

Mid-Atlantic

Asbury Park Press **New Jersey**

<http://www.app.com/apps/pbcs.dll/article?AID=/20060316/NEWS/603160368>

Press stymied in effort to get state government fiscal data

Information not covered by OPRA

Posted by the *Asbury Park Press*

BY PAUL D'AMBROSIO
INVESTIGATIONS EDITOR

The request to every state department seemed simple enough: Provide the Asbury Park Press with copies of basic financial information.

The request was sent under the state's Open Public Records Act, or OPRA, to 16 departments, from Agriculture to Treasury. Within two weeks, each department denied the request using the same legal language.

Since curiosity is our job, the Press filed a follow-up OPRA request: Show us all the chatter between the departments regarding our first request. We wanted to know if a new government policy on bulk information — requests from several departments at once — had been created.

What we received, after paying a \$30.25 copying fee, was 91 pages of mostly blacked-out text. Nearly all of the e-mails between the state's OPRA officers began with, "Have your departments/agencies received similar requests from Mr. D'Ambrosio?" Another OPRA officer states, "I am going to recommend to my management the following . . ."

In all of the e-mails, the details were obscured by black boxes. The redaction, according to the state Attorney General's Office, was necessary because it had deemed them "advisory, consultative, deliberative" material.

Those three words in the law are so broad and ill-defined that it has become the "nebulous statement" government officials can turn to if they want to reject a request, said Elizabeth Mason, president of the Foundation for Open Government group, a nonprofit association that promotes open access to government records.

The citizen seeking the documents then has to fight the matter in court or go before the state's Government Records Council, which can take months, she said.

The legal exception is one of the largest OPRA loopholes, according to Guy T. Baehr, director of the Journalism Resource Institute at Rutgers University, New Brunswick.

"It's very hard to dispute the denials," Baehr said, especially when the core of the information has been blacked out. "But when you allow confidentiality (under this exception), you really have a catchall that allows denials."

The exemption can be properly used to restrict access to bona fide legal reviews, but it also can lead to abuses, he said.

"I'm not sure anyone has come up with (legal) language or procedures that would provide an easy fix," he said.

<http://www.app.com/apps/pbcs.dll/article?AID=/20060316/NEWS/603160377>

Opening up records can take tenacity

N.J. activists relate access tales

Posted by the Asbury Park Press

BY JUSTIN VELLUCCI
STAFF WRITER

Lorie Van Auken wanted to know if her government could have stopped hijackers from crashing airplanes into the World Trade Center and killing her husband.

What she received by pushing to form the 9/11 commission, the Washington, D.C., panel charged with investigating the 2001 terrorist attacks, was not only government documents but also a lesson in how access to public information ensures a healthy democracy.

"That sort of information tells me if my government is doing its job or not," said Van Auken, 51, of East Brunswick. "You know, we pay a lot of money to be made safer. And if you're telling me that you need to spy on me to make me safer, but then you don't tell me if that's working or not, then I'm giving away my freedoms into a big, black hole."

Sept. 11, 2001, became a turning point in how Van Auken, like many people, viewed her government and the information and decisions on which it runs. And in the 4 1/2 years since the attacks, the tug of war between government and what it tells its citizens has been staged on numerous fronts. Heated issues have involved the reasons for invading Iraq, the Patriot Act and warrantless wiretapping.

Issues closer to home have concerned the New Jersey Open Public Records Act, former Gov. James E. McGreevey's political scandals and the Monmouth County corruption sting dubbed Operation Bid Rig.

For Doug O'Malley, the thread that runs through many of these issues is clear.

"I think the average man on the street knows . . . if something is going on behind closed doors the public doesn't know about, doesn't have access to, that's not a good thing for a

democracy," said O'Malley, 26, a field director for the New Jersey Public Interest Research Group.

"We need to have accountability from elected officials," he added. "We need to know the decisions they're making, not only the right ones."

You could refer to NJPIRG as a watchdog in the system of checks and balances promoted by healthy public access to government. Just don't call them spectators. The group, founded some 30 years ago, advocates on issues that have substantial public impact. It's a kind of lobbyist for the "special interest" that is the average citizen.

NJPIRG also provides resources for citizens, much like the state's Open Public Records Act, or OPRA.

"The fact that you can say that OPRA has become a verb, I think, says a lot that it was needed," O'Malley said. "It certainly has opened up the access — opened up government — for citizens, but doesn't necessarily mean that government is now accessible."

Paul Allen, a 35-year-old Matawan resident who's been a vocal opponent of local development projects, is more pointed in his criticism.

"The law needs to be adapted to force local government agencies to be proactive with information, not force the individual seeking information to hunt it down," he said, citing the lack of meeting agendas and other information on Matawan's Web site. "Technology has to be a vital part of that, in bringing government issues to the people, not the other way around."

Van Auken worries that if citizens aren't aggressive enough in seeking important information, the federal government will be able to make important decisions without being held accountable.

"When you take a country to war based on classified — but yet false — information or cherry-picked information, that's something we really need to understand," she said. "If you say, 'I don't want to see that information,' you're not doing your job as a citizen, in a way."

Arnie Forrest doesn't agree.

The 73-year-old Shrewsbury resident backs President Bush's wiretapping and said sometimes citizens need to give up access to information in the interest of their own security.

"I'd like to ask somebody that's on the other side of the argument, 'If we were able to wiretap a terrorist on Sept. 10, 2001, . . . would they have been in favor of wiretapping those people at that time?' " Forrest said.

"The first thing the president has to do — his first obligation — is to protect and defend American life," he added. "Second would be to protect and defend American civil liberties. For one reason, a dead American doesn't enjoy any civil liberties."

Anthony Tamburro, 14, thinks, when it comes to the wiretapping issue, some people are too quick to criticize Bush.

"I think it's protecting the country," said Tamburro, a student at Toms River Intermediate School North. "My thinking is that, if it prevents another 9/11, our privacy isn't that important."

Van Auken understands there are reasons why some documents are not in the public eye. She just wants to ensure that, when citizens have a right to know how their government is operating, they should be able to exercise that right.

"These are issues that really come down to affecting us," Van Auken said. "We can't weigh in if we don't know."

<http://www.app.com/apps/pbcs.dll/article?AID=/20060314/NEWS/603140313>

N.J. public records law praised

But government watchdogs point to shortcomings

Posted by the Asbury Park Press on 03/14/06

BY BOB JORDAN
STAFF WRITER

New Jersey is one of the more open states when it comes to allowing public access to government records.

In theory, that is.

The sweeping Open Public Records Act, also called the right-to-know law, took effect in July 2002. It overhauled rules allowing citizens to promptly see any document from state, county or local government unless the record is specifically exempted.

But watchdogs say the state has a culture of shutting the public out of the government process, making it difficult for the new law to do any good.

Others say the rules don't go far enough.

"There are some vague terms in the statute that create havoc. There's too much play in there, too much open to interpretation," said Larry Loigman, a Middletown-based activist attorney. "When you get bureaucrats who want to hide things, they're going to find that vagueness in the law that will lead to litigation and delay."

Loigman has filed nine complaints about records access with the state Government Records Council, which has been in existence since 2002 and is charged with ruling if public agencies have violated OPRA.

New Jersey's and Nebraska's public access laws are the nation's best, according to a survey by the Chicago-based Better Government Association. In a separate study, University of Florida researchers found that open records laws in North Carolina, Florida, Michigan, Missouri and

Indiana provide the best overall public access, though New Jersey was rated high in having laws helpful to those seeking access to records.

"The study we did looked only at the laws on the books, but the laws in practice are not necessarily the same thing," said Jay Stewart, executive director of the Better Government Association. "There are probably decent laws in Florida, but the culture of transparency there is outstanding. If you have an OK law but have a real spirit of compliance, that goes a long way."

Guy Baehr of Perth Amboy, a Rutgers journalism professor and founding board member of the New Jersey Foundation for Open Government, said: "On paper we have a relatively good law in New Jersey — it's recently enacted so it hasn't been chipped away at much, and we've benefited from seeing what other states did before us."

"But New Jersey has a pretty bad tradition for a long time of having government secrecy, and has not developed a day-to-day practice of putting the public's business out in front of the public. In practice it's been tough to have the law live up to its promise," he added.

Worrisome exemptions

Baehr's foundation and other watchdog groups have been outspoken against what he calls attempts to "water down" the records law.

Last August, the state Attorney General's Office said it would revamp proposed rules that would have curtailed access to public records in the name of homeland security. Written comments and public testimony criticized the proposal for being too broad.

Baehr said there are three bills concerning anti-terrorism and the public's right to know before the Legislature "that we find more than a little worrisome."

One of the proposals would make all information held by the state Office of Counter-Terrorism exempt from the Open Public Record Act.

"We think it's really unwise to make this office off-limits" to public information requests, Baehr said.

The other proposals would exempt vital records such as birth, death, marriage and divorce records, due to concerns about identity theft and terrorism; and allow for judges to conduct secret court proceedings for reasons of national or state security.

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Pennsylvania

The Herald-Mail Hagerstown

http://www.herald-mail.com/?module=displaystory&story_id=133277&format=html

FOI helps us get access to public information

By LIZ THOMPSON
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We call it a PIA (for Public Information Act) or an FOI (for Freedom of Information Act) but I am more and more convinced that government employees call it a CYA (for Cover Your ... well, you get the point).

Maryland's Public Information Act is an important tool that newspapers use frequently.

Too frequently, actually.

A lot of information that should be public is not provided to the media, or to the public, unless it is requested through a PIA or FOI letter.

PIA and FOI are the same thing, they are just called different names in different states. The most common acronym used is FOI.

Government staffers often answer our requests for information with "put it in writing."

That's not a response that slows us down but it might be somewhat intimidating for a person not accustomed to dealing with government officials.

Most information we seek is, without question, public. Frankly, we shouldn't have to make our request in writing and neither should you.

That's a mindset we have been unable to change - at least so far - so when asked to put our request in writing, we do so in the form of an FOI request.

Here's what I'm talking about:

When three members of the Hagerstown City Council went to a conference in North Carolina in December, we asked for an accounting of their expenses. We were asked to put our request in writing. We did, but come on. We were asking for an accounting of taxpayers' money used to pay the costs of the trip.

No question - none - that such information is and should be public.

With our FOI in hand, staffers usually produce the information. I don't think anyone wants to keep us from getting the information. I think they want to be able to say to their boss - whether it's a department head or an administrator or an elected official - "Hey, I had no choice. They filed an FOI."

There are times we don't bother to ask first, either because we know we are about to ask for a lot of information that might need to come from multiple sources or because we

want to start the FOI clock ticking. Generally, government bodies have 30 days to respond to an FOI. The length of time varies from state to state.

While there also is a timeline with the federal government, the reality is they take as long as they want at that level. I'm still waiting for a response to a federal FOI I filed about three years ago. Every once in a while, a different person from a different department in the federal government will call me and say they found my FOI in a file and they will "certainly get right on it."

The story we were doing then is long gone now, but I never tell any of the federal people that. I'm curious to see if I'm ever going to get a response.

My message to people is don't let "put it in writing," slow you down. If you don't know how to file an FOI, go on our Web site at www.herald-mail.com and click on Freedom of Information. You'll find explanations of the law for Maryland, Pennsylvania and West Virginia. You'll also find sample letters to help you write an FOI.

So go ahead. Help a government staff member CYA.

USA Today

http://www.usatoday.com/news/nation/2006-03-12-sunshine-week_x.htm

Survey finds more information kept from public

By Mark Memmott, USA TODAY

Local, state and federal government agencies are keeping more information secret from the public, making it harder for citizens to keep tabs on what elected officials and bureaucrats are doing, an investigation by the Associated Press shows.

The findings alarm proponents of open government.

"What is happening, especially at the highest levels of government, is basically un-American," says Hodding Carter, State Department spokesman in the Carter administration. "Americans should be treated as owners of their government and of their government's information, not as supplicants to whom you dole it out when you feel like it."



Knight Foundation
Carter

Carter is honorary chairman of Sunshine Week, an effort by media organizations to spotlight issues relating to open government. It kicked off Sunday with the release of AP's report. (**Related:** [Information on Sunshine Week](#) | [Freedom of Information Act sample](#))

"The president believes in open government, and that the presumption ought to be on providing citizens with as much information as possible about their government," White House spokesman Scott McClellan says. However, he adds, "when it comes to our nation's security, particularly during a time of war, it is important to protect highly classified sources and methods that help save lives. The president is concerned about such information being disclosed in an unauthorized way because it could put people's lives at risk."

On Friday, Bush stressed the importance of the free flow of information in a democracy. At a meeting of the National Newspaper Association, he said, "I may not like what you print, but what you print is necessary to maintain a vibrant public forum where people feel comfortable about expressing themselves."

According to a national poll to be released Monday and commissioned by the American Society of Newspaper Editors, any increase in government secrecy flies in the face of what most Americans want, even in the post-9/11 age.

The poll shows that 59% of those surveyed said there's "too much secrecy" at the federal level. Also, 86% said they are "very interested" or "somewhat interested" in knowing what's going on inside state and local governments.

The poll of 1,007 adults was done Feb. 9-March 3 by the Scripps Survey Research Center at Ohio University. It has a margin of error of +/-4 percentage points. Guido Stempel III, director of the research center, says the demographic breakdown of those polled mirrors the Census Bureau's estimates on race, gender, age and other key demographic categories. (**Related links:** [Scripps Survey](#))

The AP investigation found that:

- States have steadily limited the public's access to government information since the Sept. 11 attacks. It analyzed legislation in all 50 states and found that, since the attacks, legislatures have passed "more than 1,000 laws changing access to information, approving more than twice as many measures that restrict information as laws that open government books."

- "Many federal agencies fall far short of the requirements of the Freedom of Information Act, repeatedly failing to meet reporting deadlines while citizens wait ever longer for documents." The act, like similar laws in each state, is designed to ensure that most government information is available to the public. It also spells out how to request the information.

Nine of 15 federal departments reported an increase in backlogs of requests for information during fiscal year 2004 vs. 2003, AP says. (**Related:** [AP review](#))

The AP investigation's findings follow other recent reports about efforts by officials at all levels of government to lock information away. Most notably, *The New York Times* reported last month that "thousands of historical documents" that had long been available to the public at the National Archives have been "reclassified" as secret over the past seven years. The pace of that effort has "accelerated" since the 9/11 attacks, the *Times* concluded.

Shortly after the 9/11 attacks, then-attorney general John Ashcroft told federal officials that the Justice Department would support their efforts to hold back information if the basis for doing so were to safeguard national security.

Carter says arguing that today's threats justify the government's actions is misguided. "We have neither a congressionally declared war, nor a nation on wartime footing, nor an enemy who has the capacity to destroy us by invasion," he says.

"We have a threat from a group of terrorists who are dangerous, lethal, hostile, terrible." But "at the end of the day," he says, that enemy cannot do the "type of damage" that the old Soviet

Union could have done — and throughout the Cold War years, the government grew more open, not less.

National security concerns aren't the only reason the public is being kept in the dark, media reports suggest. Last week, *The Seattle Times* reported on its examination of more than 10,000 cases decided by the King County (Wash.) Superior Court since 1990.. It found 420. civil suits that had been sealed entirely — and that in 97%. of those cases the judges had disregarded rules about when cases should and should not be sealed. **(Related: [Seattle Times report](#))**

The sealed records, the newspaper reported, "hold secrets of potential dangers in our medicine cabinets and refrigerators; of molesters in our day-care centers, schools and churches" and of other public threats.

Judges were more motivated by "go along, get along, clear the docket" than by the public's right to know, says *Seattle Times* investigations editor James Neff

Contributing: David Jackson

http://www.usatoday.com/news/nation/2006-03-13-sunshine-week-info_x.htm

Sunshine Week information

Where to find out more about "Sunshine Week," how to file Freedom of Information Act requests and other sources of information on the web:

www.sunshineweek.org. The official Sunshine Week site. Organized by the American Society of Newspaper Editors and paid for with a grant from the John S. and James L. Knight Foundation. It links to many other sites, including many of the FOIA offices at state governments.

<http://foi.missouri.edu/>. The Freedom of Information Center at the Missouri School of Journalism. News, reports and lots of links on the issue of secrecy in government. Highlights include its Freedom of Information Center, where there are forms and sample letters to guide you through the FOIA process.

<http://www.firstamendmentcenter.org/>. The First Amendment Center. A project of the Freedom Forum and the Vanderbilt Institute for Public Policy Studies. The site aims to provide "comprehensive research coverage of key First Amendment issues and topics."

<http://www.openthegovernment.org/>. The website for a coalition that includes: the American Association of Law Libraries; Common Cause; and the Society of American Archivists.

<http://www.usdoj.gov/04foia/foiacontacts.htm>. The U.S. Department of Justice maintains this web page of "principal FOIA contacts at federal agencies." There are contact names, addresses, telephone and fax numbers for each agency.

DOJ has also posted its own FOIA Reference Guide.

<http://www.usdoj.gov/04foia/foiastat.htm>. The Freedom of Information Act itself.

http://www.spj.org/foia_toolkit.asp. The Society of Professional Journalists' FOIA Toolkit. Designed for reporters, but many of the tips and sample documents apply to members of the public too.

Washington Post

<http://www.washingtonpost.com/wp-dyn/content/article/2006/03/12/AR2006031200934.html>

Who Gets the Not-So-Coveted Rosemary?

By Al Kamen

The Pulitzer Prizes will be announced next month. The next most esteemed prize is the National Security Archive's Rosemary Award, to be announced today to kick off "Sunshine Week," so designated by advocates for more government openness.

The Rosemary honors President *Richard M. Nixon*'s secretary, *Rose Mary Woods*, whose contortionist stretch at her desk caused her to "accidentally" erase 18 1/2 minutes of the tape of a key Watergate conversation.

And the winner of the hotly contested second annual Rosemary? The Central Intelligence Agency, which archive director *Thomas S. Blanton* hailed for "the most dramatic one-year drop-off in professionalism and responsiveness to the public" in 20 years of monitoring compliance the Freedom of Information Act. The CIA's "performance markers that clinched the 2006 Rosemary," he said, include:

- Although the agency handles only 0.08 percent of FOIA requests of federal information, it has four of the 10 oldest pending requests. Some are so old they could get drivers' licenses.
- After stalling for 15 years on a request from a small Pennsylvania newspaper for records on a convicted arms dealer with ties to the intelligence community, the agency responded last year that it had "no records" on the matter.
- "More creatively," the archive said, the CIA said it could "neither confirm nor deny" the existence of records on the relationship between Taliban leader *Mullah Omar* and *Osama bin Laden*, even though hundreds of such documents have been released by other agencies.

Last year's winner, the U.S. Air Force, was defeated this year in the Rosemary race because it hired new senior staff, reached out to people seeking information and began to clear up its backlog.

<http://www.washingtonpost.com/wp-dyn/content/article/2006/03/10/AR2006031002039.html>

Still Secret After All These Years

By Michael Dobbs

Government secrecy will not be an issue, I told myself optimistically as I began to research a history of the Cuban missile crisis.

After all, the classic showdown of the Cold War occurred more than four decades ago, well outside the 25-year period established by the administrations of both Bill Clinton and George W. Bush for the automatic release of everything but the most sensitive government documents. The Soviet Union has been consigned to the ash heap of history, and '60s-era defense technologies, such as the U-2 spy plane, are no longer considered secret.

How wrong I was.

It turns out that most government documents on the missile crisis -- including the principal Pentagon and State Department records collections -- are still classified. Hundreds of documents released to researchers a decade ago have since been withdrawn as part of a controversial -- itself secret -- reclassification program. And the backlog of Freedom of Information Act requests to the National Archives has grown to two, three or even five years.

Six months traveling across the country in pursuit of missile crisis records -- from the John F. Kennedy Library in Boston to the National Archives in College Park to the Air Force Historical Research Agency in Montgomery, Ala. -- spawns conflicting impressions. On the one hand, these institutions are part of a national treasure trove of archival riches. On the other, the system of declassifying government information has become so chaotic in recent years that it is difficult for outsiders, and even many insiders, to understand the logic behind it.

Thanks to the White House tapes declassified in 1996, I have eavesdropped on intimate conversations between President Kennedy and his aides as they struggled to respond to the deployment of Soviet rockets less than 100 miles from Key West. I have perused top-secret signals intelligence released by the National Security Agency, and page after page of U.S. invasion plans for Cuba, down to the gradient of the landing beaches and the Cuban "most wanted" list.

On the other hand, Air Force records describing the inadvertent penetration of Soviet air space by a U-2 at the very peak of the crisis are still secret. The files of former Kennedy military adviser Maxwell Taylor are full of withdrawal slips marked "Access restricted." An archival turf war between competing agencies has blocked access to the records of the State Department intelligence office.

The extent of the [reclassification program](#) only became clear late last month after a historian noticed that dozens of documents that he had previously copied from the National Archives had mysteriously disappeared from State Department boxes. The

withdrawn records included several documents that had already been published in official government histories, such as a 1948 CIA memo on using balloons to drop propaganda leaflets over Communist countries.

While the reclassification drive is intensely irritating to historians, an even bigger problem is the ripple effect such efforts have had on declassification. The routine declassification of government records has ground to a virtual standstill over the past few years because of the diversion of resources to reexamining previously released records. Documents that would have been released routinely a decade ago are trapped in a bureaucratic twilight zone.

A good example of this phenomenon are the thousands of pages of Secretary of State and Secretary of Defense records on the missile crisis transferred to the National Archives more than five years ago, but currently stored in confidential stacks. Archives officials told me that they will probably be able to release part of that collection in the next few months, but the bulk must go through an elaborate interagency screening process that could take several years.

It is instructive to compare the situation of Cuban missile crisis records with that of World War II records. The last great wartime secret -- the existence of the Enigma code-breaking machine -- was officially revealed in 1974, 29 years after the end of the war. By 1990, 45 years after the victory over Nazi Germany, the wartime records were almost completely accessible. An equivalent amount of time has passed since the missile crisis, but archival access is much more limited.

While the reclassification drive has accelerated under the Bush administration, particularly since 9/11, it actually began under Clinton. The initial impulse came from the Kyl-Lott amendment, passed by Congress in 1998 in response to a scandal involving the alleged leaking of nuclear secrets to China. The CIA and the Pentagon took advantage of the new climate to look for information that had supposedly been released without their consent, and demanded its withdrawal.

On March 2, the [National Archives](#) announced yet another initiative to respond to the flurry of bad publicity about reclassification -- this time to check whether documents have been improperly withdrawn from circulation. While the initiative has been welcomed by historians, it also carries dangers. A vast amount of energy, time and taxpayer money is being wasted reviewing and re-reviewing the same documents.

If the missile crisis is any guide, the whole laborious process could be greatly speeded up by better coordination between agencies, improved data management, and what one frustrated National Archives records officer terms the application of "a little common sense." Some agencies -- the Air Force is a prime example -- lack an effective system for tracking documents previously declassified under the Freedom of Information Act.

By contrast, the CIA, which is often accused of dragging its feet, has found a way to make declassified documents instantly available to all researchers. The agency has a

public database that includes day-by-day intelligence analyses on the deployment of Soviet missiles in Cuba, based on reconnaissance flights by U-2s and low-level planes.

Archival work is a little like tackling a giant jigsaw puzzle. If you are patient enough, you can eventually make out the picture, even if many of the pieces are missing. In the case of the missile crisis, I have assembled enough of the puzzle to be confident that few, if any, of the missing pieces contain national security information that could be useful to an enemy -- the criterion established by both Bush and Clinton for continuing to classify more than 25-year-old secrets.

So why, if the puzzle is largely resolved, am I -- and other researchers -- making such a fuss? Because history is not just about the big picture. It is also about the small stuff, thousands upon thousands of individual acts of bravery and skill and, yes, foolishness. In order to make sense of the anguished White House debates between Kennedy and his advisers in October 1962, you need to understand how the Cold War was actually fought, by the generals, the spies, the reconnaissance pilots. It is the details that make history come alive -- and in far too many cases those details are still being hidden from us.

Michael Dobbs is a Washington Post reporter on leave to write a book about the Cuban missile crisis.

Maryland

The Baltimore Sun

<http://www.baltimoresun.com/news/opinion/ideas/bal-id.secret12mar12,0,5159211.story?coll=bal-ideas-headlines>

When secrets rule

March 12, 2006

By Nick Madigan
Sun reporter

When Walter Lippmann, the politically pragmatic journalist and author, said in 1920 that there can be "no liberty for a community which lacks the means by which to detect lies," he might have been describing the government's penchant for secrecy in present-day America.

More than anything, critics of the Bush administration are decrying its habit - particularly since Sept. 11 - of conducting state affairs under an unyielding cover of executive privilege and a "we know best" philosophy that precludes virtually any outside influence or advice.

The administration's secretive conduct has invited unwelcome comparisons with the Nixon era, notorious for cloak-and-dagger schemes that ultimately led to the president's resignation.

Still, administration leaders assert that the war on terror requires extraordinary measures, even at the expense of civil liberties at home.

"Freedom's cause is the right cause, and every action we take in support of it makes this world better and safer for our children," Vice President Dick Cheney said before a gathering of the American Israel Public Affairs Committee in Washington on Tuesday.

"At home and with coalition partners abroad, we've broken up terror cells, tracked down terrorist operatives, and put heavy pressure on their ability to organize and plan attacks," Cheney said. "The work is difficult and very often perilous, and there is much yet to do. But we've made tremendous progress against an enemy that dwells in the shadows. We've counted on the skill and the dedication of our professionals in law enforcement, intelligence and homeland security - and, of course, on the United States military."

In pursuit of this mission, the administration has conducted extensive domestic wiretapping in secret, without first seeking court approval, as the law requires; sent terrorism suspects to secret prisons overseas, where many apparently have been tortured; launched FBI probes within government agencies to ferret out malcontent leakers of government information; and warned reporters that they could be prosecuted under espionage laws that have not been invoked against the press in decades.

Federal employees have been questioned about whether they revealed the wiretaps to The New York Times, or the existence of secret CIA prisons to The Washington Post.

"This administration does not believe in open government," said Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington, a nonpartisan watchdog group.

"Our system is based on open government. That's what democracy means. We are not a totalitarian regime where our leaders refuse to explain themselves, although you could be fooled into thinking so."

Sloan and others are particularly distressed by what they view as the administration's violations of the Freedom of Information Act, which was set up to provide access to documents held by federal agencies.

Under President Bush, the Justice Department declared that it would support any agency's desire to keep records secret, no matter what they contained, a sharp about-face from the Clinton administration's stated practice of erring on the side of disclosure.

"The only way to get an FOI request honored these days is to go to court," Sloan said. "We can go to court and win, but some regular person is not going to know how to file a complaint in federal court and prepare a brief arguing that the administration is in violation of the law. And no one has endless resources to fight every denial. It's very effective, what they've done. They keep the information hidden."

The administration's insistence on secrecy has leached deep into the affairs of other branches of government. The Coalition of Journalists for Open Government reported Monday that the records of almost 5,000 federal court cases across the country are being kept secret.

Studies by the Associated Press and the Reporters Committee for Freedom of the Press revealed the existence of the cases, which are not recorded in official dockets when filed, and in many cases continue through trial and sentencing without being officially recorded. At least two federal appellate courts have ruled that the practice is unconstitutional, the coalition reported.

Occasionally, though not often, courts have ruled in favor of openness. After four years of secrecy, a federal judge ruled in favor of the AP in a lawsuit that sought release of thousands of pages of court transcripts that contained the names of many of the 469 prisoners at Guantanamo Bay who had been captured in Afghanistan. The Bush administration had refused to reveal the identities of the men, saying it would violate their privacy and might endanger their relatives.

The National Archives discovered recently that the CIA and other intelligence agencies had secretly removed more than 55,000 pages of previously declassified historical records from its shelves and reclassified them. Archivist Allen Weinstein asked that all of the removed materials be returned and called for a "moratorium" on reclassification of such documents.

"It's akin to the Soviet Politburo erasing people from photographs," said Lisa Graves, the American Civil Liberties Union's senior counsel for legislative strategy. "The only reason we know most of these things are happening is that civil servants have observed these violations of the law and have bravely blown the whistle and told the press."

David Gergen, a professor of public service at Harvard's John F. Kennedy School of Government who served as a White House adviser to presidents Nixon, Ford, Reagan and Clinton, said recently on CNN's Reliable Sources that the Bush administration "has engaged in secrecy at a level we have not seen in over 30 years."

"Unfortunately," Gergen said, "I have to bring up the name of Richard Nixon, because we haven't seen it since the days of Nixon."

Gergen was referring to Nixon's paranoia, passion for secrecy and criminal conduct, including the use of federal agencies to snoop on dissenters.

"Oh, for the days of Richard Nixon," quipped Marjorie Heins, a lawyer and founder of the Free Expression Policy Project at New York University's Brennan Center for Justice.

"It's perfectly predictable that those in power, of whatever persuasion, will try to keep things secret, but it does appear that this administration has taken both the drive to assert unlimited executive power and the impulse to keep its activities secret to new levels. If

the public and the press can't get information, then we have no accountability."

No one argues that the Bush people have sunk to the street-crime tactics of Nixon's mob. This administration is more subtle but no less effective against its ideological opponents, some critics believe.

The administration's efforts are being waged not only in the media and in the corridors of power but in towns across the country, where Secret Service agents have worked with local police to remove from sight, and sometimes arrest, protesters during appearances by Bush or Cheney. In response to such incidents, the ACLU accused administration officials of discriminating against people simply for disagreeing with White House policies.

"It's really an assault on our fundamental principles of a free and open democratic society," said the ACLU's Graves. "When you combine this culture of secrecy with the fact that the administration is captivated by an extreme vision of unlimited presidential power, the combination risks our core principles as a free people."

Some Republicans are beginning to object, although generally not enough to prevent the White House from getting its way.

Last week, the Senate Select Committee on Intelligence voted to reject a Democratic proposal to investigate the domestic surveillance program. Instead, it voted to establish a seven-member panel, subject to White House approval, that would look into the program.

"We have an administration that's waging war on information," Craig Crawford, author of *Attack the Messenger: How Politicians Turn You Against the Media*, said on CNN.

The Bush White House disagrees.

"We need to protect the right to free speech and the First Amendment, and the president is doing that," White House spokesman Trent Duffy told *The Washington Post* last week. "But, at the same time, we do need to protect classified information which helps fight the war on terror."

What galls some critics is that the administration pursues some leakers in its ranks while selectively doling out secrets it wants made public. Such was the case of Valerie Plame, whose identity as a CIA officer was leaked to the media by the White House after her husband criticized Bush's Iraq policies. In court papers tied to his criminal indictment in the case, Cheney's former chief of staff, I. Lewis Libby, said that his "superiors" authorized him to disclose the classified information.

Joseph J. Ellis, a professor of American history at Mount Holyoke College in Massachusetts, said the administration's "manipulation and fabrication" of a reason for going to war with Iraq "justified a national-security state" and a "reduction in civil rights" in this country.

"We're going to regret this," Ellis said. "The ultimate rationale for all these actions rests on the assumption that 9/11 was an unprecedented threat to the national security of the United States. In hindsight, this will all be seen as an over-reaction."

Ellis argued in a Jan. 28 Op-Ed piece in The New York Times that the attacks of Sept. 11, 2001, were not a threat to national security on the order of previous events, such as the War of Independence, the War of 1812, the Civil War and World War II. Ellis wrote that despite the loss of life on Sept. 11, it did not "threaten the survival of the American republic, even though the terrorists would like us to think so."

"The American people, in general, still remain under the shadow of 9/11," Ellis said in an interview last week. "They're still semi-traumatized, and the Bush administration has exploited that."

Virginia

Newport Daily News

<http://www.newportdailynews.com/articles/2006/03/13/news/news2.txt>

SUNSHINE WEEK: Groups seek 'balancing test' for making records public

By Joe Baker/Daily News staff

Mayor Smith sends out a memo to the tax assessor instructing him to inflate the revaluation numbers for property in the neighborhood of his political rival. When the figures go out, homeowners there are irate and demand an explanation. The mayor and assessor play dumb.

Should taxpayers be allowed to see that memo if its existence is leaked?

Not according to the state's public records law, which exempts memorandums from disclosure unless "submitted at a public meeting."

John Doe accuses Officer Jones of police brutality after his arrest on a disorderly conduct charge. The officer's version has Doe resisting arrest, and that charge is tacked on. The police department is aware that Jones has been accused of brutality a half dozen times in the past two years, but has successfully squelched the reports each time.

Should the public have access to the reports filed accusing Jones of brutality to see if there was a cover-up?

Not according to the state's public records law, which exempts all law enforcement records except those "reflecting the initial arrest of an adult and the charge or charges brought against an adult."

School nurse Betty is accused of molesting a young child. It turns out the school was aware of similar allegations against her when she worked in a state out west.

Should parents be allowed to view the records in the possession of school officials to determine if there was negligence?

Not according to the state's public records law, which exempts all personnel records of employees except their "name, gross salary, salary range, total cost of paid fringe benefits, gross description, dates of employment and positions held ... work location, business telephone number, the city or town or residence

and date of termination."

For the last three years, ACCESS/RI, an alliance of open government groups, has been trying to amend the state's Access to Public Records Act so that courts could apply a "balancing test" to weigh whether release of typically private records would be in the public interest.

"We are not wiping out the exemptions," said Sen. J. Michael Lenihan, D-East Greenwich, who is sponsoring the legislation.

"(The balancing test) is not an automatic exemption," said Steve Brown, executive director of the state chapter of the American Civil Liberties Union. "It weighs the public right to know against privacy rights."

The language is taken verbatim from the federal Freedom of Information Act, which, like state law, exempts personnel and medical records from public disclosure if they "constitute a clearly unwarranted invasion of personal privacy." By adopting the same language, Rhode Island would be able to rely on a substantial body of court rulings on what constitutes such an invasion, Phil West, executive director of Common Cause of Rhode Island, told members of the Senate Judiciary Committee last week.

Some public officials hide behind the public records law to prevent potentially damaging or even incriminating records from seeing the light of day, West said. Public-employee pension records were totally exempt from disclosure until a scandal erupted in the early 1990s fueled by leaks of pension records to a reporter. State law was changed after that to make pension records open to public review.

"This just makes it possible ... to find out information when it is in the public interest," West said.

A separate Lenihan bill would make other changes to the public records law. Foremost among them would be a reduction in the amount of time public agencies have to respond to a public records request and an increase in the maximum fine against those found to have violated the law.

Public bodies currently have to respond to a request within 10 days. They can extend that to 30 days with "good cause." But officials who want to deny access to records automatically use the 30-day provision to slow down the process, Lenihan said. His proposal would reduce the 10-30 timeline to three days and 10 days.

In addition, the current \$1,000 fine is nothing more than a mild irritant to those seeking to abuse the law, Lenihan said. Sheila Mallowney, managing editor of The Newport Daily News, testified that the fines provide no incentive for public officials to obey the law.

"Our public records law needs teeth," Mallowney, who also is president of the Rhode Island Press Association, told senators.

The bills got some rough treatment during last week's Senate hearing. Opponents raised the specter of a whole host of records now considered private, including student performance and medical benefits records, being thrown open for public review.

"The only reason any of this would be available is they work for the public, and that's it," Sen. Charles J. Levesque, D-Portsmouth, said. "That bothers me. I have a real interest with how much a person has to sacrifice when they work for a government body."

Bob Cooper, executive secretary for the Governor's Commission on Disabilities, said the balancing test could open students' report cards or the records of those receiving disability benefits from the state to public review.

Rhode Island State Police Lt. LeRoy V. Rose Jr. and Peter Dennehy, an attorney the Department of Administration, said reducing the response time to three and 10 days would be unreasonable. Dennehy said the response time should be increased, not decreased.

What is it?

Sunshine Week started as Sunshine Sunday in Florida in 2002. Other states launched similar initiatives, and last year, it expanded to a national, weeklong effort dedicated to promoting the importance of open government. This year, Gov. Donald L. Carcieri officially proclaimed March 12-18 as Sunshine Week in

Rhode Island.

The Newport Daily News is one of many newspapers, magazines, universities, press associations and major journalism organizations supporting Sunshine Week. In addition to stories and op-ed pieces about freedom of information, The Daily News will run a series of informational ads this week about Rhode Island's public records and open meetings laws. A graphic on Page A12 highlights how the laws work.

For more information, log on to www.sunshineweek.org.

Daily Press Hampton Roads

<http://www.dailypress.com/news/local/virginia/dp-va--sunshineweek-citi0312mar12,0,3608199.story?coll=dp-headlines-virginia>

Citizens use open records laws to reveal government missteps

By DENA POTTER

Associated Press Writer

CHESTERFIELD, Va. -- It only took three little words to turn a community on its head: by private plane.

When Brenda Stewart read those words in her local newspaper describing how Chesterfield County Administrator Lane Ramsey returned from vacation after a county official was arrested for sex crimes, she couldn't help but wonder how much the plane ride cost.

Stewart's open records request last month found what shocked the community--the county paid more than \$18,000 for the private charter from Kansas to Virginia.

"Even I did not have an idea it would be that expensive," Stewart said. Ramsey has since reimbursed the county for the flight, plus interest.

Stewart, 62, a retired federal worker, is one of many citizens who have used the Freedom of Information Act to uncover what government officials wish would stay buried in stacks of expense sheets and legal documents.

"You cannot hold officials accountable unless the public is aware of what they're doing," Stewart said.

Stewart makes it her business to know what her local officials are doing, gathering volumes of documents on how taxpayer dollars are spent and attending most board of supervisors, school board and planning commission meetings in the Richmond suburb.

She got involved in county issues after retiring from the Department of Defense in 1998.

Her neighbors asked her to join their fight against a subdivision proposed for their community. From there, they took on a special events business in the neighborhood. Then it was fighting against a plan to build two county high schools, battling with a telecommunications company installing fiber optic lines on private property and arguing against government using eminent domain to seize private property for private development.

"Those of us who send our taxes to government at any level _ local, state or national-- have a right to expect responsible spending of our money," she said. "I don't believe we're getting that in many cases."

In 2004, Lee and Paulette Albright found improper use of state-issued credit cards-- including \$12,000 for an African safari _ after they sought records on why the state Department of Game and Inland Fisheries ended public tours at a fish hatchery near their Nelson County farm. Two agency officials resigned over the scandal.

Nancy Frantel, a substitute teacher and former Walt Disney World manager, had environmental concerns about a subdivision proposed in Chesterfield County. A few hours after requesting records from the state Department of Mines, Minerals and Energy, she had information showing hundreds of Civil War-era mines underneath the site more than 100 homes would be built.

Frantel lobbied for legislation requiring developers or homeowners to disclose if homes are built on abandoned mine sites. The General Assembly passed the bill this month and sent it to Gov. Timothy M. Kaine.

"It's a matter of being put in a position where you get a feeling that something's not quite right and, as a normal citizen, just saying, 'Let me look into this,' and then you discover there's so much more than you ever imagined," Frantel said.

Frosty Landon, executive director of the Virginia Coalition for Open Government, said he wished more citizens took advantage of their right to review public records.

"A lot of citizens just don't know there is a Freedom of Information Act and don't need to know it until they get interested in a zoning issue down the street or a change of school attendance lines or something as mundane as proposed increases in garbage fees," Landon said.

Journalists need the public's help to keep government honest and effective, said Bill Chamberlin, director of the Citizen Access Project at the University of Florida.

Chamberlin said Virginia has some of the best public access laws in the country, but many citizens often are intimidated by the process.

"It's exciting when citizens give us examples of courage, which it often takes to go up to a government official or someone who has law enforcement capabilities and get government records," Chamberlin said.

Stewart said she's probably spent thousands of hours working on her projects, but it's her way of giving back to the community where her family has lived for generations.

"We ordinary citizens do have a role to play," Stewart said. "While individually it isn't a big role, if many of us get together and do our little bit, we can make a difference."

Richmond Times Dispatch

http://www.timesdispatch.com/servlet/Satellite?pagename=RTD%2FMGArticle%2FRTD_BasicArticle&%09s=1045855935264&c=MGArticle&cid=1137834661419&path=!news!politics

Open-government advocate cites good year at assembly

The House of Delegates continued to balk at webcasting its sessions, and the House Democratic Caucus closed meetings that had been opened to the media.

But generally speaking, "it was a good session for open government," said Forrest M. Landon, executive director of the Virginia Coalition for Open Government.

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Both measures passed.

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Landon said final action on several new exemptions was stopped by referring the proposals to the Freedom of Information Advisory Council for study over the next year.

He also said open-government advocates object to a House policy that allows subcommittees to act on bills without a recorded vote they can act by voice vote. Under a new policy this year, more than 400 bills were killed at the recommendation of subcommittees without action by the full committee.

As for the Internet, the state Senate has webcast sessions for several years and has not seen big efforts to "play to the camera." That is what some House opponents fear. -- Tyler Whitley

http://www.timesdispatch.com/servlet/Satellite?pagename=RTD%2FMGArticle%2FRTD_BasicArticle&c=MGArticle&cid=1137834678133&path=!news&s=1045855934842

Localities vary in open government

BY MEREDITH BONNY AND JULIAN WALKER

TIMES-DISPATCH STAFF WRITERS Retired Army Col. Ronald Hall wouldn't call Chesterfield County an open-government locality.

Operating behind closed doors is more like it, the 62-year-old said.

"They prevented me from speaking and being critical," he said.

Hall took the Board of Supervisors to task last week. He raised questions about County Administrator Lane B. Ramsey's \$18,000 charter-jet ride home from Kansas and said the county needs an independent financial watchdog.

Hall also wanted to know, with residents required to sign up to speak six days prior to board meetings, why Chesterfield Chamber of Commerce President Art Heinz was allowed to present the county with an \$18,000 check to pay for the late-December charter flight without following the rule.

"It's one of these behind-closed-doors things that's always happening in Chesterfield," he said.

Ramsey ultimately returned the check and paid for the flight.

But Hall, who on Feb. 21 requested to speak at the next day's meeting, had to wait until March 8 to have his say.

This was not the first time Chesterfield has come under scrutiny for its public-comment policy.

Of the four localities in metro Richmond, Chesterfield has the most restrictive policy, requiring people to give notice six days in advance and describe in detail what they plan to say.

The board is amending that policy. The supervisors will decide new rules March 22. One idea is to allow residents to sign up one day in advance of speaking.

Chesterfield spokesman Don Kappel said the county is one of the most open governments in the region, noting that the county broadcasts its meetings and sends a newsletter to residents.

Other officials in metro Richmond -- while not as strict also have had their struggles in and out of the board room regarding public participation.

Last year in Henrico County, several people took issue with metal detectors posted outside the board meeting room.

Ultimately, the detectors stayed. But not everyone was happy about it.

"I am disgusted by the way citizens in the county are treated," Bill Walker, a member of the Libertarian Party and a Henrico resident, said at the time.

Over the years, Richmond City Council meetings earned a reputation for long, lively public-comment periods.

Lately, however, public-comment time at the council level has been a lot more tame and School Board meetings have become more lively.

During a recent city School Board meeting, parent Mike Sarahan, whose son has multiple disabilities, criticized plans to make aging buildings accessible for people with disabilities.

"All you have are crappy buildings that people are that much more inclined to hang on to for more generations," he said.

Sarahan exceeded the board's three-minute limit. The School Board clerk told Sarahan that he had exceeded his time. Sheriff's deputies began to approach him, but ultimately he was not escorted out.

While the public-comment time can be abused by government gadflies, it is essential for open government, said Forrest M. "Frosty" Landon, executive director of the Virginia Coalition for Open Government.

He said that recently in Roanoke an individual speaking during public-comment time was escorted out.

"That just polarizes things," Landon said. "It adds to the distrust of citizens."

He said comment time should not be limited to required public hearings and that rules "ought to be set up ahead of time so that nobody is surprised by time limits."

Henrico Board of Supervisors Clerk Barry Lawrence said he does not recall anyone ever being physically escorted out of a public meeting. But things have gotten a little tense a few times, he said.

"The sheriff attends meetings in case situations arise," he said.

Chesterfield resident Cathy Kirk said she wasn't thrown out of a board meeting but was asked to leave the building in February last year after accusing the Board of Supervisors of deceiving the public.

And this wasn't the last time something like that happened in Chesterfield.

At an Oct. 18 Planning Commission meeting, a man was removed from the room and arrested after verbally clashing with members. The disorderly charge against him was later dismissed.

Also last year, an animal-rights activist was removed from an April 13 supervisors meeting.

"They potentially endangered me because they didn't like what I had to say. It was clearly a form of retaliation," Kirk said.

After she left the meeting room, a sheriff's deputy asked her to leave the building, Kirk said.

Barber said Kirk was made to leave because the meeting had concluded, not because officials were trying to exact revenge.

Last week, Kirk told board members that they owe her an apology. Chairman R.M. "Dickie" King Jr. called for the county to investigate Kirk's allegations.

Other residents, including Marleen Durfee, said county officials need to treat speakers with greater respect, whether or not they agree with their statements.

Kirk agreed.

"This government has an awful long way to go before people start changing their perception of this as a closed government."

Citizen sleuths dig deep with FOI

BY WILL JONES

TIMES-DISPATCH STAFF WRITER

Mike Stollenwerk got a check for \$2,782 in last week's mail, courtesy of Richmond taxpayers.

Richmond Circuit Judge T.K. Markow awarded the money for Stollenwerk's legal costs after the city failed to respond to his request for information, within five working days last September, as required by the Virginia Freedom of Information Act.

Stollenwerk, a gun-and privacy-rights activist from Fairfax County, had asked about a policy banning weapons and authorizing body searches at the 2nd Street Festival.

He believes city officials ignored his e-mail and his follow-up messages because they didn't like his question, and as a result, tax dollars were wasted.

"I know Richmond is a big city, but do they have money hanging off trees?" he asked.

Increasingly, people such as Stollenwerk are taking an interest in open-government issues, according to the Virginia Freedom of Information Advisory Council.

The council, established by the General Assembly in July 2000 to provide information on open-government issues, received 840 inquires from residents, local governments and others in 2001. The total climbed to 1,652 inquiries in 2005.

"By volume, it's the citizens that call us the most," Executive Director Maria J.K. Everett said.

Stollenwerk said he uses the open-government law routinely to get information and to hold public officials accountable. He filed his information request with Richmond last fall after getting a tip through the Virginia Citizens Defense League about weapons policies for the 2nd Street Festival.

He decided a challenge was warranted.

"It's kind of like in poker when you say, 'I'm calling your bet. Let's see your cards.'"

City spokesman Linwood Norman said Stollenwerk's request "fell through the cracks" and that the city has since released a substantial number of records to him. "Our goal is to promptly respond to those."

. . .

Chesterfield County resident Brenda Stewart recently sparked a public outcry after she used the open-government law to find out that more than \$18,000 of taxpayer funds was spent on a charter flight to retrieve County Administrator Lane B. Ramsey in late December from Kansas, where he was traveling while on vacation.

Ramsey later reimbursed the county for the cost of the flight plus interest, even though officials had deemed the expense an emergency.

Stewart wishes more people would use open-government laws, but she recognizes that most people have neither the time nor the stomach for sleuthing.

"You have to be persistent, because those from whom you seek information are not always forthcoming, shall we say."

. . .

Last year, critics of a planned arts center in downtown Richmond used the open-government law to overcome similar resistance from the private foundation that was pushing the project.

Andrew Beaujon, a writer for the Internet blog group Save Richmond, had questioned the financial strength of the Virginia Performing Arts Foundation. The group denied his request to review its bank statements.

Beaujon sought an opinion from the Freedom of Information Advisory Council on whether the foundation was a public body, based on taxpayer funding for the arts center. The council was unable to reach a conclusion.

Finally, Beaujon asked for public records submitted by the foundation in support of a state grant request. The documents released included financial statements that showed the foundation had less than \$1.4 million in its accounts.

The disclosure upset Mayor L. Douglas Wilder, who complained the arts foundation was not being candid about its finances. It also earned Save Richmond an award from the nonprofit Virginia Coalition for Open Government.

Don Harrison, another writer for Save Richmond, said the case of the arts foundation highlights the potential problem associated with allowing more and more private groups to use public money for a public purpose.

"You start to have more gray areas and [questions about] what is public and what is proper," he said.

. . .

Lee Albright, a retired optometrist, had not used Virginia's open-government law until he and his wife, Paulette, started asking questions about the closing of a fish hatchery near their Nelson County farm.

The couple's persistent inquiries to the state Department of Game and Inland Fisheries and officials' suspicious responses helped to reveal an African safari partly funded by taxpayers. It also prompted a shake-up of the department and a state police investigation.

Albright said his long, expensive battle with the game department taught him to request public records, not to ask questions or even request information.

"That's all the act covers," he said. "They don't have to answer questions."

Albright is now an officer for the Virginia Coalition for Open Government, and he has fielded calls from other residents who are frustrated by their dealings with government officials. He believes the game department is now in good hands, but he hardly considers his case closed.

Albright has discovered that asking questions can be much like eating potato chips: Once you start, it's hard to stop. He's now crafting another request to the state.

"I want to know how much the taxpayers spent because no one in government stood up and said, 'Let's use our heads for the benefit of the people,'" he said. "I just want to know how much the government spent fighting me."

http://www.timesdispatch.com/servlet/Satellite?pagename=RTD/MGArticle/RTD_BasicArticle&c=MGArticle&cid=1137834661427

It's a sue-and-be-sued world for city

Richmond Times-Dispatch

When it comes to Freedom of Information Act requests, is what's sauce for the goose, sauce for the gander?

Or is the Richmond School Board getting too saucy filing an FOI request for details of Mayor L. Douglas Wilder's "City of the Future" proposal -- drawing Wilder's ire at the same time he sued the Industrial Development Authority for not answering an FOI request?

"This is their appreciation for what we tried to do," the mayor snapped angrily, shortly after receiving the School Board's FOI request. He said he might drop the part of his "City of the Future" proposal that called for building or modernizing 15 schools.

Wilder said it would have been better if someone from the board simply called to ask, in a friendly way, for the information.

School Board Chairman David L. Ballard said the request was meant merely to get information he and his colleagues needed to work with the mayor on the proposal. "FOI is now a way of life," Ballard said, adding that the board receives such requests all the time.

The Industrial Development Authority, meanwhile, said last week that it sent the Wilder administration all the details about its legal fees. One of Wilder's special advisory committees requested the information a year ago.

The Wilder administration sued the authority this month, seeking the information.

Authority Chairman James Davis conceded that the authority's initial response last year was incomplete, but he said some of the documents requested weren't in his agency's custody. "I wish he'd just called us first, before suing us," Davis said.

-- **David Ress**

Open-government advocate cites good year at assembly

Richmond Times-Dispatch

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But generally speaking, "it was a good session for open government," said Forrest M. Landon, executive director of the Virginia Coalition for Open Government.

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Roanoke Times

<http://www.roanoke.com/editorials/wb/wb/xp-56917>

VDOT builds a road to open government

The department's innovative tracking program facilitates the free flow of information.

Journalists, librarians and other civic-minded people created the annual Sunshine Week, which is under way, to shine a spotlight on government secrecy and attempts to restrict the public's right to know.

Not everything on the open government front is doom and gloom, though. Virginians, for example, can take pride in the commitment to openness by the oft-maligned Department of Transportation.

Virginia's transportation challenges have put VDOT under the microscope lately. The department receives hundreds of requests every year for documents under the Virginia Freedom of Information Act.

Tracking all those requests and ensuring timely responses, as required by state law, used to pose a daunting challenge.

No longer. Last summer the department introduced a Web-based FOIA tracking system that monitors deadlines, uniformly calculates costs and keeps an archive of searches so that similar future requests do not require duplicate work.

Department FOI coordinators rave about the new system, and the Virginia Coalition for Open Government awarded it its 2005 public-sector award for outstanding contributions to freedom of information.

Increasing public access with new technology is nothing new for VDOT. The department's Dashboard project provides detailed information, updated daily, about transportation projects, spending, road conditions and so on.

Public officials have two ways of looking at open government laws. Too many view them as a burden they must meet and no more. Then there are departments like VDOT that view them as a minimum and make every effort to give the public greater access.

Much of the hostility toward government these days is rooted in secrecy and misinformation. If every department worked as hard as VDOT to reveal its inner workings, some of that hostility just might disappear.

The Freedom Forum Arlington

<http://www.firstamendmentcenter.org/news.aspx?id=16648>

ARLINGTON, Va. — National Freedom of Information Day 2006 opened with a charge to journalists, as representatives of the public, to fight growing government efforts to shield information.

Former journalist and chief State Department spokesman Hodding Carter, borrowing a phrase from journalist Alan Barth, urged members of the news media to live up to their duty as the “tribune of the people.”

The public’s “rights are at stake. We — you — all of us have the means to protect them. ... Tribune of the people. That is the high calling (of the news media), and that is an absolute necessity. Kick back. Take names. Be relentless. Be consistent. That is our duty, our obligation.”

Carter’s rousing keynote address, which he titled "Fooling the People," kicked off this year’s conference, “FOIA at Forty: The Past’s Lessons For The Future.”



Photo by Keith Barraclough

Hodding Carter during keynote speech today.

During his speech, Carter warned of what he termed an “unrelenting, full-court assault” on openness.

“In ways unseen for a half century — since the height of the Cold War in the 1950s — government is systematically shutting down the taps, drying up the flow of information to the American people, cutting back on the spirit and the letter of the Freedom of Information Act and, I would add, the Bill of Rights.”

To combat this attack, Carter said, open-government advocates, specifically journalists, need to be vocal activists for the public. But too often, he said, those entrusted with the responsibility to speak for the public remain silent.

“Freedom. Liberty. Self-government. Accountability. Transparency. The Constitution. People died for those words. Wars were fought because of those words. History was made by those words. And we are too sophisticated to invoke them, to demand them? ... What has happened to our capacity for outrage? ... Where are our refuseniks to say no to a government determined to shackle the people’s right to know the raw materials of freedom?”

Carter acknowledged that there can be legitimate reasons, such as national security, for public officials to shield information. However, judging from his experience as a Marine lieutenant and a State Department spokesman, he said, most information that is hidden from the public is done so without just cause.

“I can say categorically, on experience, that the vast majority of all information squirreled away behind the classification stamp has nothing to do with national security. Nothing. Nothing. You could throw 90 percent of it out the windows along Pennsylvania Avenue and nothing of value to national security would be lost.”

Carter ended his speech with the same charge that he gave earlier: for journalists to act fully and forcefully as the public’s voice. “Tribune of the people, folks. Tribune of the people.”

The annual First Amendment Center symposium brings together public-access advocates, government officials, lawyers, librarians, journalists, educators and others to discuss the latest issues and developments in freedom of information.

The 2006 conference is sponsored by the First Amendment Center and co-sponsored by [Sunshine Week](#), in cooperation with the American Library Association.

President's open-records order: working or worse?

By Eugenia Harris

First Amendment Center Online

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ARLINGTON, Va. — Participants in the National FOI Day conference panel on “FOIA’s Past, Present and Future” agreed on one thing today: The president’s executive order directing agencies to be more efficient in responding to records requests could have a great impact on the state of freedom of information.

Whether that impact will be positive or negative, however, is where the panelists diverged.

Justice Department official Daniel Metcalfe, who has worked with FOIA for nearly 30 of its 40 years of existence, said the order had already had a positive effect on the roughly 89 federal agencies.

Each agency has named a chief FOIA officer and is working hard to meet a June 14 deadline to conduct a review and create a plan for how FOIA processes can be improved, said Metcalfe, who is the director of the DOJ’s Office of Information and Privacy.

The Justice Department has hosted a series of meetings to help agencies develop ideas for meeting the requirements set by the executive order, Metcalfe said. And, he said, the department is committed to making sure the process of how the agencies work to become more open is open itself.

“We want to see exactly what agencies come up with,” Metcalfe said. “And we will because everything will be posted online, and we will have, at that point, what I will call transparency about transparency.”

Panelist Tom Susman, however, was not so optimistic. Susman described the executive order as “good, bad and ugly.”

The ugly part, he said, is that the order seems to elevate “form over substance.” Susman said he was willing to see what agencies do to meet the June 14 deadline, but was “doubtful.”



Photo by Keith Barraclough

Daniel Metcalfe



Tom Susman

“So far, we’ve had lots of meetings — I wonder who’s getting freedom-of-information requests processed while all those officials are doing meetings,” Susman said.

The bad part is that the order seems to have been “intended to preempt Congress, to try to suggest that the administration is doing something and distract attention from what a Republican senator (last year’s FOI Day keynote speaker John Cornyn of Texas)

has been trying to do in pushing legislation that would do an awful lot to advance the cause of freedom of information,” he said.

But Susman said he didn't want to overlook the good part. The order, he said, is a positive message from an administration that has had an otherwise negative response in regard to openness.

“Think back to the first we heard out of the (Bush) White House relating to freedom of information. It was the president’s conversation with ... ASNE saying [he] would never use e-mail because that would be subject to the Freedom of Information Act. Betraying from day one his lack of familiarity with the law and his hostility to the law,” Susman said.

"We had a tone in this government, in this administration, a tone set that was hostile to freedom of information," said Susman. "I think this executive order is a change of tune. It will be really quite good if agency officials said the White House is singing a new tune, is beginning to tell us they care about freedom of information. That would be very good."

FOIA advocates named to national hall of fame

ARLINGTON, Va. — Twenty-one champions of open government were inducted into the [National Freedom of Information Act Hall of Fame](#) during the National FOI Day Conference on March 16.

The new members constitute the third class of inductees since the Hall of Fame was established in 1996. New classes are named every fifth year. The Hall of Fame is sponsored by a coalition of more than 30 organizations that work for expanded access to government information.

“The Hall of Fame was established to recognize the work and accomplishments of those who have made a difference in the battle against government secrecy,” said Paul McMasters of the First Amendment Center, who coordinated the selection process for this year’s group.

Criteria for induction into the Hall of Fame include “long-term or significant instances of leadership, advocacy, accomplishments or scholarship on behalf of the federal Freedom of Information Act in particular or open government in general.”

The 2006 class of inductees for the National FOIA Hall of Fame:

Andy Alexander, Washington bureau chief, Cox Newspapers

Gary Bass, founder and director of OMB Watch

Thomas S. Blanton, director of National Security Archive at George Washington University

Danielle Brian, executive director, Project on Government Oversight

David Burnham, co-founder, co-director, Transactional Records Access Clearinghouse

Hodding Carter III, University of North Carolina

Tom Curley, president and CEO, The Associated Press

Tom Devine, legal director, Government Accountability Project

Kevin M. Goldberg, counsel, American Society of Newspaper Editor

Morton H. Halperin, director of U.S. advocacy, Open Society Institute

Charles W. Hinkle (deceased), FOIA officer in office of Secretary of Defense

Kathleen A. Kirby, counsel, Radio-Television News Directors Association

Susan B. Long, co-founder and co-director, Transactional Records Access Clearinghouse

Robert D. Lystad, counsel, Society of Professional Journalists

John E. Pike, director, GlobalSecurity.org

Ronald L. Plesser (deceased), lawyer and expert on federal information law and policy

Russell M. Roberts (deceased), FOIA officer at Department of Health, Education and Welfare

A. Bryan Siebert, former senior executive, Department of Energy

David Sobel, general counsel, Electronic Privacy Information Center

Thomas M. Susman, lawyer and expert on federal information law and policy

Mark Tapscott, director of media and public policy center, Heritage Foundation