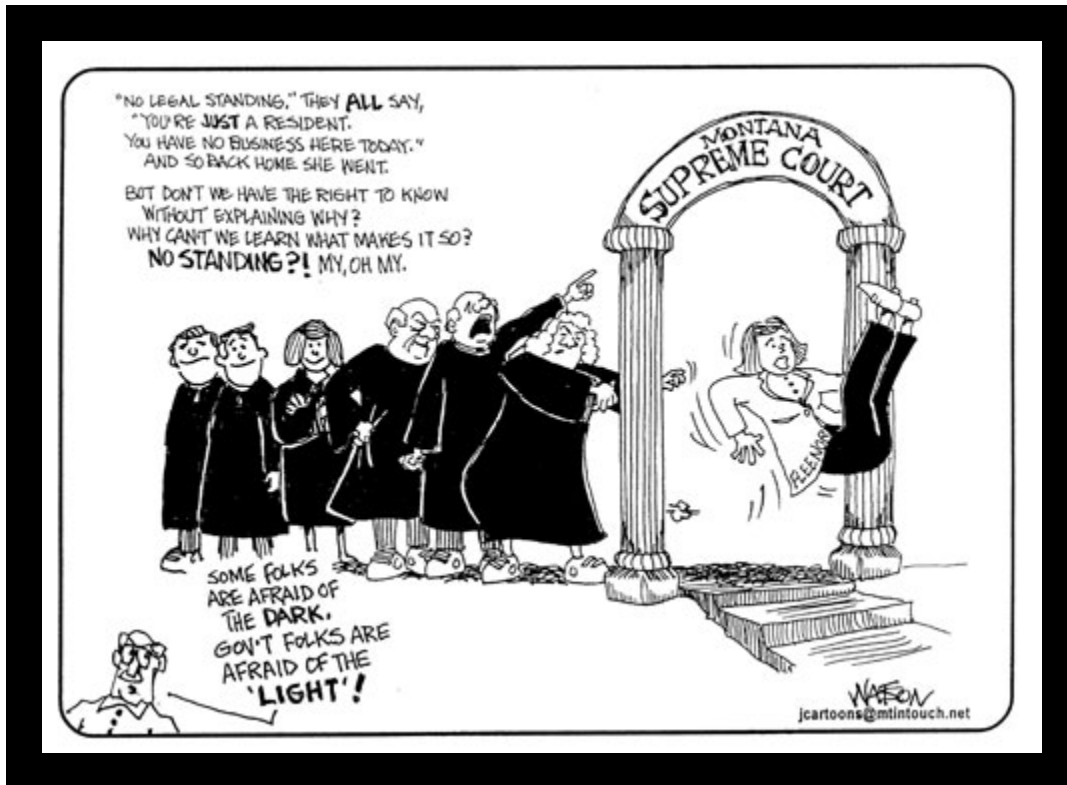


The West

Montana

The Missoulan

Forecast: cloudy



Supreme Court closes the door on open meetings

by John S. Adams

Since the passage of the Montana Constitution in 1972, the people and press of this state have enjoyed some of the most liberal open government laws in the country. Last month's unanimous decision by the Montana Supreme Court to dismiss a lawsuit brought against the Darby School District has media experts worried that the decision could begin the reversal of three decades of sunshine in the state.

On Valentine's Day, the Montana Supreme Court unanimously dismissed a Ravalli County woman's lawsuit alleging that the Darby School District violated open meeting laws when it hired the district's superintendent in 2004. The woman, Bruceen Fleenor,

planned to argue that the hiring was accomplished at a meeting that was not properly publicized, therefore violating the state's open meetings laws.

Fleenor never got the chance to make her argument. The Supreme Court upheld the Ravalli County District Court's decision to toss the case based on what the court determined was Fleenor's lack of legal standing to sue the district.

According to John Barrows, executive director of the Montana Newspaper Association (MNA), the suit raised serious questions about whether or not citizens have the legal right to claim a government violation of the state's open meetings laws.

"The suit basically determined that even though Fleenor is a resident of Montana, a taxpayer, and a resident in that district, she doesn't have standing," says Barrows.

Justice Patricia Cotter, in writing the court's decision, said Fleenor did not meet the requirements to establish standing to bring the suit.

"[T]he complaining party must (1) clearly allege past, present or threatened injury to a property right or civil right, and (2) allege an injury that is distinguishable from the injury to the public generally..." Cotter wrote.

Barrows says the court's "narrow" reading of the law could have detrimental impacts on the public and the press. He's concerned that, based on the Fleenor decision, bureaucrats might begin asking reporters and citizens why they want access to meetings or documents in an attempt to determine their standing.

"I think this is a devastating decision," says Barrows.

Jim Clarke, the Associated Press' Montana bureau chief, agrees with Barrows' assessment.

"The color drained from my face when I read this decision," says Clarke. "I would have hoped that the Supreme Court Justices would have taken the facts as they are and realized that they are setting up a real uncomfortable test."

In a memo sent to publishers, editors and reporters around the state, Robin Meguire, a Helena freedom of information attorney, advised that "all reporters, if asked, should refuse to explain their reasons for requesting public documents and attending public meetings."

"What we want to do is have a situation where someone asks for access to public documents or meetings and is denied," says Meguire. "Then we'll bring another lawsuit and point out why [the Fleenor case] wasn't the best decision."

For its part, the Montana School Board Association (MTSBA) wasted no time in advising its members how the Fleenor decision could be interpreted by school districts across the

state. The association's March newsletter includes an analysis of the decision by MTSBA staff attorney Tony Koenig.

"This ruling is important because it should limit politically motivated challenges to decisions of school district boards of trustees," Koenig wrote. "The open meeting laws will no longer be available as a tool for attacking Board decisions unless the person or group bringing the lawsuit can show that they have been personally impacted by the decision. Additionally, the Supreme Court's opinion in this case could affect open meeting lawsuits brought by the media, in that it may be difficult for a newspaper to show any personal stake in the decision of a school board."

"I completely agree with that analysis. It's just that the lawyer for the school board thinks this is a good thing and I think it's a bad thing," says Clem Work, professor of media law at the University of Montana Journalism School.

Work says when he read what he took as Koenig's gleeful interpretation of the Fleenor decision he almost needed someone to perform the Heimlich maneuver on him.

"It sort of goes to the heart of open government," says Work. "If citizens, and by extension the media, can't go into court to enforce the open government laws because they haven't been personally affected, it eviscerates our open government laws."

The Associated Press, the MNA and FOI attorneys at the Meloy Trieweiler law firm in Helena are on the lookout for cases where citizens or journalists are denied access to government meetings or documents based on the Fleenor decision.

"I expect what's going to happen is we're going to have to fix this the hard way," says Clarke. "The hard way is to go back to court."

Barrows has said he'll lobby for a legislative fix, but in the meantime he's advising journalists to report to the MNA any incidents where they are denied access to open meetings or records.

"If you don't get it, and we can put together a good case, we'll go back to court," says Barrows.

Sunday, March 12, marks the beginning of the second annual Sunshine Week: Your Right to Know, during which news outlets throughout the country draw public attention to the importance of open government.

The Billings Gazette

Right to know keeps government accountable to citizens

Knowledge is power. Public access to information is the difference between democracy and dictatorship. There's no government of, by or for the people when the people can't find out what

the government is doing or effectively participate in its decisions.

Open government guarantees in the Montana Constitution and in statute ensure that citizens can effectively participate in their state and local governments.

To highlight the vital role openness in government has in the United States, journalists and news organizations across the country observe Sunshine Week. Starting today, The Gazette and many other news media will put extra effort into raising awareness of open government law.

Gazette readers have heard quite a lot about open government issues over the past year as the newspaper was forced to sue the city repeatedly to get access to public documents and to a public meeting. Each case the District Court decided was decided in favor of the public's right to know.

Optimism on sunshine

The good news is that across Montana public officials usually follow the open meetings law, according to Mike Meloy, a Helena attorney who regularly fields open government questions for the Montana Freedom of Information Hotline.

"Most of the time, the person who has denied access doesn't understand the law," Meloy said. As the FOI hotline attorneys, Meloy's firm receives an average of three or four calls weekly. About 60 percent of the inquiries are from a journalist seeking access to a meeting or document. The rest are from other citizens who want to attend a public meeting or obtain public records. Some of the latter group are public officials themselves.

School trustees, city council members and county commissioners have called to ask if meetings and records have to be public.

"We always say yes," Meloy reported. "Most of the time, they're real happy to get that information."

Educational process

As Meloy said, upholding Montanans' right to know is first and foremost an educational process. Public officials need to understand the state's open meetings and records law and the constitutional guarantees of open government. That's part of their job.

Most open government questions and complaints are resolved with information the FOI attorney provides on the phone or in a letter. But Meloy has noticed a trend toward more refusals of school boards and districts to provide public information on privacy grounds. The Montana Constitution says that public records are public and allows an exception only when the concerns of individual privacy clearly exceed the public's claim for access. In 2004, when Billings School District 2 denied access to records about the conduct of two teachers at a school, The Gazette was forced to go to court to obtain the records. The District Court ruled in favor of public access. A public school records case from Cut Bank is headed for the state Supreme Court after a District Court ruled that the school board can withhold information about action it took in a case of some older students shooting BB guns at younger students.

A case involving the Darby school board made waves last month when the Montana Supreme Court ruled that a local woman hadn't established that she had standing to sue the school board for failing to give proper notice of a meeting at which a superintendent was hired. Meloy said the court's ruling is fairly narrow, but it may encourage school boards to try to deny demands for open meetings.

Court of public opinion

The court of public opinion can exact the harshest penalty (voting scofflaws out of office) for open government law violations. Otherwise, the consequence of violating open records and meetings law generally is having to pay the legal fees if the newspaper or citizen prevails. And those fees aren't paid by the persons who denied access; payment comes from public coffers. Decisions made in illegally closed meetings are void and have to be redone in a public meeting. That truth cause heartburn last year for a state pension board after Gov. Brian Schweitzer took it to court for

failing to give proper notice of meetings before hiring a new executive. When your elected public officials make a good effort to uphold the people's right to know, applaud. If they insist on doing the public's business in secret, tell them that's wrong. There's reason for optimism about the future of open government in Montana. But nobody can take it for granted. The right to know, like other fundamental rights, must be exercised regularly by citizens who value it.

South Dakota

The Argus Leader

Re-write it - Sunshine Week and Open Government

Today we inaugurate a new online feature of the Argus Leader editorial page: You Re-Write-It Editorials.

Sometimes we find readers don't want to write a letter to the editor, they want a whole new editorial. So this is your chance.

Each week we'll post an editorial. This week, it will be today's editorial on Sunshine Week and open government. If there's anything you think should be changed, you re-write it and we'll post your version. Maybe you agree with the editorial, but you think it should have included different information to back up the position. Or maybe you disagree and think the position should have been entirely different.

Doesn't matter. Agree or disagree. Alter slightly or re-write entirely. Your choice.

Have fun. **Here's the editorial ...**

Around the nation today, celebrations begin for the second annual Sunshine Week, a reminder of, and promotion of, open government and its importance to democracy.

Not in South Dakota. We have darn little to celebrate.

Here, it's more of a death-bed vigil with constant prayers for a miracle cure, but fearing we're just a step or two away from a wake.

What a tragedy, because the concept of open government is so simple and clearly beneficial. It merely means that voters and taxpayers, the people who elect and pay for our government, have a right to see and hear what our government is doing. That knowledge makes us more informed citizens, able to make better decisions. Period. Nothing more. Nothing less.

Who's responsible for the state of affairs in South Dakota? The news media, for sure. We haven't made the case consistently, or well, that open government is for all of us. Elected

officials and taxpayer-paid employees, too. They've been able to operate behind closed doors for so long, the thought of opening them and letting the sun shine in gives them the willies.

And, without a doubt, South Dakota citizens, who typically fight for open government only as individuals, when it's a particular issue that affects one person or a small group.

Elected officials see open government as a media issue, because there's no general outcry from the public. It gives them cover, an excuse to keep our laws and procedures as they are.

Blame is pointless, though, except as a way of painting a picture of the South Dakota landscape. We're a state that barely gives lip service to open government, once in awhile making a move forward but more often taking a step backward. Look at the recent legislative session:

A bill to open more campaign finance information to the public. Killed.

A bill to close records on who gets permits to carry concealed weapons. Passed. More information kept from the public.

In the 2005 session of the Legislature, a great compromise was reached that allowed the public to retain access to vital statistics -- marriages, divorces, births, deaths -- while protecting South Dakotans from identity theft. Everyone praised the compromise. The state Health Department killed it, with the blessing of Gov. Mike Rounds. That information is open now only to a select few.

And the state Open Meetings Commission, created two sessions ago to review complaints about government bodies violating the open meetings law? Complaints keep coming, from all over the state.

The commission was created, because in the three decades we've had an open meetings law, not a single government body ever has been prosecuted, despite a long list of obvious and admitted violations.

The commission is progress. But ... there still are no penalties. No sanctions whatsoever for violating the law.

The same is true of records, documents kept by the people whose salaries come from our tax money. If they refuse to give a South Dakotan something that's clearly open under the law, there's no penalty. And no recourse.

Depressing.

Even so, there's a tiny ray of sunshine that gives hope for that miracle. South Dakotans are getting involved. Many of the complaints before the Open Meetings Commission

come from average citizens.

Government efforts to close out the public-- in the Legislature, in city councils, in school boards, in county commissions -- no longer go unchallenged. South Dakotans are starting to exercise their rights, only to find out that in many cases they don't have any.

Even legislators aren't completely against open government. They've OK'd an attorney general's study of our open government laws.

Those of us hoping for an epiphany here will be disappointed. That's not coming. What we're seeing, though, is a growing appreciation of open government. Small step by small step. Slowly. But growing, nonetheless.

Celebration of Sunshine Week? Not yet. More like a solemn observance. A vigil. with hope and prayers for the future.

California

San Jose Mercury News

A Front Page note from the executive editor

SAN JOSE IS ENTITLED TO OPEN GOVERNMENT

Dear Reader,

A rotunda made of glass rises from a public plaza in the heart of downtown, the centerpiece of San Jose's striking \$382 million City Hall and the symbolic seat of government for the nation's 10th-largest city.

"It reflects a contemporary vision of government being transparent and open to view," Rob Steinberg, the local architect involved in the project, said just before its completion last fall. The dome, he said, is "welcoming everybody to see the people's business."

But too often these days, the "people's business" at City Hall is obscured by secrecy. The noble intentions of the dome are clouded by an arrogant disregard for public participation.

Little or late notice about important decisions limits public debate. A clear preference to withhold, rather than release, public documents hinders the free flow of information. Deals cut in private are presented to a surprised public left holding the bills.

We've seen all this, and more, in the past several years from elected officials who talk about transparency in government but usually operate in a way that guarantees the opposite result.

Enough. San Jose needs a sunshine law -- the kind of strong, open government ordinance that cities across the state, including San Francisco and Oakland, use to ensure that the public's business takes place in full view.

This week, you may hear a lot about open government and freedom of information. Editors across the country will be writing about "Sunshine Week" -- an annual effort of the American

Society of Newspaper Editors to make sure the public understands the importance of keeping the public's business in the open.

Clearly, editors have a lot at stake in this battle: Access to information is the bread and butter of our newspapers and Web sites.

Without the Public Records Act, the Mercury News never could have revealed the real story behind the cost overruns at the new City Hall. Without the Brown Act, which mandates open meetings, council members could line up a majority of votes in secret -- which got the city council into trouble recently when it attempted to take over the Tropicana Shopping Center. We have fought in court, not always successfully, for information that you should know: public employees' salaries, the criminal history of a priest who molested a disabled man and witness accounts of ticket-fixing by a local judge, among other battles.

And while we'd sure like to spend less on legal bills arguing for information that clearly is or should be public, the need for a sunshine law in San Jose ultimately isn't about us.

It's about you.

You are entitled to public information.

That's why this effort to push for greater access is being supported by the League of Women Voters of San Jose/Santa Clara and several area neighborhood associations concerned about open government. It's also backed by the San Jose Business Journal and Silicon Valley Community Newspapers.

San Jose at the helm

We hope the move to greater transparency is embraced by all of our communities in Silicon Valley. And we expect that San Jose -- as the largest city in Northern California -- can blaze the trail for others.

Here's just one example of why a sunshine law is needed. In January, the operators of San Jose's Grand Prix got a \$4 million subsidy in taxpayer money to keep the downtown race afloat for the next two years.

It doesn't matter whether you hated the race or thought it was a lively event that brought more than 150,000 people downtown. Even the amount of the subsidy isn't the issue.

The issue is that although the mayor knew in November that a new infusion of the public's cash had been requested, the public wasn't told the details until 24 hours before the city council took a final vote on the matter. There were no meetings held ahead of time, allowing residents to engage in a meaningful debate about how their money was being spent. That's not transparent government. That's doing business behind closed doors -- no matter how much natural light comes into that dramatic new City Hall.

What's interesting is that if the same issue had come up in San Francisco, Oakland or even in Milpitas, residents would have learned about the subsidy in time to react to it. In Oakland, they would have had 10 days' notice in advance of the meeting; in Milpitas, eight days; in San Francisco, three. Why the difference? Those cities have sunshine laws.

Unfortunately, the handling of the race subsidy is not an anomaly in San Jose.

There was the \$80 million proposal San Jose officials made to Major League Soccer in an attempt to attract a new team to replace the departed Earthquakes -- all before the issue ever came to a public council vote, let alone a full public airing. . . . And let's not forget the downtown land designated for housing -- property that, in secret talks, really was being considered for a baseball stadium. . . . And the Norcal garbage scandal -- another backroom deal that cost the city \$11.25 million. . . . And the \$45 million surprise involving the cost of furniture for the new City Hall.

Sunshine laws help prevent that kind of secrecy by closing loopholes in the state's Public Records Act and Brown Act, creating stricter provisions for notifying residents of meetings and more explicit criteria for what information must be released and when.

Given the demonstrated penchant for secrecy here, we need to get beyond talking about open government. We need to start doing something about it.

Guiding principles

A San Jose sunshine law could be based on four principles that are proven to work well in cities nationwide:

- The public's business should take place in public -- including meetings of the council, advisory committees, boards and commissions, as well as meetings of the Redevelopment Agency.
- Members of the public should have a meaningful opportunity to participate in decisions that affect them and to understand how those decisions are made.
- Government records are presumed public, unless specifically exempted to protect vital interests.
- Members of the public should not need a lawyer, or repeated trips to City Hall, to gain access to records.

Those are the general elements of a sunshine law. For those of you who want to dive into the specifics of what we think a model sunshine law looks like, we invite you to read an ordinance that we have drafted at www.mercurynews.com.

Yes, we'll acknowledge up front that it's a bit unusual for a newspaper to get into the law-drafting business. And we know other sunshine ordinances have been proposed by council members.

But as an organization that spends hundreds of thousands of dollars each year fighting to bring information into the public realm, we have a lot of familiarity with what's common practice across the Bay Area and in California -- and where San Jose comes up woefully short.

We offer this draft sunshine law as a way to start the conversation about how our government can better serve the people.

We'd like your feedback, and to know about your experiences. What information do you think should be public? Where have you run into roadblocks? Is City Hall telling you what you need to know about decisions that affect you? Let us know what you think at sunshine@mercurynews.com.

The time for truly open government in San Jose is long overdue. Let's make the transparency symbolized by the 1,032 panes of glass of the rotunda a reality in how San Jose conducts the public's business.

Thank you for reading.

Susan Goldberg, Executive Editor

<http://www.mercurynews.com/mld/mercurynews/news/opinion/14149474.htm>

Readers' views on open government in San Jose

Editor's note:

More than 30 people responded to our call for comments on the need for a "sunshine" law in San Jose and on the Mercury News' draft ordinance. All the letters so far have been in support of both. Here's a sampling. Send your comments to sunshine@mercurynews.com.

Paper should publish city council agendas

The city council is right to press for a sunshine law. If enacted by the council, everyone will benefit.

If public documents and council agendas were available well in advance of council meetings, council members could receive constituent feedback to help prepare their position(s). Council meetings themselves could be more to the point and faster, with better informed decisions.

The Mercury News could be more proactive by printing upcoming issues and council agendas well in advance of the meetings rather than reporting after-the-fact council votes to an astonished public. This "send ahead" would increase public debate, turnout and knowledgeable participation.

Sunshine law, yes!

*Leonard Procker
San Jose*

Mayor has some nerve, given recent apology

Mayor Ron Gonzales has some kind of gall to sneer at proposals for more open local government (Page 1A, March 18). If such sunshine reforms are not necessary, why was Mr. Mayor apologizing back in December? Gonzales' sniveling is entirely self-serving. Although the Mercury News has its faults, his "kill the messenger" attack on the paper is a stunt worthy of Karl Rove.

*Richard Ferry
San Jose*

Self-serving? Sure, if 'self' is the public

Mayor Gonzales is correct (Page 1A, March 18) about one thing: The sunshine ordinance proposed by city council members and the Mercury News is truly "self-serving," if you interpret "self" as the citizens he is reputed to serve. For him to say, though, that more openness in city government is "a bunch of nonsense" brings new meaning to the term disingenuous. He quickly forgets his version of the practice of open government. Maybe he is afraid of what happened to some Florida politicians who similarly dismissed their very effective sunshine law as nonsense. After a few good ol' boys went to jail, city and county governments all around Florida suddenly felt a new need to be credible, and acted accordingly.

*George E. Lawhon
Sunnyvale*

Online access to list of donors is essential

I would like to add another reform to the Mercury News' proposed sunshine ordinance. The citizens of San Jose should have online access to an easy-to-read list of campaign donors for the mayor and each member of the city council. Such a list would help the residents of San Jose determine who might be behind a particular project. Out-of-state developers and REITs would be required to disclose whether or not they have a financial interest in any of the ``local" parties that appear on the list.

*Pete Campbell
San Jose*

Loss of subscribers not sign of disinterest

I read with disdain and contempt the article concerning Mayor Gonzales' thoughts on open government reforms in San Jose (Page 1B, March 19). Representative government is built on an open flow of information to the governed so they can give educated guidance to their representatives. More information in a timely manner is always better. Secondly, Mr. Mayor, you do not understand the technology revolution that has occurred in the past decade. Newspapers are losing subscribers because of new media sources for news, not because of newspapers doing investigative reporting into questionable political practices. Kudos to the Mercury News.

*Anthony Chorosevic
San Jose*

Need for `security' is terribly misguided

In my opinion, a sunshine law should be very succinct. I believe that all documents, discussions, and proceedings about city business should be 100 percent public. Public records should be made freely available to everyone who requests them with no questions. It saddens me to know that the mentality of government these days is to withhold information unless they deem it acceptable to release. It saddens me even more that the American public has largely gone along with that in a misguided desire for ``security."

*David Ranney
Cupertino*

Without sunshine law, cockroaches run free

Amen and hallelujah! The Mercury News is 100 percent correct to recommend the sunshine law. I only hope this proposed law doesn't stop at San Jose's city limits. We need these laws on a state and national level, too.

Our founding fathers did not intend for our government representatives to keep us in the dark about the decisions and actions they take. Public openness in government is a sacred imperative to preserving our constitutional rights. ``We the People" need to have a fully transparent process of democracy in order to keep elected officials accountable for their actions.

As we've seen of late, without a sunshine law, San Jose's elected representatives quickly turned into cockroaches scampering around City Hall's dark corners. I bless your sunshine law.

Martin Cheek

Mercury News suggested model ordinance

(The entire ordinance is online at www.mercurynews.com. Here are the statements of "findings and purpose.")

The City Council of San Jose and the People of the City of Jose find and declare:

(a) Elected officials, councils, commissions, boards, committees and other agencies of the City exist to serve the public and to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.

(b) In order to ensure that the public interest is served by the decisions and actions of the City government, the government's conduct of the people's business must be subject to public scrutiny.

(c) Members of the public must be provided with a meaningful opportunity to participate in the decisions that affect them, and to understand how and why those decisions are made.

(d) In order to ensure public participation in and scrutiny of the decisions and conduct of the City government, records and information pertaining to the conduct of the people's business must be readily available to the public, unless specifically exempt from disclosure under this Title.

(e) Members of the public should not need to engage in prolonged or burdensome efforts, or to retain the services of an attorney, in order to obtain meaningful access to public meetings or public records and information. Rather, it is the duty of every official and employee of the City government to ensure prompt and meaningful access to public meetings and public records, and to assist the public in obtaining such access.

(f) Honesty, integrity, and openness in the exercise of government authority are fundamental prerequisites to an effective and efficient municipal government that serves the needs and interests of its citizens.

Press freedom undermined by prosecutions

(An op ed column by Peter Scheer, executive director of the California First Amendment Coalition)

Government and the press are natural antagonists. Government wants to keep secrets, while the press wants to expose them.

As long as neither side gains an upper hand, this tension is, on the whole, a good thing -- balancing the public's "right to know" with the government's legitimate security concerns. But a

series of leak investigations and prosecutions now threatens to redraw this balance in a way that undermines the independence of the press.

In Washington, the Federal Bureau of Investigation has launched investigations into leaks of classified information that led to groundbreaking news stories about secret Central Intelligence Agency prisons in Eastern Europe (appearing initially in the Washington Post) and the National Security Agency's warrantless electronic eavesdropping program (in the New York Times). CIA Director Porter Goss has made clear where this probe is headed. Speaking before a Senate Committee on Feb. 2, he said: "It is my aim, and it is my hope, that we will witness a grand-jury investigation with reporters present being asked to reveal who is leaking this information."

Meanwhile, the Bush administration, in a filing in a closely watched spy trial under way in Washington, has staked out a legal position that would radically expand federal authority over the press. Interpreting the Espionage Act of 1917 in a case involving pro-Israel lobbyists who obtained classified information from a Pentagon source, Justice Department lawyers asserted that the law permits prosecution not only of private citizens, but also of reporters who receive classified information.

Although the Espionage Act has long been used to prosecute government employees who divulge sensitive classified information -- typically, of course, to a foreign government -- it has never been used to prosecute reporters who, in obtaining classified information from government sources, are simply doing what reporters in Washington do. Such an expansion of criminal liability would be truly disturbing, creating a de facto "Official Secrets Act" under which even truthful reporting could be prosecuted as a felony.

Closer to home, the FBI has launched an investigation into the source of sealed court documents used by the Sacramento Bee in articles about suspected terrorist activity among a group of Muslims in Lodi. The Bee recently reported that FBI agents and a prosecutor from the U.S. attorney's office in Los Angeles had contacted two of its reporters and questioned a third as part of an effort to determine who leaked the documents to the newspaper. No word yet on whether the Bee's reporters will be called before a grand jury.

And the San Francisco office of the Securities and Exchange Commission last week issued subpoenas to reporters for MarketWatch.com and Dow Jones Newswires, demanding copies of the reporters' e-mail messages, among other documents. The subpoenas followed allegations by Overstock.com, an online retailer, that "short-sellers" of Overstock.com stock had used the media to spread negative information about the company, thereby driving down its stock price and generating profits for the short-sellers.

The confluence of these events is not merely coincidental. This is the fallout from the Plame investigation, in which a dogged special prosecutor succeeded in forcing reporters and news organizations to identify the confidential sources -- I. Lewis "Scooter" Libby Jr. and Karl Rove, as we now know -- who gave them information intended to discredit a critic of the Iraq war.

Prosecutors and federal investigators everywhere took notice. They saw that a crucial line had been crossed. Suddenly, the government was freed of traditional constraints -- part legal, part political and part cultural -- against the use of judicial coercion to force reporters to out their sources.

If there is a lesson here for the press, it is that news organizations must never again falter in their protection of reporters' confidential sources, no matter how unsavory they are or their motives for leaking. Say what you will about former New York Times reporter Judith Miller, who went to jail to protect her sources -- she was right to contest the validity of the special prosecutor's signed "waivers," in which sources ostensibly released reporters from their promises of confidentiality. Regrettably, other reporters took those waivers at face value and gave testimony about their confidential sources.

The next major test of the media's independence may come in the investigation into leaks about the NSA's warrantless wiretapping. Because classified information about this program is compartmented, the government employees who knew about it, and could have leaked it to the New York Times, are both few and readily identifiable. Those persons may be required to sign waivers for their communications with reporters (if they haven't already done so).

When the subpoenas arrive at the New York Times, will the reporters and the paper refuse to identify their confidential sources? Will the rest of the media support that stance, resisting the temptation to undercut the Times and to try to disclose its sources?

Let's hope so. Only the First Amendment depends on it.

The Fresno Bee

Democracy needs sun to thrive

Open government is an essential quality of a free society.

What we don't know about our government can hurt us.

That's why The Bee, along with many other organizations, is celebrating Sunshine Week, the annual campaign to promote open, transparent government at all levels. We have a right to know what is done in our names, and all of us should be asserting that right. That isn't just the media's "right to know." It's about everyone's right to know.

A representative democracy such as ours requires one thing above all: an informed citizenry, in whose hands all decisions ultimately rest. The Founding Fathers knew this. That's why they enshrined freedom of speech and freedom of the press in the First Amendment, along with other fundamental rights.

Secrecy is the great enemy of public awareness and understanding. It occurs at every level, from closed-door discussions of national policies to backroom deals that land a strip mall in your neighborhood. Sometimes it's venal: Money changes hands, crimes are committed. Sometimes secrecy is employed to cover mistakes.

More often, it's the result of a sort of sloth: It's just easier to cover things up - if people don't know about shenanigans committed in their name, then they have a hard time complaining. And it may be getting worse.

As increasing numbers of Americans turn away from politics and public life - or never pay attention in the first place - it becomes easier for those in government to close the doors, stamp the folders "Secret," throttle the public debate. The federal government classified a record 15.6 million new documents in fiscal year 2004, an increase of 81% over the year before the terrorist attacks on Sept. 11, 2001.

The Bush administration is already legendary for its penchant for secrecy, usually on the basis of "national security." In October 2001, then-Attorney General John Ashcroft told federal agencies to look harder for reasons to turn down Freedom of Information Act (FOIA) requests. There has been a big jump in such denials since then.

This issue isn't the sole concern of the press. For the past few years, more than 4 million FOIA requests have been filed annually. Only a small fraction have been filed by news organizations. The vast majority come from private citizens or the various groups to which they belong. And it's getting harder to get those requests honored. Some have now lingered for more than a decade.

Locally, we've seen many examples of government or its agents being less than forthcoming. California is fortunate to have an Open Meeting law, commonly called the Brown Act, which sets strict limits on public agencies. It is honored too often in the breach. City councils, county supervisors, school boards, state agencies and others routinely violate the Brown Act's provisions, discussing matters in private that should be heard in public.

Sometimes it's done in ignorance of the act's provisions. Too often, it's done intentionally, in a wink-and-nudge style of governing designed to keep the public in the dark. That's bad government. But it will persist, even grow, unless people insist in something better. Don't understand an issue being debated by the city council? Ask for an explanation. Can't figure out an agenda item written in gibberish and punctuated by mysterious acronyms? Demand a translation into plain English. Don't like a policy decision? Let them know. Above all, pay attention. Democracy prospers in the light of day. Let the sun shine in, this week and ever after.

The Modesta Bee

Over the next several days, you'll read a lot in The Bee about how important it is for government to be open to the public it serves and represents, and that pays its bills.

The meetings of elected bodies should be easily accessible to the public - in time, location and, whenever possible, through broadcasts on TV or the Internet. Likewise, the records of government agencies should be available to anyone who wants them, without

undue delays, costs or intimidation. But there's another dimension to open government: The way in which government communicates should be understandable to the average citizen. Very often, it is not. Consider these examples:

- An agenda item on the Modesto City Schools' Feb.27 board meeting read: "Approval of Ratification of Uncompensated Services Agreement between the Stanislaus County Health Services Agency and the Modesto City Schools." The average parent never would recognize that the item had to do with the sex education curriculum. And because there is no link to staff reports from the city schools' agendas that are posted online, parents have no way of finding out. Fortunately, people learned of the item and there were 40 or more interested parties at that discussion, representing the appropriate spectrum.
- The Modesto City Council agenda often is littered with legalese and little-known acronyms. Hence, we read items such as this from last week's agenda: "Consider authorizing a Request for Proposals (RFP) for services on a General Plan maintenance update and Master Environmental Impact Report (MEIR) update." That's an important issue, involving an upcoming review of growth planning, one of the hottest topics in the region.
- Last fall, there was an unnecessary mix-up over the outcome of a Modesto City Council race, in large part because of the confusing way the Stanislaus County election office reported results.
- Taxpayers are appropriately concerned about where their money goes, but for Californians, that's like sorting through a mound of spaghetti as big as a house. One county controller wrote a 66-page manual on demystifying the property tax system, noting that taxpayers can't associate their dollars with the local services they receive. It's no wonder people resent paying taxes - they can't figure out what they get for their money.
- The consistent prize winner for obfuscation is Congress, where special items routinely are inserted into thoroughly unrelated bills. As noted by Sen. John McCain, the recent appropriations bill to provide additional money for the war in Iraq contained 51 "earmarks," for such unrelated things as \$12 million for an ag research center in Iowa and \$500,000 for water projects in a West Virginia town. In 2004, another spending bill contained a measure granting permission for 60 families to use their cabins in Sequoia National Park permanently.

The inclination for government leaders to retreat behind doors and classify documents is widely recognized. Not as obvious is the tendency for government to become unnecessarily obtuse, and then to deaden citizen involvement and interest by insisting that the public learn and speak the arcane language of bureaucracies. Citizens have a responsibility to learn about and watch their government.

As James Madison said, "A people who mean to be their own governors must arm themselves with the power which knowledge gives." But government of, by and for the people is conducted with clarity of words and structure. That, too, is part of the sunshine needed for democracy to thrive.

Santa Cruz Sentinel

As We See It: Government secrecy rampant

This newspaper took the Metro Transit District Board of Directors to court this year in an unsuccessful attempt to make public a secret vote that led directly to a strike by bus drivers.

A visiting judge made a decision that the directors had a right to vote and then keep it all secret, but we remain convinced that the public would have been served had that vote been made public.

Despite that action, we believe that most local agencies make an effort to do their business in public. Probably not every piece of public information is made available, but we're satisfied that in general our local leaders understand the state's open-meeting law and its public-records law as well.

Unfortunately, state agencies can't make that claim. This past week had been designated by open-government advocates as Sunshine Week, a time for open government issues to be brought into focus.

The highlight of the week in California was an audit conducted by the Californians Aware organization. The nonprofit group, known for championing open government, completed an audit and provided a report card on how well different state agencies responded to requests for documents.

Nearly have the agencies failed to provide requested information — all of which had been covered by the state's Public Records Act.

A college student requested a variety of documents from various state agencies in January and February, and then he recorded whether the agencies were following requirements.

According to Californians Aware, more than two-thirds of the agencies improperly asked to see the student's identification before allowing him to see economic interest disclosure forms.

The organization followed up its audit with a press conference. The event was attended by Assemblyman Mark Leno, D-San Francisco, and he promised to follow up with legislation that could help open up the state agencies.

The bill would do the following:

- Require every state agency with a Web site to create a public information center on its home page.
- Authorize the state Attorney General to provide a quick and non-binding "second opinion" to follow every decision not to provide a public record.
- Establish a \$100 penalty per day on any agency that is found by a court to have withheld public information.

We understand that public officials as well as public employees find it difficult to provide all information to the public. We also understand that there's a tendency on the part of these people not to want to open up the government process.

For example, in the case of the Transit District, the information that we requested could prove embarrassing to some members whose vote led directly to the strike. In their position, we too probably would prefer that such a vote be kept private.

But it remains the right of the public to know what its government is up to. There are times that certain information — legal matters and personnel matters — must be kept private.

But it's clear from the statewide audit that the predilection toward secrecy is powerful. We give tremendous credit to the Californians Aware group for pointing out this condition once again.

Lake County Reporter Bee

Sunshine Week: Open government is critical

Lake County Publishing Editorial Board

This has been Sunshine Week, which speaks to the importance of keeping government open to its citizens.

As part of Sunshine Week, Californians Aware a Sacramento-based nonprofit that champions open government released an audit of public agencies' response to public records requests, conducted by 18-year-old college student Ryan McKee.

McKee examined how agencies adhered to the Public Records Act and the Political Reform Act, which protects the public's access to basic public documents, including litigation settlements and salary information.

The results, as we reported Wednesday, were dismal.

Of the 31 state agencies McKee approached, only 21 percent of those responded as state law requires. Three agencies California Coastal Commission, State Teachers' Retirement System and Department of Toxic Substance Control received As; 17 earned Fs.

The Department of Motor Vehicles, the Department of Justice and the Department of Social Services actually prevented McKee from entering their buildings.

He received the runaround from other state departments; some wouldn't respond to his requests within the mandated 10-day period, or tried to charge him more for copies of documents that the open records law allows.

Of course, none of this is "news" here at the Record-Bee, where we often run into such problems. Some local government agencies have stalled us when we've requested various reports, citing everything from staff shortages that hamper filling the requests to our requests not being covered by the open records law.

McKee said he hopes his work will cause government agencies to improve, although he isn't confident that will be the result.

And, if history is any indication, it won't be.

Steve Geissinger, the Sacramento bureau chief for our sister paper, the Oakland Tribune, reported this week that CalAware's findings weren't much different than the conclusions reached a decade ago by the Associated Press. Geissinger reported that AP asked 29 state agencies for copies of 69 sets of documents, under the Public Records Act; only seven "said they could supply every requested record, either in electronic form or on paper."

Additionally, half of the agencies AP surveyed met the records act's 10-day deadline for a response, with many more citing "vague" requests as reasons for delay.

Sunshine Week has an added meaning for the Record-Bee this year. On Monday, we along with several of our sister papers in Mendocino County filed a petition with the state's First Appellate District, asking that a ruling from a Mendocino County Superior Court judge be set aside on the grounds that it represents an unconstitutional restraint on the press.

Last month, Judge Jonathan Lehan, who is presiding over the horse cruelty case of Westport resident James DeNoyer, ruled that our sister papers could not print the names of witnesses in the case, name exhibits or animal locations, or use photos of the animals they had in their possession.

Preventing the press from using materials in its possession sets a terrible precedent. It also contradicts previous legal rulings that have found trial courts are "without power to restrict the press' right to investigate and publish information which it has lawfully obtained."

All of these audits, court cases and efforts to keep government open can be boiled down to one single word: freedom.

Because, if we can't monitor the government through its written records and documents, we risk losing our right to self-determination and choice.

And, as Ryan McKee pointed out, "... if people don't pay attention to this, that's the reason the government gets away with small things. And if they get away with small things, they might think they can get away with more."

Oregon

Corvalis Gazette Times

Govern in plain sight

Do you think that candidates for elected office should go on the record regarding their stance on taxation, school financing, health care and other matters over which they would have influence?

Is one day enough time for the public to respond to notice of a state legislative hearing?

Is it OK for lobbyists to disguise the source, recipient and amount of their campaign contributions, as long as they are adhering to the letter of campaign finance laws?

These issues are not relevant only in Washington, D.C. They are examples of issues that have come before Oregon lawmakers in the past two years, and they have involved both major political parties. They represent only a few examples of how open government in Oregon is not a closed issue, despite our progressive laws about open meetings and records.

These issues and many other examples of threats to Oregon's open meeting laws will take center stage beginning Sunday, March 12, the opening day of "Sunshine Week." Newspapers and media outlets around the nation will be publishing and airing stories that illustrate why it is important for our government and elected officials to conduct the public's business within the public's view — and what the public can do to cast more sunshine upon government.

At the same time, the week will highlight the efforts of Project Vote Smart, a organization whose slogan is "Politics is going to the dogs. Fight back by joining Project Vote Smart." The group's members include politicians as diverse as John McCain and Gerald Ford. More information about its work (and which politicians refuse to go on the record) is available at the group's Web site, vote-smart.org.

The Gazette-Times is getting into the spirit of things by inviting you to attend our "page-one" meetings (call 753-2641 for days and times) and to meet with the paper's editorial board from 4 to 5: 45 p.m. Thursday, March 16, at the Corvallis/Benton County Public Library's main conference room. The address is 645 N.W. Monroe Ave.

The main topic will be threats to open government, but it also will be our regular editorial board meeting. You are invited to join us in discussing which issues merit editorial discussion and to ask questions of publisher Mike McInally, managing editor Rob Priewe and editorial page editor Theresa Novak.

We'll also be discussing the goals and specific issues relating to "Sunshine Week," including specifics about the open government issues mentioned earlier.

As that venerable advocate of open government Thomas Jefferson noted: "If the nation expects to be ignorant and free in a state of civilization, it expects what never was and never will be. An informed citizenry is at the heart of a dynamic democracy."

Salem Statesman Journal

Open records ensure government acts properly

It's scary that many Americans are willing to surrender their rights

Do you like the idea that as a citizen, you have the right to watch your government at work?

Don't take that right for granted. It may not always be there.

In observance of Sunshine Week, which concludes today, The Associated Press analyzed new laws across the nation dealing with access to information. More than 60 percent made it harder for the public to get information from the government. Just 20 percent opened the books further, and the rest were neutral.

If that trend keeps up, local, state and national officials eventually will be free to operate out of the public eye, just as they used to. Citizen watchdogs such as Salem's Carole Smith will have a

tougher time tracking down how their city enforces downtown parking laws. People will find it difficult to monitor controversial land-use decisions the way Eleanor Miller of Salem has done.

During the past few days, Statesman Journal reporters have recounted how they used public-records requests to research stories for this paper. Some needed changes have happened as a result:

- The Public Employees Retirement System is re-examining how it reports salaries of recently retired workers, especially those who earn more in retirement than they did on the job.
- Two government agencies are investigating the case of an employee who performed badly, then got a favorable settlement from the Willamette Education Service District.
- The Salem-Keizer School District has sponsored workshops about reporting sexual abuse, and the Legislature opened the employment records of teachers convicted of certain crimes.

Without public records, these stories could have boiled down to inconclusive exercises of "he said, she said." Officials would have been free to selectively reconstruct history.

Public records, on the other hand, create a paper trail for all to see. But citizens must care enough about that right to keep it from getting eaten away, one exemption at a time.

Since 9/11, the trend of putting records off-limits has gathered steam. Many Americans seem willing to surrender their rights if there's a hint that greater security will result.

Americans are of two minds, according to a poll from Washington State University. Nearly seven in 10 people surveyed said open public records and meetings keep government honest. But 63 percent said it was OK for officials to keep records secret if they think it's necessary, and 73 percent said the president should "make some public records secret if it might help with the war on terrorism."

That's scary. Once access to information is shut off, the public has no way to tell whether the restrictions are warranted or whether higher-ups are doing a good job with their added responsibility.

As the saying goes, Do you feel safer in the dark?

A lot of eyes -- skeptical, trusting and every point in between -- are the best insurance that government will do the right thing.

The Southwest

Arkansas

The Baxter Bulletin

Sunshine laws protect open records

From time to time, newspapers across the country publish stories about corruption in government, school officials and teachers fired for misconduct, or law enforcement officers caught writing tickets to meet quotas.

These are the stories that make us shake our heads, and we say to ourselves, "That's just wrong."

Sometimes, we're incensed enough to share our dismay, and we'll pick up the phone and call a congressman or write a letter to the editor.

Mostly though, we probably just turn to the person next to us and talk about what the world's coming to, and how it's such a shame for so-and-so to be caught with his hand in the cookie jar.

It's these stories that news professionals live for.

It's why we went into the business, despite the long hours and the general unpopularity we endure wherever we roam.

For us, there's a passion for revealing misdeeds, for giving a voice to the meek, for exposing abuse of power.

"Sunshine Week" begins today, and it is our chance to share with you the importance of an open government.

As one journalist notes, "Sunshine Week is not about journalists, it's about the public and the importance of protecting and promoting open government. Sunshine Week is not about protecting journalists' rights, it's about the right of all citizens to know what their government is doing — and why."

It's because of the so-called Sunshine laws that we can bring to you stories about corruption revealed, misconduct punished and accountability demanded.

Open record and open meeting laws prohibit the government from conducting the public's business in secret.

They ensure that our government is responsive to the public and that the public is informed.

It's these Sunshine laws — in Arkansas, we call it the Freedom of Information Act (FOIA) — that we rely upon when we go to the police department to look at a police report or to a local official's office to find out why someone was fired or suspended.

It's how we discover a public official has been doing public business with his brother and why an employee was fired.

And when the Quorum Court wants to meet in private, the Sunshine Law requires that they tell us why, as there are only certain conditions under which private meetings are permitted.

In fact, they can't even meet over a cup of joe at the corner coffee shop to talk about county business without letting the public know when, where and what will be discussed.

And so this week, *The Baxter Bulletin* will observe Sunshine Week with several special features on these news pages.

We'll show you how we've implemented Sunshine Laws here at the newspaper in recent months and what resulted from those efforts.

We'll show you how you can obtain public records yourself, both online or in person.

And we'll also share with you our experiment seeking public records from local government agencies.

It's our hope that readers will be able to use this information in their own lives or to help others.

"The FOIA is the people's law," Arkansas Attorney General Mike Beebe said in a forward of an Arkansas FOI Handbook. "... It is vital for us to be as well informed about the workings of our government as we can be."

— Kandra Branam
Bulletin Managing Editor

Baxter Bulletin

Always remember: Public entitled to public information

We've been running stories this week focusing on Arkansas' Freedom of Information Act.

The purpose of these stories, in addition to recognizing Sunshine Week, is to better inform our readers about how the FOIA works and how they can use it. After all, the law is there for you, the public.

In a time when government and governmental entities try to cloak more activities in secrecy, the FOIA — both the state and federal laws — is even more important. People in a free society must know how their government works, where their tax money goes, who public officials deal with and, alternately, who deals with public officials.

Government officials are accountable to the people, although some mistakenly think it's the other way around. Through the years, many in the public have let those in government get away with that misguided notion that they're the ones in charge. They think they decide what the people should know and how much they should know.

That's where Freedom of Information comes into the picture. It reinforces that the public is entitled to public information. Whether it's an accident report from the local police department or budget data from the Pentagon, it's public information.

If you want to know how much was spent on paving a road, who submitted bids for the job or where the money came from, you're entitled to the information.

If you want to know who holds title to a certain piece of property or who are registered voters in a county, that's public information.

Curious about what a court ruled in a civil suit or the disposition of a DWI case, you can find that out, too.

Want to know why a governmental body is going behind closed doors and what it's going to talk about? It has to say why and vote publicly before closing those doors.

Do you want to find out if public officials might have a conflict of interest? There are mandatory reports they have to file in that regard, as well as ethics reports.

You can see who's making big donations to candidates and political campaigns.

Those, and our stories this week, are just some examples of what the public has access to under the FOIA. Too often people think the FOIA is for the press and other media because they're the ones so often cite it to get information.

People should never forget that the Freedom of Information Act is for them, too. Anyone and everyone has the right to ask for and receive public information.

While Sunshine Week serves to remind people of their right to information, the best thing they can do to protect that right is to exercise it. People should neither be shy nor feel intimidated about asking for public information.

After all, it's *your* information

New Mexico

Albuquerque Tribune

Editorial: It's our government; the secrecy must end

It seems as if every other week in this country, we are asked to observe something of importance. Mostly, these are good opportunities to raise public awareness about worthy concerns.

Next week is "Sunshine Week," one of the most important of these - particularly important these days, because from Washington, D.C., to Santa Fe, a veil of secrecy has dropped on government.

It is a growing and severe problem across the American landscape. The media, including this newspaper, fight it virtually every day at some level of government, but it is less about the freedom of the press than your right to know as an American.

Open government is the foundation of democracy, and the American founders knew it. The Bill of Rights and the essential checks and balances of the Constitution were designed to hold government accountable to the people. To do this, we must know what it is doing.

Next week represents an important opportunity to learn how serious the assault has become.

It is a chance to draw attention to one of the most fundamental principles of our democracy. Open government gets a lot of political lip service, but it is being violated, sometimes routinely, at virtually all levels.

From our state universities, police departments and city halls to our legislative conference committees in Santa Fe, public officials have forgotten - or arrogantly ignore - the fact that they serve the people. Their constituents - who also pay the government's bills, including public officials' salaries through taxes - are entitled absolutely and unequivocally to observe their government in full light. They need to know what public officials are doing in their collective names.

In Washington, D.C., in particular, the signs are very disturbing, including: still-emerging stories of corruption in Congress and the White House; behind-the-scenes lobbying and secret meetings to influence government policy or public contracts; secret and illegal wiretapping; military prisons set up abroad; scientific recommendations ignored or reversed; and the incredible Dubai ports deal. These are all evidence that the public's business is being done in the dead of night, behind closed doors and by officials who have agendas other than the will of the people.

They need to be taken out to the public-interest woodshed for a good thrashing.

We encourage our readers and all Americans to push open these doors and shine the light back on the people's business. Support - better yet, join - the work of nonpartisan, public-spirited groups such as the League of Women Voters or the New Mexico Foundation for Open Government, which along with the media are vigilant sentinels of your right to know.

In that vein, we draw your attention to today's Insight & Opinion cover article, "Out of the dark," by New Mexico League of Women Voters President Marilyn Morgan, as well as to Tribune managing editor Kate Nelson's assessment of the depth of the problem on Page A2.

On Tuesday, Insight & Opinion also will feature on its cover an article from the First Amendment Center on the erosion of the public's right to know. It reports that government officials are using such diversions as the fight against terrorism, national security and personnel exclusions to hide what they are doing from public view. Increasingly, they are thwarting the spirit and the letter of Freedom of Information Act.

This is America, and it is supposed to be all about "of, for and by the people."

This is our country - our federal, state and local governments. We own it. We should act like owners.

Arizona

East Valley Tribune Mesa

Public records preserve our liberties

National Sunshine Week comes to a close today, as newspapers across the country have been discussing why we must insist government officials keep their meetings and record files open to public inspection.

Free societies quickly disappear when governments can get away with hiding information and operating in secret. Arizona has one of the more sweeping open records policies in the country, and today we take a look at how the the law works for you.

Who can request public records in Arizona? Under state law, anyone can see a public document regardless of whether that person is a taxpayer, a state resident or even a citizen of this country. Such records should always be available for personal inspection during a government office's normal business hours.

You don't even have to tell the government official why you want to see the record, although you might be expected to explain if you have a personal interest or if you plan to use the information as part of a business venture.

Which government records can you see? In Arizona, all government documents are considered public unless a specific exemption is spelled out in law. Unfortunately, the Arizona Legislature has been swayed at times to erode our legal protections, and more than 100 exceptions are scattered throughout the statute books. But the courts have ruled a government official can't use an exemption to lock away all related files from public view. Governments are expected to examine each file and exclude only that information that is clearly exempted by law.

Generally, you have the right to see property records, formal petitions for government action, official memos and minutes of government business and finance information. You don't have the right to see school files of individual students, police reports for ongoing investigations, and personal information about government employees such as medical records.

How soon can I get a record? The law requires a government official to respond "promptly," but doesn't set any specific deadlines. The issue may depend on the age of the document and where it is stored.

What will it cost? Unless you want a public record for a commercial purpose, you should be able to review a document at no charge. State law allows governments to charge a "reasonable" fee only if you want your own copy of the record. Copying charges vary significantly from agency to agency.

What happens if the government won't show me a public record? Arizona's law biggest weakness is our only legal recourse in this situation is to file a lawsuit, which can take time and lots of money.

But you have some informal options as well. Find out why the records keeper won't release a document. There might be a compromise where you can receive the information you need, even if you can't look at every record on file.

If that doesn't work, get a hold of a top administrator or an elected official in charge of the agency involved. Sometimes, people in these positions have a better grasp of the critical value of open government, and will help you shine a light into the dark corner you are trying to reach.

The Midwest

Kansas

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.

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.

Wisconsin

Appleton Post Crescent **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.

The Jackson Citizen-Patriot Michigan

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.

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

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.

The Northeast

Massachusetts

The Springfield Republican

Plenty of sunshine good for democracy

Most Americans are unfamiliar with Sunshine Week.

For the past week, this newspaper has attempted to educate its readers about Sunshine Week and the importance of open government.

We have published stories about the newspaper's many battles on behalf of the public, and we have published stories about private citizens and their struggles with public officials to obtain information that, by law, is free to anyone who asks for it.

The six-part series concluded on Friday, and we hope readers now understand that Sunshine Week is not about newspapers or newspaper reporters or Judith Miller or Bob Woodward or anyone else in the media. It's about the public and the public's right to know what its government is doing. It's about information that belongs to the public, not a government agency or a government official. In one respect, democracy is like a small child. It is afraid of the dark - and with good reason. Democracy is not safe in the dark.

The public is often not likely to know when a government agency or official refuses to disclose a public document, but that does not lessen the public's right to know. It is incumbent on the press to fight for openness, and we will continue to do so.

Here are just a few of the stories you have read because the newspaper pursued the release of public documents through state and federal laws that protect access to information:

Documents released under a request by The Republican disclosed that the state Department of Social Services sought to remove a comatose Westfield girl from life support within a week of gaining custody. The 11-year-old girl has since shown signs of recovery and is now in a rehabilitation facility in Boston. As a result of news stories about the case, Gov. W. Mitt Romney appointed a commission to investigate the state's handling of the case.

Audits obtained through a freedom of information request disclosed that the former Southwest Community Health Center, a publicly funded health center in Springfield, boosted the salary of its

director from \$95,962 in 2002 to \$144,523 in 2004 even as it struggled with a \$750,000 deficit. It also spent as much as \$700,000 in one year on consultants.

On July 27, 2004, after hearing arguments from a lawyer representing The Republican, the Massachusetts Supreme Judicial Court unsealed the records of an investigation into the murder of Daniel Croteau, an altar boy who was killed in Chicopee in 1972. The newspaper was opposed by the Hampden district attorney's office and a lawyer representing the only suspect in the case, defrocked priest, Richard R. Lavigne.

Documents obtained by The Republican in December under the freedom of information law disclosed that federal auditors have accused the Pioneer Valley Transit Authority of compiling more than \$3 million in unauthorized expenditures developing Union Station, a proposed transportation and retail center that is the subject of a federal corruption probe.

On Feb. 12, again using the freedom of information law, the newspaper obtained records disclosing that the PVTA handed out \$24,000 in pay raises and gave a \$228,000 severance package to administrator Gary A. Shepard, who was later suspended with pay.

Public access to information "is the very basis of democracy," said Pamela Wilcox, executive director of Common Cause of Massachusetts, a government watchdog group. "People forget what it was like before the laws were passed; when the selectmen want to approve a budget now, they can't just kick everybody out of the room."

Since the Sept. 11, 2001, terrorist attacks, government has steadily limited the public's access to public documents. On the federal level, the government established a new record for secrecy in 2004, deciding on 15.6 million occasions to classify information and keep it out of the public's reach. The explanation for this secrecy is national security. The theory is simple enough: What you don't know can't hurt you. History has shown that this is not true, and we hope the newspaper's six-part series on the Sunshine Week has helped to demonstrate that.

Massachusetts still lags behind many states in sharing information with its citizens. It is one of 10 states that provides no punishment for individuals who violate the Open Meeting Law. Legislation is pending to change that. Also, a bill is pending that would prevent a judge from ordering a reporter to identify a confidential source, except in certain circumstances. It is not being called a "shield law" to avoid the misperception that the proposed law would protect reporters. If passed, and we certainly hope it will pass, the law would protect the public's right to know. The Massachusetts Newspaper Publishers Association prefers its official title, "the Free Flow of Information Act." So do we.

Certainly, we will be more secure and better informed, when democracy is not operating in the dark.

The Mid Atlantic

USA Today

Citizen trust relies on open government

What people are saying about government secrecy:

Bennington (Vt.) Banner, in an editorial: "Happy Sunshine Week, everyone. It's the special week out of the year w

en we all get to celebrate open government and your right to know what elected officials are doing in your name. ... It is (the) opaque veil draped over public information by officials — who often deem themselves as the gatekeepers of what the public should know — which Sunshine Week stands to obliterate. Many of these officials do things that they don't want you to know about. They do things they know are wrong. ... If you, the taxpayers, don't want the government — local and national — spending your hard-earned tax dollars on whatever they wish, then Sunshine Week is for you."

Grand Forks (N.D.) Herald, in an editorial: "A Douglas County (Minn.) official tried ... to force a local newspaper to submit stories for approval before publishing them. Instead, his move ignited a firestorm of public opposition, and the policy was scrapped. ... When the news broke, the public was infuriated. ... By Friday, he was apologizing ... in the paper. 'Ironically, Sunshine Week started this Sunday, a time to celebrate First Amendment rights,' the paper said in an editorial. ... 'We're happy to report that the First Amendment is not taken lightly in Douglas County.' "

Beloit (Wis.) Daily News, in an editorial: "The idea behind the Founders' experiment in self-governance hinged on the engagement of an informed citizenry. They believed that if citizens had access to the facts, they would be capable of making sound decisions about public practice and policy. Many things may have changed since (Thomas) Jefferson's day, including how people access information. ... But one thing has not changed. The people still need to know, and can be trusted to know. Self-government cannot properly function if the people are kept in the dark. Eventually, an uninformed people will become a disengaged people, and government will become the master, not the servant, of the people."

Muskogee (Okla.) Daily Phoenix, in an editorial: "There is no question this (Bush) administration has exercised a higher degree of secrecy and claims of executive privilege. ... Government and public ... officials serve the public. They should not be allowed to conceal incompetence, irresponsibility and illegalities by claims of special privilege or special conditions."

Meredith Oakley, associate editor, in a column in the *Arkansas Democrat-Gazette*: "I learned long ago that some folks will go along with just about anything as long as they believe they will have a substantive hand in the outcome. Which, of course, they do. ... I'm not necessarily against compromising. I've done it myself on occasion. But the point at which principle is the only thing standing between victory and defeat is where I draw the line. ... Personally, I prefer stands such as the one taken last year by Gov. Bill Richardson and Attorney General Patricia Madrid of New Mexico (who wrote), 'Freedom of information may be the greatest anti-terrorist weapon in the United States' hands, because it allows everyone to think about potential terrorist threats and design anti-terrorism safeguards. In effect, we can create a marketplace of awareness and ideas.' "

The Truth, Elkhart, Ind., in an editorial: "Either out of ignorance or on purpose, some agencies and officials still err on the side of shutting out the public. Such moves take us down the path of creating distrust. We believe being more open enables the public to trust that government agencies are really doing the best they can for the taxpayers."

Frank Scandale, editor, in a column in *The Record*, Hackensack, N.J.: "Like Black History Month and Women's History Month and any number of other commemorative periods, the idea of having a Sunshine Week is not to remind us of our own cultural backgrounds or how old we might be, but to remind others that there are lessons to be learned, struggles to be waged, issues to be considered."

Pennsylvania

Pittsburgh Post-Gazette

Let the sun shine / Pennsylvanians still have problems with records

We'd still be in the dark if we'd waited for police to give us the details, but city Police Chief Dominic J. Costa was faulted by an internal investigation four years ago for his tactics at a standoff in Homewood when he was a ranking officer. He retired and police kept the report secret for four years, until Mr. Costa was tapped for the police chief's job this year and a reporter ferreted out the hidden records.

Welcome to Sunshine Week, when the nation's newspapers call the public's attention to the importance of open records and open meetings. "Sunshine laws" decree what kind of government business can legally be done outside public scrutiny, but enforcement is spotty and penalties are light. Public servants on every level of government sometimes take advantage.

Almost any reporter can count off the popular shades of Sunshine violations:

- Police officers who protect "sensitive" suspects by slipping them through the booking system before bothering to fill out the public arrest paperwork.
- County registries that charge a dollar per sheet for photocopies of public records -- a complicated case can easily cost \$100.
- State legislators who vote themselves pay raises in the wee hours of the morning.
- A federal administration that uses the horrors of Sept. 11 to justify illegal wiretaps, covert prisons and an arrogant disregard for the Geneva Conventions.

"Nationally, more records are being closed to the public every day," said Susan Schwartz, Pennsylvania coordinator for Sunshine Week. "Legislators think they can get away with keeping citizens in the dark because they believe most people don't care."

People don't care "... until the flood comes and you discover that they've been lying to you about the levees," added Hodding Carter III, a former newspaperman from Mississippi who chairs the national effort. "Sunshine Week is about reaffirming the basic American belief that government belongs to the people and there is no such thing as 'government information.' It is the people's information."

Pennsylvania's public records law is considered one of the weakest in the nation. It is riddled with loopholes, exceptions and vague language. We need some wattage behind our Sunshine Law, to better expose deeds done in darkness with our tax dollars.

The Centre Daily State College

Shining light on public records

Approaching its 40th birthday, the Freedom of Information Act is looking more than a little worn around the edges. In fact, what it needs is a week of good, solid sunshine.

Those words on the National Sunshine Week Web page (www.sunshineweek.org) explain why the American Society of Newspaper Editors, with a grant from the John S. and James L. Knight Foundation, last year launched the first National Sunshine Week.

Sunday marked the beginning of the second celebration -- if celebration is the correct word -- of openness in government.

Again, as noted on the Sunshine Week Web page, "the current administration has been characterized by open-government observers -- both conservatives and liberals -- as one of the most secretive in recent history; a stance adopted even before the terrorist attacks of Sept. 11, 2001."

And Pennsylvania's Right to Know Law is one of the weakest in the nation. Public records -- or those that should be public -- are often closed unless they fall within a narrow definition, or they are kept secret by a bureaucrat who simply decides what they pertain to is no one's business.

But they are. In a free, self-governing society, they are everyone's business.

Again, quoting Sunshine Week organizers, this campaign is not about journalists and it is not about partisan politics. It is, however, about the public and how important protecting and promoting open government is to individuals and their communities.

Sunshine Week is not about protecting journalists' rights, it is about the right of all citizens to know what their government is doing -- and why.

After all, how can we perpetuate the government of the people, by the people and for the people if only a select, self-appointed few know what in the world is going on?

Public Opinion Chambersburg

Guest essay: Improve access to public records

By TERI HENNING

It is well understood that Pennsylvania has one of the worst open records laws in the country. In state-by-state surveys of open records laws, Pennsylvania generally falls within the bottom two or three.

What that means for Pennsylvania residents is that we are often unable to monitor the work of our local and state governments or to hold them accountable for their decisions. And it seems to get harder every day.

Laws continue to be passed that prevent access to information, as with the slots law — which exempts much applicant information from disclosure and allows the applicants themselves to designate documents as "confidential."

Court decisions have further limited access, as the Pennsylvania appellate courts have ruled an agency can refuse access to almost all of the information on public officials' cell phone bills and on legal invoices submitted to agencies.

In 2001, the Pennsylvania Supreme Court ruled that a document that supported the payment of \$145 million from public funds to settle a lawsuit was not a public record. The courts have also ruled that the public has no right to a draft contract or proposal until the contract or proposal is finalized — which is obviously too late for the public to comment.

In 2002, the Pennsylvania Right to Know Law — our state's open records act — was amended. The amendments brought some improvements, but ... many agencies tasked with interpreting the law continue to create obstacles to access, including delaying responses and charging additional, sometimes exorbitant fees, for those responses.

Additional reform is necessary to make the process run more smoothly.

But the real challenge ahead is amending the definition of public record under the Law. The current definition of public record, adopted in 1957, is outdated, overly restrictive, and (as is apparent from many of the court decisions over the years) often unworkable.

As it stands, a record is public under Pennsylvania law only if it fits into one of two narrow categories. The law contains a number of exemptions to the definition of public record, so that even if a record falls into one of the categories, it is not public if it would harm someone's reputation or if it would disclose "the institution, progress or results" of an agency's investigation.

In Pennsylvania, the burden is on the requester to establish that a particular record is public. The reverse should be true. The presumption should be that records held by public agencies are accessible to the public. From there, we should identify specific categories of records that are non-public. ...

Under Pennsylvania's current access laws, the requester has all of the burden, and the agency has all of the information (including what the document is called, where it is kept etc.). This makes no sense. ...

I hope we can find a way in 2006 to improve access to government. If enough people speak out on this issue, the General Assembly will listen.

- *Teri Henning is general counsel of the Pennsylvania Newspaper Association, Harrisburg.*

Delaware

The Delaware News Journal Wilmington

Ask your local officials why they are frightened of the sun shining in

There was a time in America when to utter the slightest criticism of the president landed you in jail. This was after the Constitution was ratified and after the First Amendment was put on the books. They didn't matter.

John Adams was president. Among the people his henchmen actually jailed was a New Jersey town drunk who made an off-color barroom joke about a cannonball and Mr. Adams' rear end. The concept was called seditious libel. It held that criticism of a government official, even if true, lowered the esteem of the official in the eyes of the country and thus undermined the government.

The concept lingered on the law books for far longer than many Americans would like to admit. But it did pass away. As more people came to vote, the more they had to say. Some of it was genteel and sophisticated. Much of it was raucous and insulting. But Americans, including government leaders, got used to the idea that officials worked for the people and what they did was the people's business.

Which brings us to a more modern problem. While Delawareans are free to say what they think about local, state and federal officials, they are not always free to see what the officials are doing.

Deals can be made that affect thousands of people and millions of dollars, but the public can't see the records. Audits of government performance can be conducted -- and buried if the results are embarrassing to the officials in charge. Citizens can request public information and read in the statutes that they are entitled to it in a timely manner, only to find that its release is subject to the whim of an official.

At the state level in Delaware, citizens have a right to information from all government agencies, except the one they want to see the most, the state Legislature.

This isn't talk about freedom of the press. It is talk about your freedom. And if you don't think so, take a look at the lobbyist story on the front page.

This week is Sunshine Week, a time devoted to getting Americans, specifically Delawareans, to think about how much vital information is hidden from you. This isn't

personal information, not the prying kind that some officials use as a dodge to keep secrets.

This is information you paid for. This is information that may affect you. And your children.

In John Adams' day, officials thought names could hurt them. Today's officials aren't afraid of names. They're afraid of sunshine.

New Jersey

Asbury Park Press

Open records black-out

Denied requests and blacked-out explanations for the denials.

That's how 16 state departments responded to recent Asbury Park Press requests — sent under the state's Open Public Records Act — for basic financial information.

Gov. Corzine should direct state department heads to adhere to the spirit of OPRA and make the information available.

Over a two-week period, each department denied the Press' requests using the same legal language. Follow-up OPRA requests seeking copies of the correspondence between the departments about the initial requests from Investigations Editor Paul D'Ambrosio resulted in 91 pages of mostly blacked-out text.

One response from an OPRA officer began, "I am going to recommend to my management the following . . ." The remainder of the page was blacked out, until the closing sentence: "Please advise if you have any questions or need additional information." How about the information we asked for in the first place?

The Attorney General's office deemed the redaction necessary because the departmental correspondence was "advisory, consultative, deliberative" material. That sort of vague language invites arbitrary denials of reasonable OPRA requests.

The Open Public Records Act was designed to give taxpayers access to government information. Public officials should stop using it as an excuse to block that access.

Camden Courier Post

Time for leaders to stand for openness

To commemorate Sunshine Week 2006, we ask government officials to publicly discuss their support for the state's Open Public Records Act.

The simple concept of "government of the people, by the people and for the people" makes it clear: Our political system doesn't work when citizens are not included.

But while few would think of arguing against an open government, New Jersey residents still find themselves battling too often for access to public information.

It's a problem that was supposed to have been addressed by the state's Open Public Records Act in 2002. It's clear now, however, the law isn't enough by itself.

That's why we're taking this opportunity -- Sunshine Week 2006 -- to ask government officials in New Jersey to publicly state their support for OPRA's goals.

We believe the minimal effort of an official publicly stating his or her belief in the right of the public to gain access to most government records will help encourage residents to make use of those rights and pressure government workers to be more open with public information.

Government officials should have nothing to lose by making such a statement, and the state has everything to gain.

Any officials who wish to use the Courier-Post Opinion page to help make such a statement are welcome to send their declaration to us for publication later this week. We also encourage leaders to make their statements directly to their constituents during meetings with the public throughout the week and beyond.

Sunshine Week

That the promises continue after this week is of paramount importance.

Sunshine Week is an important annual event intended to foster improved dialogue between Americans and their leaders. But if the improved dialogue ends seven days after it began, the nation has made no progress.

Every year needs to build on what happened before.

Last year, for example, the Courier-Post used Sunshine Week as a springboard for a series of public meetings on how to properly use the Open Public Records Act.

Those meetings helped form the structure of our eight-page special section, "Your Right to Know." That publication detailed the importance of open government, spoke to New Jerseyans who have used the law for the good of the entire state and included a two-page centerpiece clearly detailing how to navigate OPRA and what to expect from a state record request form.

All of that information and more is still available on the Courier-Post Web site at courierpostonline.com/righttoknow.

In brief, here's the process residents must follow to obtain a government record:

Work with the agency you want a record from to determine precisely which record you need. You can't request specific information, you must request the record that contains that information.

Work with the agency to determine whether the information you're seeking is off limits. Information such as Social Security numbers and information that could jeopardize security will not be released under OPRA.

Fill out the agency's OPRA request form. Most agencies have their own variation of the state form.

Within seven business days, the agency is required to either produce the records, tell you when they will be produced or deny your request.

If your request is denied, you may contact the state Government Records Council to mediate the dispute and decide whether your request was wrongly denied.

Follow the rules

As important as it is for New Jerseyans to understand proper use of OPRA, however, it won't matter if government workers fail to abide by the rules.

"You can have a great law, but if public officials don't want to comply, you're not going to get access," Jay Stewart, executive director of the Washington-based Better Government Association, told Gannett New Jersey. "You have the law on the books and the reality on the ground, and sometimes they're not the same thing."

That's why we're hoping state officials can clear up any confusion for residents and government workers by categorically reminding everyone they are in favor of open government this week and throughout the year.

We hope they take this opportunity to ensure voters whose side they're on.

The South

Tennessee

Clarksville Leaf Chronicle

Sunshine will open meetings

People's voices are needed to put pressure on legislators.

In 2002, Florida newspapers banded together for what they called "Sunshine Sunday." The newspapers sounded the alarm that the state Legislature there had proposed more than 150 exemptions to open government laws to restrict public information in light of the 9/11 terrorist attacks.

The Florida Society of Newspaper Editors estimates that some 300 exemptions eventually were defeated in the legislative sessions following its three annual Sunshine Sundays.

The Sunshine Sunday movement expanded last year to Sunshine Week in newspapers across the nation as a way to remind people that government will remain open to them only if they care enough to demand accountability from public officials.

Here in Tennessee, legislation based on Florida's open meeting law — the "Sunshine in Government Improvement Act of 2006" — has been introduced in the Legislature. It would be the first update to the open government law since 1974.

Under the proposed changes, city councils and county commissions could receive a \$50 fine and attorneys' fees for knowingly violating open meetings rules.

How often are open government rules being defied in Tennessee? The Tennessee Coalition for Open Government reports 115 alleged violations between January 2003 and October 2005. And those are just the ones that were reported. Who knows how many others simply slipped by?

The Tennessee County Commissioners Association has announced opposition to the bill, saying that instances of open meetings laws were rare, and the new law would be burdensome.

While newspapers take the lead on pushing for open government, it's still up to the people of this state to tell their legislators that passage of the new Sunshine act is important to them and that they don't agree with the county commissioners group on the enforcement of open meetings in Tennessee.

What about you? What does open government mean to you? Write The Leaf-Chronicle a letter to the editor during Sunshine Week or post a message in our Web site blog to let us know your opinion.

Together, we can ensure that government is open and accountable to the people that it is supposed to represent and to serve.

South Carolina

The Anderson Independent-Mail

Keep them shining

FOI laws belong to the public, not just the press

All too often, we write about public officials who have closed meetings, who assemble a quorum without benefit of public notice, who withhold information that by law should be released.

Today we get to do something we much prefer: Note that to our knowledge none of that happened last week. And we can only hope it will be that way in the weeks to come. For today is Sunshine Sunday and we can think of no better way to celebrate the beginning of the week that nationally celebrates Freedom of Information law than to compliment public officials for keeping the public's business open to the public.

The honorary chair for a week of acknowledgment of the people's right to know is Hodding Carter, former newsman, one-time government official and now a professor at the University of North Carolina, Chapel Hill. Of Sunshine Week, Mr. Carter said, "(It) aims to empower the American people by demanding that government open its doors and allow a free flow of news and information. ..."

That's government at every level, not just on the local front. Yet most of the time, a local newspaper has its hands full with local government; not every week is as bright with sunshine as the most recent one was. Even the late Katharine Graham believed her newspaper's primary responsibility was to observe, properly cover and comment on the workings of local government. The Washington Post, she often proudly pointed out, is above all a local newspaper — at least in Washington.

But regardless of the size of the newspaper, of the number of reporters it has or editors or the pages that make up its Sunday edition, every newspaper is a local newspaper to some extent. And for us, that means keeping our eyes on local events — and sadly, local defiance sometimes of your right to know.

A reporter for a responsible newspaper will see an illegally closed meeting as a personal affront, not because it's our right to hear business being discussed, but because it's our responsibility to be able to pass that information on to the public. How often have any of you actually attended a public meeting, unless your own neighborhood was under discussion? While we believe that all citizens should take advantage of the opportunity to observe government in action, even we admit that it can be boring.

Yet we keep going to meetings because most of the time, what we report is the public's only accounting of the events that took place. And through our attendance, perhaps we might be able to tell the public how you will be affected by what took place, how your life might change — maybe for the better, maybe not.

It's not just meetings; crime reports can help you be more aware of the potential dangers in your city. How taxpayers' funds are being spent can help you make decisions that range from how you vote to where you decide to live.

Our role as journalists is to see that lawmakers and elected officials, indeed anyone in a public position, is upholding all the laws that govern their operations. We do it not for our benefit, not for our edification but for yours, to ensure that the public is receiving the benefit of having its business done in the open, where we can all observe the good, the bad and sometimes the downright ugly.

Freedom of information and open government law cannot be obeyed simply in spirit however but must be obeyed to the letter. And when public officials or public bodies disobey or defy FOI, they are in reality showing disrespect and disregard not just for the laws of our state but for the people who benefit from those laws.

We salute lawmakers, local and regional officials and citizens who agree that open government is good government. And that the public has a right — and a responsibility — to observe how its business is being conducted.

If FOI law is violated, those it hurts most are those it was created to defend. And that means you.

Georgia

The Atlanta Journal Constitution

Meetings to sex offender lists, public can access records

Angela Tuck, Public Editor

With a couple of clicks on the Georgia Bureau of Investigation's Web site, I came face to face with a registered sex offender who's apparently living in my neighborhood. I now know his name, age, what he looks like and the nature and date of his conviction.

While not the most comforting news, it's an example of the kind of government records available to citizens under the Georgia Open Records Act.

In next week's newspaper, you'll be reading a lot about Georgia's Sunshine laws as news organizations do their part to emphasize the importance of access to government records and meetings. "Sunshine Week 2006" is a national effort aimed at combating the growing problem of government secrecy.

"When the topic of open records comes up, some government officials believe that it relates only to the news media," said Vernon Keenan, director of GBI. "Last year we handled 2,631 open records requests, and only 1.8 percent came from the news media. The remainder came from attorneys, insurance agents and private citizens."

Keenan is a strong proponent of open government. "I've been in law enforcement for 35 years, and I'm absolutely convinced that public scrutiny is a very valuable tool in good government."

His agency partners with law enforcement groups to train officers about open records laws and their importance. Incident reports, closed criminal investigation files and crime lab reports are among the records most requested of state and local law enforcement agencies.

Next to the Georgia Lottery's Web site, the GBI's sex offender registry is the most accessed Web site in state government, said Keenan. "That's an indicator of the interest that the public has in government records."

Other records available for public scrutiny include minutes from public meetings; court records; e-mails of public officials (those dealing with public business); real estate transactions; and inspection reports from hospitals, nursing homes, child care centers and restaurants.

Personnel files, including salaries of government officials and employees, are open to the public. "That's probably one of the things that people are surprised to learn," said Tom Clyde, an Atlanta attorney who represents this newspaper and has represented the Georgia First Amendment Foundation in its attempts to block state government secrecy legislation.

In Gwinnett, DeKalb and Cobb counties, you can check the status of court cases online. Inmate records can be examined on the Georgia Department of Corrections' Web site.

Clyde believes Georgia's open records and meeting laws are reasonably progressive and credits that to the work of agency heads such as Keenan, former Gov. Roy Barnes and Attorney General Thurbert Baker.

"If anything, the problem is not the law, but how informed the public is about it. The law is clear that they are entitled to almost all government records."

Government meetings — from county commissions to library boards — are open with some exceptions. "The one that comes up most often is personnel," said Clyde. Officials can go into closed session to deliberate on a personnel issue. They must release records relating to that issue 10 days after they consider the matter, even if no action is taken, he said.

Depending on the government body or agency you're dealing with, don't be surprised if you run into roadblocks. A handy tool in dealing with these is a booklet called "Georgia's Sunshine Laws: A Citizen's Guide to Open Government." It can be found at www.gfaf.org, the Web site of the Georgia First Amendment Foundation.

In Sunday's @issue section, the AJC will spotlight the efforts of private citizens who've used open records to make a difference in their community. It's a right we all have, and technology is making it easier to gain access to information that affects our lives.

- For more information on open government issues, as well as how to get specific records, go to www.ajc.com/spotlight.

- Contact **Angela Tuck** by e-mail at insideajc@ajc.com, by phone at 404-526-5819, by fax at 404-526-5610 or by writing P.O. Box 4689, Atlanta, Ga. 30302.

Florida

The Florida Times-Union Jacksonville

SUNSHINE WEEK: It's the law

Florida has long been a leader in open government.

As part of that legacy, this is the fifth year that Florida newspapers have been celebrating Sunshine Sunday, now expanded to Sunshine Week. It also has become a national celebration of open government, sponsored by the American Society of Newspaper Editors.

Too often, elected officials in Northeast Florida seem to have a difficult time interpreting the sunshine law. Some seem more interested in looking for loopholes in the law than following the spirit of open government.

The concept is simple. Florida law requires that all the public's business be conducted in the open. That includes discussions, deliberations and decisions between two or more officials.

In a statewide audit of public agencies, Florida newspapers documented that 42 percent of the agencies failed to conform with state public records laws. In general, citizens do not have to put requests in writing or even give a name.

In Jacksonville, some City Council members have had to be reminded that elected officials must not confer with each other on the public's work behind closed doors.

In Nassau County, commissioners have been left to their own devices.

Here's a recent scenario:

Following a recent board meeting, Commissioners Jim Higginbotham, Tom Branan and Floyd Vanzant discussed eating breakfast together at a local eatery.

The board had just finished a workshop about raising water rates for those Nassau County residents subscribing to the Nassau-Amelia Utility company. Plans were made for the three to meet.

Vanzant did not make it, and Higginbotham and Branan spent less than 15 minutes with each other. It was strictly social, no government business was discussed, Higginbotham said. If that was the case, no problem, because under Florida law, if two or more elected officials discuss government business, meetings must be open to the public with advance notice given and minutes of the meeting taken.

The amount of schooling that Northeast Florida officials receive on the law is often minimal.

Nassau County Administrator Mike Mahaney and each commissioner receive a Government-in-the-Sunshine Manual when they start with the county, and on occasion handouts. However, there does not seem to be any formal training. Mahaney said commissioners mostly get their training by attending annual conferences where the subject is discussed during hourlong sessions.

All government agencies need to create a formal training program. It should be mandatory, required each year. The program should go into detail about the open records law and the open meetings law. The training program should also address the severe consequences if the law is broken.

In the meantime, public officials should avoid a perception problem.

Florida Times-Union

Throughout Northeast Florida, government was being conducted in the sunshine in recent days.

Mayor John Peyton took a big step in the right direction when he prepared a statement of policies and priorities for local lawmakers and arranged a public meeting with them.

The city makes requests each year for budgetary items from the Legislature, but a round-table public discussion on overall priorities and themes with local lawmakers has been lacking.

Aside from most of the area's lawmakers, the meeting included Council President Kevin Hyde and Vice President Michael Corrigan.

Meanwhile, in Green Cove Springs last week, there may have been the first joint meeting between the Clay County and St. Johns County commissions.

The commissions met in a workshop format to discuss the proposed route of a beltway linking the two counties.

Arriving at a consensus will be a key factor in moving ahead with the project.

Though citizens packed the meeting room, they were not allowed to speak. The public will have a chance to speak in the future.

At the same time, it was a refreshing experience for the citizens who packed the Clay County Commission chambers. The public got a full look at some of the issues involved in the decision as commissioners gave their opinions and shared ideas.

In addition, the Clay County Commission recently held an all-day session to discuss long-term goals - in public. And there are possibilities that a joint session could be held with the Clay County School Board to discuss growth issues.

That is what Florida's Government-in-the-Sunshine Law is all about.

Daytona News Journal

Public Records Belong to the Public

By PAMELA HASTEROK
FRESH TALK

It's not easy to be an interested citizen if you live in Bunnell. To see a police report, you've got to get permission from City Hall. To read the city manager's e-mails, well . . . good luck. You'll need it.

Those barriers are enough to discourage the most determined resident, much less the average guy. They're also illegal.

Floridians may view any record kept by any public agency. The state constitution says so. Some records are exempt from view -- like a hospital's building plans -- but most are open.

Police logs and public officials' e-mails are the most basic of records. It should be the most basic of tasks for agencies to provide them.

Yet 38 percent of public agencies like school boards and sheriff's departments in Volusia and Flagler counties denied those simple records to News-Journal volunteers in a survey to test open government compliance. It was worse statewide, with 42 percent bungling the transaction.

Throughout Florida, county governments got it right the most frequently. Not so in Volusia County.

For the second time in three years, the county administration didn't produce e-mails from the manager to council members. First, they asked the volunteer for her name, which is not allowed. Then they asked her why she wanted the records, also against the law. Finally they told her it would cost hundreds of dollars to get copies of one week of e-mails.

That's not only illegal, it's outrageous. An agency with a \$575 million budget and a well staffed technology office can't easily retrieve e-mail? What kind of system is that?

One that shuts out residents -- the same residents who pay public workers' salaries.

Flagler County's administration sets a better example. They didn't ask for a name, a reason or a written request. They just e-mailed the e-mails by the end of the day. (So we know it can be done.)

Daytona Beach police eventually coughed up the call log and incident report, but charged \$2 for copies of 5 pages, more than twice the allowable rate of 75 cents.

The city of Daytona Beach blundered badly when it told our volunteer he would have to sit with the city clerk to view e-mails and choose the ones he wanted copies of. For the privilege, he would have to pay more than \$3 per 15 minutes after the first half-hour. And city officials took three days to get back to him.

That's some way to treat your boss.

Taxpayers foot the bill for public administrations from police departments to the Justice Department. The records they create belong to us. The public workers who hold them are obligated to give them to us, no questions asked.

But many folks believe government records are just for lawyers and reporters. That's not so. They're for everyone.

Maybe you missed the County Council meeting where members discussed how much to pay the new manager. You can get a copy of the minutes or an audio tape.

Maybe you want to check the business background of the contractor building your home. You can find out if anyone filed a complaint against him with the state's Department of Business and Professional Regulation.

Maybe you're wondering about the environment in your new neighborhood. You can look through Department of Environmental Protection records to learn if a landfill was ever nearby.

Public records cover everything from your doctor's mistakes to your baby sitter's driving history. They can reveal whether your mother is getting proper care in the nursing home or your child in the day-care center. They can tell you just about anything you want to know.

Government agencies' records are there for you. All you have to do is ask.

Even in Bunnell.

Guam

Pacific Daily News

Our public officials need training in open government statutes

"This legislation springs from one of our most essential principles: a democracy works best when the people have all the information that the security of the nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest."

-- President Lyndon Johnson, after signing the Freedom of Information Act.

Every citizen has a right to know how his government -- on both the local and federal level -- operates. After all, our form of democracy is founded on the principal that our government is of, by and for the people.

It's our government, so we have the right to know how it's spending our tax dollars, what actions it has or hasn't taken, will take or won't take, and why.

That's why the federal Freedom of Information Act, the Sunshine Reform Act of 1999 and other open government laws are so important. These laws not only allow the media to fulfill its watchdog role and report about the government to citizens, they guarantee that everyone has the same level of access to government information.

This openness and transparency enables all of us to better hold our government, and the elected and appointed officials who run it, accountable. It empowers us so that we can ensure that our government is living up to its responsibilities to the community.

This information also allows us to evaluate those who serve in public office. Openness and transparency in government allows us to make better, more informed decisions in the voting booth, so we can choose the best candidates to represent us.

That's why it's critical that those who do serve in government, whether as an elected or appointed official, be well-versed in open government laws. Those charged with dispensing information to the public need to know why it's important, as well as what information can be released.

The best way to do this is to require all public officials to be trained in open government and sunshine laws. Newly appointed and elected government officials need a thorough grounding in the subject, and long-time officials need regular refresher courses to keep up to date.