the freedom to know what the government is doing.

Think of how crucial it will be for residents of Indiana to know the details of the deal if the state leases the Toll Road. Consider the ferocious public debate when the president proposed leasing port operations to a Mideastern firm. Think of the intense demand in St. Joseph County for the details of the anti-smoking ordinance and the wheel tax. Imagine not being able to find out what our state, federal or local governments were doing about those things. And think of having to decide whether to re-elect a public official whose actions in office were shrouded in secrecy.

It simply wouldn't work. Democracy can only flourish in the light of open government. That's why Sunshine Week came to be.

Join the conversation

There will be at least two Sunshine Week discussions in this area.

The president and chief executive officer of Common Cause, Chellie Pingree, will be one of four panelists at the League of Women Voters Sunshine Week meeting at 7 p.m. Tuesday at the Acorn Theater in Three Oaks. The other panelists will be Lee Artz, an expert on democratic communication and a professor at Calumet-Purdue University; Arthur Cotter, chief assistant prosecuting attorney of Berrien County; and Ray Leliaert, The Tribune's Michigan editor.

Another discussion will be 2 to 5 p.m. March 18 at Indiana University South Bend, sponsored by the League of Women Voters of the South Bend Area and co-sponsored by IUSB's American Democracy Project.

That forum will be in Room 1001 of Wiekamp Hall, and the speakers will include Karen Davis, Indiana's state public access counselor; Jonathan Nashel, an IUSB history professor; and John Lewis, an IUSB professor emeritus of political science.

Indianapolis Star

<http://www.indystar.com/apps/pbcs.dll/article?AID=/20060312/OPINION/603120377/1002>

Access to public records lets us peek inside government's doors

Our position: A trace of one businessman's campaign contributions shows why open records law is a vital tool in helping citizens hold their elected leaders accountable.

Rod Aycox makes his home in the chic Atlanta suburb of Alpharetta, some 500 miles away from Indiana's Statehouse. So why would he write a \$2,000 check for the campaign of Indiana Attorney General Steve Carter? Or give \$2,000 to Gov. Mitch Daniels' campaign and \$500 to House Democratic leader Pat Bauer?

Good question. It has to do with Aycox's business, a segment of the consumer finance sector called title lending, often described as predatory lending by consumer activists. Aycox attempted (unsuccessfully, for now) to expand his operation into Indiana by carving out an exception to the state's ban on high-interest loans. His efforts included giving more than \$17,000 in campaign contributions to key Democrats and Republicans in a three-month period.

The Star Editorial Board wouldn't have been able to tell you about any of Aycox's gifts without access to reports made possible by the state's open records law. As a reminder that the business of government should be open to all, newspapers across the nation are participating in Sunshine Week, which begins today.

Access to public records and meetings allows citizens to hold government leaders accountable. Documents such as environmental permits, death and birth notices, and campaign donation reports can help citizens determine whether their public officials are following the law, making sound decisions and wisely spending tax dollars.

Checking out campaign donation files, accessible online by any citizen, led to the discovery that Aycox gave \$2,000 to Carter's campaign in December. Aycox then gave \$2,000 to Daniels' campaign, followed by \$1,000 checks to the campaigns of House Speaker Brian Bosma, Senate President Pro Tempore Bob Garton and the Senate Democratic caucus.

Aycox donated \$17,100 in support of 22 heavy hitters at the Statehouse. During the three-month timeframe, he gave far more than traditional big spenders such as the Indiana State Teachers Association and lobbyist Jim Purucker, whose clients include the Wine and Spirits Wholesalers of Indiana.

Aycox is the founder of Loan Max, considered the biggest player in so-called title lending. Under the practice, a borrower, despite already offering a car for collateral, is

charged monthly interest rates of up to 22 percent, higher than Indiana's maximum annual rate set by its consumer credit code.

Aycox has used heavy campaign donations and lobbying to win approval for his industry in other states. Indiana was next on his list.

Thanks to open records, available on the state legislature's Web site, it was learned that Senate Bill 383, which would have legalized title lending, was introduced by state Sen. Johnny Nugent, R-Lawrenceburg. Public records on lobbyist spending, available through the state Lobby Registration Commission, revealed that Aycox's firm gave Nugent an unidentified gift of "at least \$100."

Nugent says the idea for the bill -- and draft legislation -- was supplied to him in November by former state legislator-turned-lobbyist John Keeler, who worked on Aycox's behalf along with lobbyists Lisa Hays Murray and John Hammond.

SB 383 was approved 9-2 by the Senate Insurance and Financial Institutions Committee. Three of four senators on the committee who received donations from Aycox -- Chairman Allen Paul, Brent Steele and Frank Mrvan -- voted for it. But the bill was defeated 24-25 on the Senate floor. Nugent expects a similar bill to be brought before the legislature next year.

Thanks to the open records law, you get to learn how this bill got as far as it did. You also have information to help you decide whether to vote for the politicians who backed it.

Still not online:

Each member of the General Assembly must file a Statement of Economic Interest each January. Those records can be obtained at the state Legislative Information Services center, Room 230 in the Statehouse.

Audit reports and annual filings can be obtained from the State Board of Accounts, at the State Government Center, 302 West Washington St., Room E 418. Or call (317) 232-2513.3 months, lots of cash

Thanks to open records laws, citizens can see how donors such as Georgia business owner Rod Aycox, who made \$17,100 in campaign donations over a three-month period, try to gain access to top Statehouse players.

- Gov. Mitch Daniels: \$2,000
- Attorney General Steve Carter: \$2,000
- Senate President Pro Tempore Bob Garton: \$1,000
- Speaker Brian Bosma: \$1,000
- Speaker Pro Tempore Eric Turner: \$1,000
- Senate Majority Campaign Committee: \$1,000
- Indiana Senate Democratic Caucus: \$1,000
- House Republican Campaign Committee: \$1,000

- Indiana House Democratic Caucus: \$1,000
- House Minority Leader Pat Bauer: \$500
- Senate Minority Leader Richard Young: \$500
- Senate Majority Leader David Long: \$500
- Senate Minority Leader Pro Tem Tim Lanane: \$300
- State Sen. Allen Paul: \$500
- State Sen. Mike Young: \$500
- State Sen. Brent Steele: \$500
- State Sen. Frank Mrvan: \$500
- State Rep. Randy Borrer: \$500
- State Rep. Matt Whetstone: \$500
- State Rep. Ed Mahern: \$500
- State Rep. Jeb Bardon: \$500
- State Rep. Carolene Mays: \$300

Michigan

Detroit Free Press

<http://www.freep.com/apps/pbcs.dll/article?AID=/20060323/OPINION02/603230487/1070>

LOCAL COMMENT: As media know, right to information is more slogan than fact

BY MAURICE KELMAN AND BERYL FALBAUM

Whenever the media demand answers to their questions, they invariably invoke the "public's right to know."

Much was made of this "right" during Sunshine Week last week, as various media, including the Detroit Free Press, celebrated the Freedom of Information Act and decried most government secrecy.

The slogan, "the public's right to know" -- and it's only a slogan -- is generally credited to Kent Cooper, an executive editor at the Associated Press, who used it in a 1934 editorial. Like so many other catchphrases, it stuck; media have been using it ever since to defend their right to seek out information.

The "public's right to know" is now bandied about as if it is some sacrosanct constitutional entitlement embedded in the First Amendment guarantee of a free press. It is not.

Even as conceived by the press, the "right to know," whether rhetorical or statute-based, is not the right to know everything and know it instantly. There can be -- and are -- weightier countervalues that trump the public's curiosity or even, in some cases, a demonstrated need for information to be off limits. Among these are the protection of military secrets and intelligence sources, preservation of personal privacy and the maintenance of confidential relationships (doctor-patient, lawyer-client, priest-penitent).

But even a less-than-absolute public right to know is not matched by an equivalent press duty to tell. The media decide for themselves what information in their possession will be shared with the public. After all, time and newsprint are not infinite. Editing is necessary, and editing requires selection of what and when to publish and what not to publish. So the self-proclaimed guardians of the public's right to know are, inescapably, censors.

What is hard to stomach is press hypocrisy. For example, the media frequently refuse to divulge to law enforcement or litigants even nonconfidential information in their possession such as

transcripts or film outtakes of on-the-record interviews with sources. Their excuse is that it is uncomfortable for reporters to be seen in the role of witness and, thus, the public's right to know is unilaterally sacrificed by the press.

Business deals involving media organizations hardly receive the kind of attention and detailed reporting that nonmedia organizations are subject to. Similarly, labor disputes involving the media, overall, are underreported or tendentiously covered.

Furthermore, the public's right to know seems to have diminished in direct proportion to the budgets of media corporations. For instance, 40 years ago, both local papers had extensive coverage of City Hall and state government in Lansing. Now, daily coverage is almost nonexistent. The exceptions are major controversies, such as the Detroit Zoo story, or major events such as the State of the State address.

Happily, one of the great virtues of freedom-of-information laws is that citizens enjoy direct access to government information without having to rely on press ferrets. Not surprisingly, nonjournalists are the major users of these disclosure laws.

It's time to end the media sloganeering, or at least recognize the sloganeering for what it is. We all need to understand that the public's right to know does not reside in an editor's pencil, much less the editor's delete button.

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Niles Daily Star,

<http://www.nilesstar.com/articles/2006/03/21/editorials/ndeditorial04.txt>

Sunshine Week focus protects public's rights

This is Sunshine Week, seven days to focus on the critical need to protect public access to government.

But this is America, you say. We have the First Amendment. We have freedom of the press. We have the Freedom of Information Act and the Open Meetings Act. We have journalists who report on everything government is doing. Why the need for Sunshine Week?

From my perspective as president of the Michigan Press Association, the need has never been greater. In many ways, these are dark and threatening days indeed for the public's right to know.

A cloud came over Sunshine Week just last week in Michigan when our state Senate gutted HB 5675, an initiative sponsored by Rep. Rick Baxter (R-Hanover) which would have made available to the public the list of all people with criminal convictions employed by Michigan's school systems.

By the way, The Detroit News started this off early in the year by filing a Freedom of Information Act request for release of that list which was met with a court injunction on behalf of the Michigan Education Association. This action barred release of the list of 4,600 offenses including 2,200 felonies, 100 sex crimes, 23 homicides, 355 drug felonies, etc., according to The Detroit News accounts.

House leaders jumped in with the Michigan Press Association to develop a bill which would allow the release of the list - on a delayed basis with time for cleaning up inaccuracies (vetting) - and fast-tracked it through to the Senate. The sun was shining and the forecast looked promising.

In the meantime, though, there were many articles published around the state repeating accounts of falsely accused school employees included in the list; focusing on potential inaccuracies in the list rather than the larger issue, openness in the interest of the safety of Michigan's school children and the parents' right to know if people with a criminal past are taking care of their children five days each week.

Even though many newspapers took the stance that access to this list was the most important aspect of the issue because it potentially affected hundreds of thousands of children, those stories of some falsely

accused school employees led the Senate to send back an eviscerated version of the bill to the House. Our only hope is the House prevails and stops the bloodletting, restoring full access to the list after a brief review period to vet it.

The real crime here is that school workers are being held above the law. Granted, the public would still have access to felonies and misdemeanors involving criminal sexual conduct and assault in the wake of the Senate's plundering of the bill, but other misdemeanors will not be subject to access.

What about shoplifters or those who have plea-bargained theft down to a misdemeanor? Do we want those people entrusted with our children's purses or wallets left in the locker room? What about drunk drivers who have pleaded down to misdemeanor level? Should they be driving students on a field trip?

One after another, groups are pointing to themselves as being worthy of exclusion from what our forefathers designed to be transparency in government. Our free press is in place not to snoop around for our own curiosity, but to stand in the gap for the citizenry, seeking out and reporting information they have a right to know.

An initiative passed late last year in Michigan to do background checks on workers in nursing homes and adult foster care homes. Hurray! A monumental step in the safeguarding of our vulnerable senior citizens and mentally impaired people, many of whom are helpless in nursing home beds or unable to make decisions. But wait, embedded in that legislation is a FOIA exemption keeping that background information from the public. Now brewing is an omnibus bill, HB 5762, to roll together several statutes regarding nursing homes and adult foster care - including this one; a good thing, but also an opportunity to remove that FOIA exemption. Why? These are licensed by the state of Michigan and receive state and federal funds through Social Security, Medicare and Medicaid. This information thus meets the criteria of what should be subject to FOIA.

What is the point of background checks of school employees - who have direct care of our children - or potential nursing home or adult foster care workers - who care for our frail elderly or people completely dependent on others? Do we just do this for the edification and information of administrators in nursing or adult foster care homes, schools, law-enforcement agencies, or for the supervisors of some other group of government employees or workers whose paychecks are paid with public funds?

While it is crucial for these officials to have this information for hiring and firing purposes, we believe it is even more critical for a parent to have this information to be able to choose whether to leave their child in a school where someone who committed a crime - even one at misdemeanor level that may actually represent a plea bargain from something more serious - has direct care of their child. Placing a family member in a nursing home or adult foster care facility is wrenching. Wouldn't you feel more confident being able to review the backgrounds of the people taking care of your family member who is simply too vulnerable to live alone?

In Sunshine Week, the slope is slippery when it comes to the public access our forefathers designed for future generations. An open and transparent government was one of the top objectives of the framers of this democracy. They guaranteed it - or so they thought - in the First Amendment. And it has worked pretty well through all the years we have been a nation.

An accurate, responsible free press can be a deterrent to those fears that may have prompted the MEA to seek the barring of that list's disclosure. When we fall short of the principles and objectives of a responsible, accurate and free press, we only jeopardize open access to government - for everyone. It is as much our job to protect access as it is to use it in our newsgathering.

My Sunshine Week hope is to see the language restored to HB 5675 making all felony and misdemeanor convictions available when it returns to the House. After all, not all senators supported its dilution. Sen. Alan Cropsey (R-DeWitt), for example, argued the importance of knowing what kind of offenses school employees have committed at all levels.

Furthermore, the reporting of the inaccuracy of the initial list, I think, shows that our journalists don't want to see innocent teachers or school workers hung out to dry. This demonstrated commitment to fairness and objectivity - looking for all the angles - and should assure people of the level of professionalism the press will take when receiving and reporting information.

I am a member of this nation's free press and as such take great pains to ensure the accuracy of what I print. I challenge my fellow journalists to diligently adhere to the highest standards of our profession.

I am also a parent with children in various stages of their education and I have tremendous respect for educators. I have had three grandparents in nursing homes. However, I want to know the background of my loved ones' caregivers. I am demanding it here, in black-and-white.

Join me.

Marcia Loader is president of the Michigan Press Association and owner/publisher of The Advance, a weekly newspaper in Blissfield, Lenawee County

The Jackson Citizen-Patriot

Openness an antidote for inclination to hide

Ever since Adam and Eve skulked among the foliage of the idyllic Garden of Eden, it has been part of the human condition to hide from accountability. So we understand those in local, state and federal governments who are reluctant to embrace the concept of openness in government.

However, from the earliest days of the American experiment in self-rule, prudent men and women have understood that accountability is crucial in government. And accountability ultimately is owed to the governed, or in the Founders' words, "we the people." It is on behalf of the people that we in the press play the representative role of holding accountable those in government.

That is why Sunshine Week is observed starting Sunday. It is a time of affirming laws guaranteeing openness in government.

Foundational to that openness is the Freedom of Information Act, enacted 40 years ago. It guarantees citizens access to information. Other laws -- such as Michigan's 1976 Open Meetings Act -- guarantee that citizens have access to public meetings. Scores of other state and local laws have been enacted to implement and refine those laws at local levels.

That process of defining the limits is not always easy.

- Recently the Legislature enacted a law requiring that school districts around the state be notified of employees with sex offenses and other crimes on their record. We in the news media, believing the public has a right to know who is on that list, pressed for its release. Unfortunately, the list had many inaccuracies -- several locally -- so the courts intervened to ensure accuracy before it is released. The Legislature is debating a bill introduced by Rep. Rick Baxter, R-Concord, to balance the competing interests of openness and accuracy. Eventually, the list will be released -- and insofar as humanly possible, it will be an accurate list.

There are many other examples of how openness benefits the public, and it's important to understand that the law is there for citizens to use. It is not just for those of us in the news media who are practiced in the craft of digging for information.

- A good example occurred in Jackson at a Sept. 29 meeting of the Jackson County Board of Commissioners. The 4 p.m. committee-of-the-whole session was to include discussion of pound seizure, the practice of selling animals for research. However, when three citizens arrived at 5:15, the doors were locked. They were excluded from a public meeting for 20 minutes before someone opened the doors. County officials apologized and promised it wouldn't happen again

after one woman wrote a letter to Voice of the People recounting the incident. If there were no Open Meetings Act, we doubt there would have been apologies or open-door promises.

One reason it is so vital to affirm the values of openness is that they are under attack these days - often in the name of national security. The problem is that the nation becomes vulnerable to internal threats if our government becomes overly secretive. And there is cause for concern, for there has been a surge in newly classified information and a decline in the process of declassification. That's not a healthy sign.

There was a reason our forefathers placed such high value on freedom of the press. They realized how important that was for a democracy. The best government results in an atmosphere of openness and honesty with the people. We encourage all citizens to ask questions of government officials, attend meetings and request information. Practice your rights as a citizen, and officials will respond in kind, under the law.

Sheboygan Press

<http://www.sheboygan-press.com/apps/pbcs.dll/article?AID=/20060313/SHE06/603130390/1109/SHEopinion>

Open government is the best government

This is the week we celebrate sunshine. No, spring isn't coming a week earlier than normal. The sunshine we are talking about is the light that illuminates government action at all levels.

We're observing Sunshine Week to continue the dialogue about the importance of open government and freedom of information.

This marks the second year media throughout the nation are observing Sunshine Week.

In Wisconsin, the theory that open government is the best government has deep roots. Wisconsin has strong open meetings and open records laws to require government conduct its business in the clear view of the public and that the public has reasonable access to records and documents their government generates.

The state's Open Meetings Law puts it this way: "... it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business."

The law also says that closed meetings or executive sessions should be used only sparingly for competitive bidding purposes and personnel issues.

The state's Open Records Law generally follows this lead of the Open Meetings Law and exempts mostly personnel documents, although some employment records are open.

Yet, much of the openness in government has shifted in the wake of the Sept. 11 terrorist attacks.

An Associated Press review of the 1,000 new laws dealing with public access to government information found more than 60 percent closing access. About a quarter of the new laws established new methods of access. The rest were mostly neutral in effect on public access.

There is no doubt that national security interests should be paramount and that there is a need to keep sensitive information out of the hands of potential terrorists. There is no criticism of laws designed to protect national security.

But many of these new laws restricting access to documents don't deal with national security issues and some of the new laws make it harder, more expensive and more time consuming for people to get the information they rightfully are seeking.

This can be an effective means to restrict access.

The public must also be concerned about the number of times a governmental body seeks to close a meeting.

We just had the ruling by the Wisconsin attorney general's office that the Sheboygan Falls School Board improperly discussed the appointment of a person to the School Board in a closed meeting. We applaud those who brought this issue into the open and sought the legal opinion.

Wisconsin

Milwaukee Journal Sentinel

<http://www.jsonline.com/story/index.aspx?id=407410>

Editorial: Open, public records crucial to a functioning democracy

From the Journal Sentinel

Posted: Mar. 11, 2006

The Journal Sentinel is joining newspapers across the country this week in reminding readers why open records and open meetings laws are essential to accountability and transparency in government. This newspaper will feature articles and opinion pieces on national, state and local issues that highlight the need for more openness.

On these pages, we'll start by citing an example in our backyard that came to light last week. A group of citizens in Greendale wrote that School Board and school district officials have spent taxpayers' money on frivolous items, such as a \$10,000 trip for five, dinners at fancy restaurants and stays in pricey hotels.

The group, which has requested numerous documents through the state open records law in recent months, detailed its findings in a flier to Greendale residents. The group, which includes several certified public accountants, is supporting three challengers in the spring School Board election.

Regardless of the group's motive or what one thinks of such spending, it is highly unlikely that these expenditures would have come to light without the state laws that

guarantee that citizens have a right to know what their government officials are doing and how they are spending their money.

Rick Kopatich, head of the Greendale Taxpayers Group, said that obtaining the documents cost the group just under \$2,000 and that the district still has refused to release 50 e-mails.

He is convinced that the district would not have released any information at all had citizens not had state law on their side. Greendale School Superintendent Bill Hughes strongly disagrees with Kopatich's characterization of events and says the district has been in compliance with the law, that it has given the group a slew of documents and that many of the e-mails that have been requested are of a personal or personnel nature.

We're inclined to agree with Kopatich that in most cases, open records and open meetings laws are the "only defense citizens have to determine how their money is being spent." He also argues, correctly, that state law should be changed to make it easier and less expensive for citizens to get the information.

That's right. Open records and meetings laws aren't just for journalists. They exist for all citizens.

The Journal Sentinel is among many newspapers across the country featuring stories this week designed to drive public discussion about why open government is important to everyone, not just to journalists.

For more on this subject and information on Wisconsin's open meetings and public records laws, see www.jsonline.com/links/sunshine

Appleton Post Crescent

<http://www.postcrescent.com/apps/pbcs.dll/article?AID=/20060314/APC0602/603140624/1036>

Editorial: Government in state isn't as open as it should be

Wisconsin has had a reputation for progressive government, though that has certainly become more a wistful look at the past than a realistic look at the present.

A big part of that reputation has been a responsiveness and responsibility to state citizens. But as Sunshine Week puts a focus on open government, it's clear that many government officials in our state aren't meeting their responsibility.

According to the Wisconsin Freedom of Information Council, of which the Wisconsin Newspaper Association is a partner, here are the top 10 government problem areas in the state, written by the Associated Press.

We're happy to highlight them:

- High costs: Despite efforts by the state attorney general's office, people still are sometimes asked to pay hundreds and even thousands of dollars. The council said that — except for circuit court records that by law must cost \$1.25 per page — records custodians should charge 10 to 25 cents per page or waive the fee, as the law allows.
- Delay: Officials often put off records requests, though the open records law states the material should be provided "as soon as practicable and without delay." The council said most requests should be satisfied within 48 hours.
- Closed meetings: State law says government meetings must be open, with a few exceptions. But the council said some officials close sessions because they believe they'll be able to speak more candidly. It said these meetings should almost always be open.
- Incomplete agendas: A public body must list on an agenda the business it intends to take up so that citizens can attend. The council said vague subjects like "Mayor's Report" or "New Business" should be avoided.
- Public-private obfuscation: Publicly anointed and funded agencies more and more consider themselves exempt from the state's open records and open meetings laws. But the council said such quasi-governmental corporations fit the definition of a governmental body and should heed both laws.
- Medical exemptions: Individuals' medical records and personal health histories should be private, but federal medical privacy rules are being used to block access to information about legitimate public-health matters. The council said medical privacy rules should not preclude release of information about matters of public health, so long as individuals are not identified.
- Privacy protections: Personal privacy is too often used to justify withholding records of legitimate public interest. The council asks that, if a record is too private for the public to see, why are government officials collecting it?
- Prosecutor's privilege: State prosecutors' files are exempt from the open records law. The council said some law enforcement officials treat their reports as secret, too, because they become part of prosecution files. It said prosecutors should restrict access only to records that would compromise their ability to prosecute a case or the defendant's right to a fair outcome. It said files of closed cases should be public records if the public's right to know outweighs the reason for keeping the information secret.
- E-mail confusion: Court rulings have affirmed that e-mail and other electronic records must be released on request. But the council said there is little clarity in law or practice as to how long these records must be kept, what systems ought to be in place for storing and retrieving them, and whether and when e-mail exchanges may violate the open meetings law. It said e-mails and other electronic records should be maintained as long as possible.
- Lack of awareness: A lack of public awareness may be the biggest threat. The council said the open records and open meetings laws exist for the benefit of all citizens, not just the media.

Wisconsin should be a leader among states for having a government that serves the people. That means it's a government that conducts its business openly and allows its citizens the access to government actions dictated by law.

Unfortunately, we have a long way to go.

Reader Reaction Forum

How good is the government at being as open and transparent to the public as possible?

NOT ENOUGH: I don't believe our government is nearly as open and honest with the American public as it would have us believe. I realize that, for national security reasons, we cannot be informed of everything our government does, but I feel there are some things we should be told of and are not because there are some individuals who don't want us to know what they're doing. The reasons are varied but mostly it comes down to personal gain, now or in the future. We've all heard enough about the dishonesty of politicians and I believe it's more relevant now than ever. I'm not saying all politicians are dishonest but there are enough to affect all Americans.

Robert Dessort, New London

DEPENDS: When it comes to our government's work with big business, economy and commerce, I believe it needs to be as open and diligent with its information as can be. Currently, I would only give it a "C" in those areas. When it comes to concerns of war, it's a totally different situation. In his first inaugural address, Jan. 20, 1953, Dwight D. Eisenhower said, "History does not long entrust the care of freedom to the weak or the timid." Don't make our government go through political hoops to protect us from our enemies. Allow it the freedom to gather information and use it to protect us. Keep a vigilant eye on those who are empowered, but never constrain the process that is freedom.

Vic LeClair, Kimberly

POOR JOB: Not very good at all. There are many examples. The Bush administration approved the transfer of ownership of a port-operating company from a British firm to an Arab one without, apparently, even notifying Congress of the change. In June, the Senate passed a Medicare bill that includes a provision inserted at the last minute that removes age discrimination protections for retired seniors from adverse changes that employers can make to their health protections. The bill is now in Senate-House conference. If kept in the bill, employers could eliminate or reduce health benefits for these seniors, and there will probably be nothing they can do about it.

Erik Stottrup, Waupaca

UNRELATED: "Open and transparent" and "government" are worlds apart. I'm not sure if it's all good or all bad but it seems we're getting less and less information of what is actually going on until it's over. Seems to me, if the information comes out after the fact, those discovering it could have known before, at least sometimes. Now we get to know only if the government is trying to save face or if the opposing party has something to gain by spilling the beans.

Corrine Krueger, Appleton

MATTER OF SCALE: In our republic, the transparency of government is negatively correlated to the level of authority. That is, the higher the level of government, the more obfuscated its operations. On the local levels, the public has immediate concerns and immediate interests. Potholes and garbage pickups have high priorities with the voting public. Sadly, we're less prone to concern for issues of administrative ethics or even criminal bribery. There is a new bright spot in this muddy translucence: The good old American profit motive is beginning to open long-sealed doors on smoky backrooms. We used to call them "muckrakers," but now we look to publishers for the power and determination to dig through the Niagara of misinformation that spews from our multilevel bureaucracy. Citizens who support transparency in government have only to buy their newspapers and magazines selectively. There is a market for truth, and it will take its course.

Dan Tomasek, Neenah

NOT AT ALL: City government sure isn't transparent, the way it had the smoking ban passed. I will say this: If smoking had been allowed in the voting booth, we smokers would have turned out in force and things would be very different today. I've been smoking for 30 years and my lungs

feel great. State government didn't fare much better. If I remember correctly, the concealed weapon law didn't pass, but this 58-year-old guy pulled out his gun and robbed a couple check-cashing places last week. Apparently, the word that the concealed law didn't pass didn't get out to everyone. Federal, of course, is clueless. Thousands of trailers not being utilized for Katrina victims, wiretapping, Area 51, drug experiments on unsuspecting citizens, sounds like some kind of cover-up to me. The government is about as transparent as my lung.

Dennis L. Geiger, Appleton

MONEY TALKS: The failure of open government legislation to achieve its goal illustrates a technique commonly used by public and private bureaucracies to avoid accountability: Make rules requiring accountability, but don't provide money to implement them or penalties for failing to follow them. Thus, bureaucrats have no motive for implementing the rules and have the perfect defense for not doing so: "Where's the money going to come from?" The solution is to establish regular audits of compliance that place responsibility for implementation squarely on the departmental senior managers, who, if their departments are found not to be in compliance, would have to explain why in writing to the Legislature, which would then be responsible for solving the problem. This solution will work, but we should understand that often the problem can be solved only by providing the money necessary to implement compliance, which ultimately will have to come out of our pockets.

Jon Corelis, Appleton

OUR OWN PROTECTION: The government is not very open to the public because of a) national security and b) how would it benefit by sharing information? Publishing information may put lives at risk (soldiers, diplomats, and even the average American citizen). If the government told us everything, we would question why it was telling us those particular facts and question what information it was hiding or what it was trying to distract the public from knowing. How does it benefit by telling us every detail of what's going on in the world? That whole spiel about the public having the right to know is not accurate at all. If the public actually knew the whole truth about the world and what's in it, there would be mass hysteria. People/ individuals are smart; the general public, however, is extremely impulsive and dumb.

Christy Woods, Appleton

THE BIGGER THEY ARE: I believe local government isn't bad, considering how little interest citizens take in the process. The state is somewhat worse, as has been demonstrated recently. When I think about the present federal government, I conclude that it spends most of its time ensuring that everything is secret, particularly its own actions. Look how much legislation gets passed in the small hours of the night because it can't pass otherwise. Thomas Blanton, director of the National Security Archives, said on March 15 on C-Span: "Because of excessive secrecy, we couldn't connect the dots to prevent 9-11 from happening." He claims that so much unnecessary secrecy interferes with national security: "Bad decisions are made in the dark of this rising tide of secrecy. As taxpayers, we have a right to know how the government is spending our money and our trust." Amen.

Jean Thompson, Grand Chute

WHAT YOU DON'T KNOW: The government is absolutely terrible at being open and transparent to the people. It's always been this way, and will continually get worse as time goes by. The people in power think they should only tell us what we need to know, but they're the ones deciding what we need. If we knew even half of what the government hides from us, I'm sure there would be a call for a major overhaul of our current system.

Craig Rutledge, Appleton

REAL PURPOSE: Terrible, but then it's really goodies we want, not transparency. I find that others have ferreted out government's true role much better than I could. For instance, Ambrose Bierce defined politics as "strife of interests masquerading as a contest of principles." Paul Valery said, "Politics is the art of preventing people from taking part in affairs which properly concern

them." Larry Hardiman had this to say: "The word 'politics' is derived from the word 'poly', meaning 'many', and the word 'ticks', meaning 'blood-sucking parasites'." And Will Rogers was always trenchant on the topic of government: "This country has come to feel the same when Congress is in session as when the baby gets hold of a hammer." "There ought to be one day -- just one -- when there is open season on senators." "Be thankful we're not getting all the government we're paying for."

Steve Erbach, Neenah

OVERANALYZED: A government by the people, for the people does not mean that all people have to know everything. I think the government is doing the best it can at being open, given the current political and social climate. In this age of 24-hour media and broadband Internet, forums for exchange and opinion are massive and have led to every action of our government being questioned, analyzed, re-analyzed and debated until the issue itself is no longer in sight, and has simply festered to a partisan fight. I wish there was more the government didn't tell us about. Does anyone really think that our enemies don't watch CNN, read the papers and surf the Internet to discover our vulnerabilities, that for some reason all media thinks they must offer an opinion about? Whatever happened to the "need to know"? Do we all have nothing better to do than constantly debate and bicker about party politics? Can our legislators get back to work and start making some decisions, rather than the climate we have now? Naturally, all of those questions will be open to debate as well.

Chad Nehring, Allouez

The LaCrosse Tribune

Open records, meetings vital to democracy

The idea of open government often seems abstract to people. But it was far from abstract for some people I met Wednesday in Janesville, Wis.

The three women and one man were from a small town in southern Wisconsin, and they were having a hard time figuring out what their local government was doing.

There were too many closed meetings, and not enough notice of what the local government intended to do with their tax money. So they decided to attend a public information session on Wisconsin's open meetings and open records laws.

These two laws form the centerpiece of Wisconsin's open government. And, particularly when it comes to public records, the idea of open government is often under challenge.

Bruce Olsen of the Wisconsin Attorney General's office, told us to pay particular attention to the declaration of policy in the Wisconsin Open Meetings Law. We ought to read it to local officials if they sometimes seem more interested in secrecy than openness.

Here it is: "In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of public business."

In thinking about open government, it's easy to fall into the trap of thinking that it's about a free press. But that's only a part of the story. It's also about citizens monitoring the actions of their local governments.

And sometimes, as my table mates from their southern Wisconsin community would attest, that's harder than it needs to be.

Bruce Olsen of the Wisconsin Department of Justice said the Open Meetings Law is intended to be liberally construed — that means that local leaders should err on the side of openness.

Under the law, local officials must give notice to meetings 24 hours before they take place. Unless there is a specific exemption to the law cited, these meetings are open to the public, and anyone may attend.

Officials may close meetings or parts of meeting to the public, but only if the issue meets one of the 13 exemptions listed in the law. Those include personnel issues, competitive or bargaining matters, information that could hurt someone's reputation and conferring with legal counsel.

Olsen noted that citizens often can find out what local governments do in closed session if they have good sources of information.

“Often the truth does come out,” he said. “Never underestimate the tendency for one member to rat out the others.”

But not in La Crosse, which is one of only two communities in the entire state that seeks to punish officials who have the nerve to talk to taxpayers or the press about matters that the government is trying to keep secret.

Even the citizens at my table knew about the La Crosse law.

The situation with public records is even more complicated, however. It's been complicated by pressures for more personal privacy, and by a recent Wisconsin Supreme Court ruling that forces record custodians to notify people if someone has asked to look at personnel or other records involving them.

But as complicated as the law is, Maureen McGlynn Flanagan of the Department of Justice had an interesting way to approach the law.

Flanagan is involved in complicated legal cases involving public records. But she offered some advice that was more decidedly down to earth.

She urged both requesters of information and custodians of public records to exercise both courtesy and common sense.

Urging openness in general, she said a key point is to “recognize the limits on both sides and try to work with both sides.”

One police officer who works with 911 issues, said his approach to 911 calls, which are public record in Wisconsin, is that the requester should get the record as it exists — in a computer wave length disc. Unfortunately, most people don’t have computers that would play it.

So, I would give him the prize for exercising the least common sense or common courtesy.

In La Crosse County, for example, we are allowed to make a tape recording off the 911 call. That way, the television and radio stations can play it on the air, and we can transcribe it and print it.

Common sense and common courtesy. We should all try it more often when dealing with government meetings and records.

Racine Journal-Times

Newspapers and other media across the country last week “celebrated” the second annual Sunshine Week, a week dedicated to reminding readers, viewers and listeners of the importance of open government.

The Journal Times carried stories on a dispute over access to information in Racine County, disturbing trends in some state cities to secretly approve major business projects without even letting the public know until they were done deals and how the Capitol caucus scandals were initially shielded from discovery by stone-faced denials of Freedom of Information requests.

In some cases the secrets erupted in public uproar — in others they resulted in criminal prosecutions.

Government officials in instance after instance still act as though the public’s business is none of the public’s business.

In one of the Sunshine Week stories in state newspapers this week we see lawmakers vowing to reintroduce legislation to allow the deletion of some misdemeanor convictions from public court records.

The proposal is wrapped in one of those feel-good phrases — it’s called the “second chance” bill and would allow a judge to delete one misdemeanor conviction per offender from the court records.

State Rep. Curt Gielow, R-Mequon, is the sponsor of the current legislation which was endorsed by an Assembly committee but is not likely to go further this session. He told a

Milwaukee Journal reporter he intends to re-introduce similar legislation next session. “I believe many people deserve a second chance,” Gielow is quoted as saying, “A single mistake can hang with you forever and in many cases preclude you from some career opportunities.”

We believe in second chances as well. People can learn from their mistakes. The first step toward doing that is to acknowledge the mistake, to own up to it, not to pretend it never happened.

Gielow contends that single mistake can close the door on career opportunities, but Wisconsin laws prevent such discrimination unless the conviction is related directly to the job.

Records of convictions in the state have been kept for years, but one of the reasons that legislation like Gielow’s is now popping to the surface is that they have become readily accessible through Internet access through CCAP, the circuit court records access program that posts searchable court records from around the state.

The Web site gets hundreds of thousands of hits each day from people checking criminal and civil court records.

No doubt some of those checks are made by people in the legal profession or law enforcement, but some of them are made for other reasons — checking on the background of a prospective date, maybe, to see if there are any red flags in the background. Property owners use them in the same vein to see if prospective tenants have anything in their background to give them pause before signing a contract. And some checks are just concerned parents being a little cautious and wanting to check on the family background of their son’s or daughter’s new friend.

Some legislators think such uses aren’t what court records should be used for — that it’s just digging up dirt on people — and would rather see the entire online access shut down. We disagree. These are public records and, unless there is some extraordinary reason to shield them, they should be open to view by ordinary citizens, even if its just to check on a prospective date.

The beauty of online access is that it gives citizens exactly that: access to public records. It does so without forcing people to hoof around to all the courthouses in the state to inspect records in person, a painstaking process that in itself discouraged public access. Online access to court records is a bright spot in the effort to give people information they want and we believe it enhances public safety. Legislators who want to punch a hole in the record book by expunging convictions or limiting public access will have a fight on their hands.

Minnesota

Minneapolis Star Tribune

Keep the sun shining in

When Lyndon B. Johnson signed the Freedom of Information Act (FOIA) nearly 40 years ago, he wasn't exactly whooping for joy. In fact, former press secretary Bill Moyers has recalled, "LBJ had to be dragged kicking and screaming to the signing ceremony."

Why the reluctance? "He hated the thought of journalists rummaging in government closets," Moyers explained, "Hated them challenging the official view of reality." Yet the stubborn rancher from Texas swallowed hard and uncapped his pen anyway — a gesture for which Americans should be grateful.

They ought to be especially so just about now. The week of March 12-18 marks the second annual celebration of Sunshine Week—a venture spearheaded by the American Society of Newspaper Editors, the American Library Association and scores of other groups insistent that government must not keep citizens in the dark.

What can assure such openness? For four decades, the best bet has been the FOIA. The law has worked wonders to uncover government stealth, reveal misuse of tax dollars, track down undisclosed research findings, highlight public-health dangers and expose U.S. military misconduct.

And the FOIA has served another salutary purpose: It has reminded generations of government officials that they're under public watch — thus keeping many from succumbing to unsavory temptation.

Indeed, that may be the FOIA's greatest, and most unquantifiable, contribution to American society: Its very existence highlights how much Americans value open government, and has likely nudged many a wavering official away from stealth and toward scruple. The law's necessity couldn't be more evident: Every administration in the history of this republic has sought to cut corners

and cover up bumbles — verifying the acclaimed adage about power's tendency to breed corruption. It's an inclination only public scrutiny can hold in check.

The wise minds that devised America's democracy knew this lesson well. That's why they wrote a Constitution that enshrines citizens' rights and freedoms — and greatly restrains the reach of government. That document — the one manuscript all Americans should hold sacred — insists time and again that this nation's government must do its work publicly, remaining accountable to the people who shape it. Assuring accountability, time has shown, requires that citizens know just what the government is doing — and that virtually any question they ask about their government be answered, quickly and honestly.

Hence Sunshine Week's celebration of the FOIA, which in 40 years has become the

people's sharpest tool for digging up details government officials might prefer to keep to themselves. Contrary to popular assumption, the instrument isn't of value just to journalists — though reporters have often used the FOIA to enlightening effect. The law's most common customers are "ordinary citizens." In the last few years, more than 4 million FOIA requests have been filed annually — only a tiny share of which were launched by news outlets.

The numbers illuminate the point worth keeping in mind — and the ultimate reason for Sunshine Week: The right the FOIA was written to enforce doesn't belong to journalists; it belongs to Americans, every one of whom is entitled — even obliged — to keep an eye on what the government is doing.

Unfortunately, the FOIA alone isn't enough to ensure government transparency. What's necessary as well is a cooperative attitude among potential secret-keepers — who can serve best simply by assuming that any citizen question deserves a straight answer. That presumption of openness — explicitly urged by the FOIA — has waxed and waned as presidents have come and gone. Since George W. Bush moved into the White House, onlookers say, the presumption has all but evaporated. Back in October, 2001, then-Attorney General John Ashcroft told federal agencies to stop leaning toward openness — and instead to scrounge for legal reasons to deny FOIA requests. The upshot has been a marked rise in FOIA denials — and a growing reputation for the Bush White House as one of the most secretive administrations in history.

Such fondness for secrecy isn't good for anyone — least of all the secret-keepers. Once seduced by stealth, they too often use it to cut all sorts of corners and even to subvert the Constitution they've pledged to uphold. That's why a venture like Sunshine Week is so crucial: By highlighting the value of open government, the enterprise moves citizens to look hard at how their government is behaving. And as pretty much everyone knows, there's nothing like the cold stare of a multitude to spur a government toward reform. For more information on open government, the Freedom of Information Act and what it means to all citizens, go to www.sunshineweek.org for a nationwide list of Web sites on the subject

St. Paul Pioneer Press

U.S. government secrecy is costly in citizens' rights and money

LUCY DALGLISH

I spent most of the last week trying to help America's journalists explain to citizens the impact excessive government secrecy has had on the public's right to know what the government is doing in their name and with their money.

During last week's Sunshine Week celebration, more than a few editors and reporters challenged me for being shrill and whiny, and overstating the threat on the federal level.

What the numbers show.

But there's no question the number of secrets kept by the federal government has soared since 9/11. I'll let the facts speak for themselves.

- The number of documents classified as secret has more than doubled over the past five years. In 2004, the federal government classified 15.6 million documents. The federal government spent \$7.2 billion stamping those documents "top secret," "secret" or "confidential." At the same time, federal agencies spent a record \$148 creating and storing new secrets for each \$1 spent declassifying old secrets. We're classifying documents in this country at the rate of about 30 a minute.
- The Bush administration has invoked a legal tool called the "state secrets privilege" to keep federal court hearings and documents from public scrutiny far more often than federal officials did during the height of the Cold War. In fact, the state secrets privilege was invoked four times between 1954 and 1973. Since 9/11, it has been invoked at least 23 times.
- Nearly two-thirds of the 7,045 federal advisory committee meetings in 2004 were closed to the public, undermining the thrust of the open government legislation that created the advisory committees 33 years ago.
- More than 1,200 foreign nationals were secretly imprisoned after 9/11, largely on immigration and material witness grounds. More than 750 (mostly Arab, Muslim men) were secretly kicked out of the country. We still don't know who they were.
- The Defense Department is refusing to release photographs under the Freedom of Information Act of alleged prisoner abuse at Abu Ghraib prison (even though portions of the photos that would identify prisoners have been blacked out). The department's rationale is the photos depict behavior so despicable their release will cause animosity toward Americans.
- My organization, the Reporters Committee for Freedom of the Press, last week reported over the past five years, an average of more than 460 federal criminal prosecutions per year in the U.S. District Court for the District of Columbia have been conducted entirely in secret.
- The Associated Press reported last week that over the past three years, the criminal case files of more than 5,000 people who had been "discharged" from the federal criminal system (usually meaning they had served their sentences) are still secret. This means that there were convicts sitting in federal prisons and there is no public track record of how they got there.
- More than 55,000 historical government documents that had been available for years — some even published by the State Department — have been "reclassified" in a secret seven-year review of documents at the National Archives. In 1995, President Bill Clinton issued an order speeding declassification of old government documents. But in 1999, the Archives began reviewing the documents Clinton declassified. While some were reclassified in the Clinton years, restoring their status to "classified" accelerated when the Bush administration took office, especially after 9/11.

I could go on. And on.

Informed citizenry. Terrorism is a genuine threat. And not all information held by the federal government should get out. But a lot of information that can be used by terrorists to do harm can be used by citizens to make their communities safer and healthier.

I think most of us would benefit from a refresher course in basic civics. Here's how representative government is supposed to work: Citizens take information about government from the media and other sources, and use it to make decisions about who is going to govern them and how they are going to live together in a community.

Judge Damon Keith of the 6th U.S. Circuit Court of Appeals said it more eloquently in August 2002 when the appeals court said all deportation hearings could not be closed with a blanket court order. Keith wrote: "A true democracy is one that operates on faith— faith that government officials are forthcoming and honest, and faith that informed citizens will arrive at logical conclusions. This is a vital reciprocity that America should not discard in these troubling times."

Keith had it right. "Open proceedings, with a vigorous and scrutinizing press, serve to ensure the durability of our democracy."

Let's not wait until Sunshine Week 2007 to put that principle into practice.

Dalglish is executive director of the Reporters Committee for Freedom of the Press, a national organization that advocates for open government and First Amendment rights.

Mankato Free Press

http://www.mankatofreepress.com/editorials/local_story_073002701.html?keyword=topstory

Our View -- Government secrecy does no good

A group of landowners in northwestern Minnesota has used the state's open records laws to force their government officials to defend plans to take land for use in a flood-protection plan.

So far, it appears the government is having trouble proving its plan for flood control is going to work or is necessary. The move to take the landowners' property is on hold.

Meanwhile, in Alexandria, the Douglas County administrator tried last week to force the twice-weekly newspaper there to submit stories for approval before publishing them. If the reporter failed to do so, the official threatened to cut off access to county information.

The residents of Alexandria were furious when they found out the government was trying to control the media.

Both events are good examples of why it's so important for people to make sure government can't hide information from them or control how the media reports things.

This week is Sunshine Week, an event started a year ago by the American Society of Newspaper Editors, the American Library Association and others.

The core protections against government secrecy have been the Freedom of Information Act on the federal level and the Data Practices Act in Minnesota. Those laws presume government data are public and provide legal recourses for citizens who are denied access to public information.

Unfortunately, the Bush administration and Gov. Tim Pawlenty are bent on rolling back the public's access to government information.

Bush has shown broad disregard for openness in government, using the fear of terrorism as protective cover. In Minnesota, the governor wants to scale back public access to government information, claiming it's needed to prevent identity theft and other dangers.

The calls for more secrecy are unjustified and dangerous. Government officials have always used supposed threats — to national security, to citizens, to the government — as reasons to try to operate in more secrecy.

But citizens have realized that what really keeps them safe and free is to know exactly what their government is doing so they can be part of the process. That requires strong public information laws on the state and federal level so the sun can shine on the democratic process.

IOWA

Des Moines Register

<http://desmoinesregister.com/apps/pbcs.dll/article?AID=/20060327/OPINION03/603270305/1110>

Keep government open to Iowans

Reject legislation to increase secrecy.

Sunshine Week is set aside each March to recognize the public's right to have open government. This year, however, instead of keeping the sun shining brightly on state and local government business, the Iowa Legislature was busy closing the blinds.

Nearly a dozen bills introduced this session would make it more difficult for citizens to see what's going on in state and local government. Fortunately, about half of them were scuttled or died before last week's deadline for action this year. Among the survivors that should join them in the trash bin:

- House File 2562 would prevent public access to e-mails and telephone records of law-enforcement agencies. This would prevent the public from monitoring authorities' conduct. The bill was amended to limit the impact to active cases, but even that would allow authorities to squirrel away embarrassing messages and records by keeping cases open forever.
- Juvenile-delinquency records that are otherwise available on paper would not be available electronically under HF 2676. This could set a dangerous precedent: If records are worth keeping open - and the public and the accused alike have an interest in criminal records being kept open - they should be kept in the most readily accessible format. The easiest way to discourage public access to public information is by making it difficult to find.
- Legislation passed by the House (HF 2706) and under consideration in the Senate (SF 2270) would allow foundations that raise money for public universities to keep confidential the names and financial records of donors.

This would reverse part of an Iowa Supreme Court decision that said foundation records

are subject to the open-records law. This would move back in the direction of secrecy for information about money raised from the public for a public institution. Donors who insist on anonymity can do so under the current law now. It's risky whenever lawmakers create new loopholes that open the door to more information being kept secret than absolutely necessary.

There are many excellent reasons why the public should want to know who is giving what to public universities - and why. It should not be possible, for example, for a secret donor to give a big wad of cash to a university directed to a particular line of research. A pharmaceutical company, say, wanting research to support its newest wonder drug. At the same time, a foundation could want to keep certain financial records private to cover up its own mistakes, such as in the case of a donor who makes a specific restriction on use of the money that is not carried out by the university. There is no way for the public to monitor the execution of such donations if these records are sealed.

The public won a major victory when the Supreme Court said foundation records are public. The Legislature should not retreat from that victory.

Kansas

Kansas City Star

<http://www.kansascity.com/mld/kansascity/news/opinion/14077051.htm>

Laws on open meetings, open records

LET THE SUN SHINE ON GOVERNMENT

This week *The Star* joins other papers nationally to highlight Sunshine laws. As part of that effort, *The Star's* editorial page asked its community opinion listserv contributors for examples of how open meetings/open records laws affected them, and why those laws mattered. Here are some of their responses:

From Nixon to now

I came of age in the early 1970s, when the secrecy, lies and abuses of authority surrounding the Vietnam War and Watergate led to demands for more open government and eventually to passage of the Freedom of Information Act. Since then I've taken for granted the power that we, the public, get from such information.

The Freedom of Information Act and similar measures passed in states and cities allow us to monitor the actions of public officials, from local public school boards to the president of the United States, and to hold them accountable for those actions when we go to the polls.

Of course, it's usually members of the media who attend the meetings and review public records for this information — and I'm glad they do. How else would we have known, for example that:

- A local hospital was accepting patients in need of organ transplants while turning away potential donors?
- A candidate for mayor of an area city had been arrested for soliciting prostitutes?

- No weapons of mass destruction were found in Iraq?

Information, it is said, is power. I'll take all I can get.

Pat Bates, Parkville

Informed voters

Sunshine laws are not just avenues to information but pillars of a free and democratic society. A widely accepted tenet of being a responsible voter is being an informed voter.

Sunshine laws give citizens the access they need to the pieces of a complex puzzle they can put together in order to reach an informed opinion. Media are great avenues for becoming aware, but in the end before you mark that ballot, it is your responsibility to understand the consequences of your actions.

On the flip side of the coin, Sunshine laws are not limited to holding citizens accountable, but also for holding their governments accountable. Operating government in a transparent and seamless manner ensures the sanctity of the social contract held between the government and the constituency.

This is beyond uncovering corruption, identifying waste and outlining better, faster, cheaper programs. It is about ensuring that when I give up certain inherent freedoms to my government, it is providing me with an environment in which I feel safe, I am able to practice business and I am protected by the rule of law.

You may not always remember what government has done, either good or bad. But you will always remember how it makes you feel. And Sunshine laws make me feel better about my government.

Neil Gosch, Kansas City

Fear of exposure

I think the recent revelation of domestic surveillance by the National Security Agency is the perfect example of how important it is for the public to know who is making decisions that affect the people they are governing.

Laws were enacted to prevent a "back room" group making public policy, be it the legislative branch or military leaders. Certainly the threat of exposure reduces the incentive for governmental abuses whether it's the federal government or the city council.

The public has a right to know who they are electing, and should be able to trust them to follow the law once they've done so.

Mark S. Revenaugh, Gladstone

Respect for law

I have been on both sides of that fence, having served some years ago on a public tax-supported board and thus being aware of and abiding by the open meetings laws.

I think the laws are fine the way they are.

Bottom line: There needs to be a universal respect for the law. The media must be able to report issues but also should not be allowed to disclose issues that, if revealed, could damage the common good, such as timely real property negotiations.

The public boards need to respect the law and use only the legal reasons for being given privacy in executive sessions, and not use that reason as an excuse to actually talk about something else that should have been discussed in public.

Gary Brockus, Overland Park

Simple truth

Why sunshine laws? Because where there is no light, there is darkness.

Mike Dixon, Olathe

An absurd debate

Two words that changed the world: *glasnost* and *perestroika* (“openness” and “rebuilding”).

And for the United States to continue to compete/lead in the information/communications revolution taking place around the world, those two Russian words need to be remembered.

Without openness there can be no democracy and without democracy, there is no United States.

Why there is even a debate on the Sunshine laws is absurd. The Founding Fathers created our society not to be based on secrets. Freedom of information is vital to democracy.

Anthony Young, Kansas City

A need for privacy

It's very easy to just blindly say, “All meetings should be open,” but I don't necessarily agree. Right now legal and personnel issues can be discussed at closed meetings.

Sometimes I think serious discussion and genuine disagreement and collaboration need to be private. We all have been to meetings where we are trying to solve a problem, and we gather to discuss and solve an issue. Sometimes crazy ideas or statements get tossed out in exaggeration to make a point. The thought that those statements could be headlines the next day would definitely stifle my suggestions.

I think government should be open, but we need to allow a place for councils to have places of genuine and free discussion and collaboration. I think the open meeting laws can stifle those conversations.

Valerie McCaw, Kansas City

The best answer

To really ride herd on politicians, you have to spend a lot of time watching everything they do. This is time most of us do not have.

Newspaper reporters many times are the only ones who fill in the blanks for the general public.

Just because you have an open meeting doesn't mean the voters can learn what is actually going on.

For example, there is a notification that there will be a meeting on the issue you are concerned about. You go to the meeting and sometimes even provide your opinion.

Your governing body appears to reach a decision and you leave satisfied that the democratic process has worked properly. But later you find out that there were other meetings and that the decision had been changed.

Sunshine laws don't solve the problem of political shenanigans, but they do add a complication that sometimes helps expose corruption when our elected representatives lean toward the dark side.

Charles Payne, Lees Summit

The Bonner Springs Chiefton

Opinion: Sunshine Week March 12-18

It's ironic that, just as we celebrate Sunshine Week (March 12-18), more and more of the public's business is being carried out behind a cloak of secrecy.

Open government -- transacting the public's business in the light of day, for all to see -- ranks right up there with the secret ballot and universal suffrage among the basic building blocks of representative democracy. And yet, there have been too many instances this year when the Kansas Legislature has opted not to put things out in the open where they belong. Some examples:

- The Kansas House failed to act on a bill to open probable cause affidavits after they are served. Only in Kansas are such documents, which tell in basic terms why a person was arrested, presumed to be closed. Kansas thus joins such havens of due process as Cuba in keeping this information away from the public.
- A bill to prevent serial meetings, in which members of boards and commissions meet in small groups to circumvent the Kansas Open Meeting Act, never even got a hearing in the Senate.
- The leaders of the Kansas House bowed to election-year politics in denying an up-or-down vote on a bill to allow recording of executive sessions of public meetings. This bill was vehemently opposed by associations for city and county officials and school boards, who seem to find the basic democratic ideal of open government to be an inconvenience.

There are yet some hopeful signs, but the sunshine is flickering, at best. Two measures are still alive:

- One would require the education of public officials about Kansas open records and open meetings laws.
- The other would make available to the public the names of those who drive members of the public, even if employed by a private company. Across the state, school districts spend millions of dollars in transporting students to and from school and other activities, and it would seem to make sense that the public ought to have a right to know who is being entrusted with this responsibility. Some school districts are lobbying hard against the "inconvenience" of accountability, however.

Do not fall for the line that the press is interested in these issues only for its convenience, or to sell newspapers or promote viewership. The press may be leading the fight, but the real issue is the public's right to know what the government is doing on its supposed behalf.

The initiatives mentioned earlier would serve two purposes: they would help citizens find their way in our democratic system, and they would also build trust in that system. Keeping things secret, even for the purest of motives, fosters suspicion and distrust. Transparent, open government flourishes in the sunshine.

Nebraska

Lincoln Journal Star

http://www.journalstar.com/articles/2006/03/14/editorial_main/doc4415fcaab9d14242680598.txt

Every citizen possesses the right to know

It's often the Journal Star and other news media that are on the front lines in battles to force the government to open its records or meeting to the public.

But it's really the public's — not the news media's — right to know.

If a citizen wants to force a government agency to divulge information that is a matter of public record, he or she has the same rights as the Journal Star or ABC News.

That's important to remember at a time when government secrecy is expanding.

Some of the government's recent efforts have been laughable. A program originally set up to correct honest mistakes in classification has been turned on its head.

Under its provisions, government screeners have restamped "Top Secret" on documents such as a CIA report dismissing the possibility that Communist Chinese troops would cross the Korean border. Such an event "was not probable in 1950." The report stated. Twelve days later, Chinese troops did exactly that.

The report has been available to the public for seven years. They and other documents were quoted in scholarly articles, microfilmed and distributed to other libraries.

"It's silly to reclassify at this point — the screeners should have known

that," historian Matthew Aid told Scripps Howard News Service. Some of the decisions to reclassify documents seemed aimed only at saving the CIA from embarrassment, Aid said.

In order to stop the spread of government secrecy, individuals have to be willing to stand up and assert their rights. National Archives director Allen Weinstein wisely has ordered a moratorium on the withdrawal of more documents from public view.

As reported last week, Nebraska has escaped much of the rollback in open government that has been found elsewhere in the past few years. Nebraska's open records and meeting laws are regarded as among the strongest in the country.

Alan Peterson, attorney for Media of Nebraska, a group of newspaper, radio and television stations, credits the Legislature for protecting the public's ability to find out what its government is doing. "The records held by the government still really belong to the people, and can be reviewed free and copies obtained at cost, not at a premium price," Peterson said.

To drive home that point during Sunshine Week — a media effort March 12-18 to combat government secrecy and underscore the public's right to know — the Journal Star is reprinting below a version of the letter used by the newspaper to make an official request for information from state agencies.

Feel free to use it to facilitate your own search for state government information. It's your right.

State Agency

Anywhere, NE

[Custodian of records]:

This is a request for [access to] [copies of] the public records described below, made pursuant to the Nebraska public records statutes, Neb. Rev. Stat. #84-712 et seq. [and, if applicable, the Nebraska Criminal History Information Act, Neb. Rev. Stat. #29-3520 and 3521].

I desire [access to] [copies of] the following records:

[Describe the records with as much detail as possible.]

I understand that you may charge a fee not exceeding the actual cost of making the copies available, and I agree to pay such fee. If the cost of the copies sought in this request will

exceed \$ _____, please let me know that before making the copies.

Pursuant to Section 84-712, you are required to provide the [access] [copies] requested in this letter within four business days from your receipt of this letter, or else provide the written explanation required by that statute.

While I am confident that the records requested are public records under the statutes, if for any reason you deny this request, please provide the information required by Section 84-712.04, specifically:

— A description of the contents of the records withheld and a statement of the specific reasons for the denial, correlating specific portions of the records to specific reasons for the denial, including citations to the particular statute and subsection thereof expressly providing the exception under section 84-712.03;

— The name of the public official or employee responsible for the decision to deny the request; and

— Notification to the requester of any administrative or judicial right of review under section 84-712.03.

You may transmit the copies to the address listed above. It is important to me that I receive the requested records in a timely manner. If there is anything I can do to clarify this request for you, or otherwise assist your fulfillment of this request, you can reach me at [telephone number].

Thank you for your attention.

Sincerely,