

## Northeastern States

### Maine

#### **The Monument News Gray**

<http://www.monumentnews.com/2006/news/316/316e.shtml>

### **It's Sunshine week**

***Nation celebrating with articles, events***

#### **Open Government in the United States**

Let the sunshine in...the sunshine that illuminated the inner workings of government. It's Sunshine week, a national initiative to open a dialogue about the importance of open government and freedom of information. Spearheaded by the American Society of Newspaper Editors, with a grant from the John S. and James L. Knight Foundation, the effort expands on the Sunshine Sunday concept begun in Florida in 2002 and since observed in several states.

It is ironic-although perhaps emblematic-that as we near the 40th anniversary of the signing of the Freedom of Information Act, there is a legal dispute over release of documents from the administration of the very president who signed the act in 1966, Lyndon B. Johnson.

But that's precisely what FOIA was intended to do: Empower people to not only find out what their government is doing, but also to question that authority when that access is denied.

The irony is that Johnson has been described by journalist Bill Moyers, who was the president's press secretary at the time, as being brought "kicking and screaming" to the table to sign the legislation. Nevertheless, Johnson later said he signed it "with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded."

#### **The Origins of Open Government**

Open government is about more than the Freedom of Information Act. There are many "sunshine" laws across the country regulating access to government meetings and documents at the state and local level. There are issues of overclassification and "pseudo-classification" of information. The ongoing debate about cameras in courtrooms is one of open government. Any time lawmakers at any level try to unnecessarily stifle the public's right to know, it raises issues about the importance of open government.

The issue and importance of public access to government predates passage of FOIA. In fact, though not codified in the Constitution, it was presumed as a basic tenet of the new United States government. Of course then, as now, the need for controlled, reasonable secrecy was recognized. But a government for, by and of the people was going to require those people to make informed choices as they participated in their new government.

Fast forward a couple of hundred years. The nation has endured the Civil War, World War I, which ushered in unprecedented levels of government secrecy, World War II, the Cold War, Vietnam, Watergate and now the War on Terrorism. An excellent overview of government secrecy to 1997 is in Appendix A of the "Report of the Commission on Protecting and Reducing Government Secrecy."

"Excessive secrecy," the Commission wrote in 1997, "has significant consequences for the

national interest when, as a result, policymakers are not fully informed, government is not held accountable for its actions, and the public cannot engage in informed debate.

"This remains a dangerous world; some secrecy is vital to save lives, bring miscreants to justice, protect national security, and engage in effective diplomacy. Yet as Justice Potter Stewart noted in his opinion in the Pentagon Papers case, when everything is secret, nothing is secret." As the Commission stated, "Greater openness permits more public understanding of the government's actions and also makes it more possible for the government to respond to criticism and justify those actions. It makes free exchange of scientific information possible and encourages discoveries that foster economic growth. In addition, by allowing for a fuller understanding of the past, it provides opportunities to learn lessons from what has gone before-making it easier to resolve issues concerning the government's past actions and helping prepare for the future."

In an October 2005 speech, former Congressman and Co-chairman of the 9/11 Commission Lee H. Hamilton remarked that "too much information is classified." Hamilton, now president and director of The Woodrow Wilson International Center for Scholars, said that, "Some estimates of the number of classified documents reach into the trillions. Several senior officials have estimated that more than 50 percent of classified information does not need to remain secret. During our work on the 9/11 Commission, we repeatedly came across information that was classified that was already publicly known.

"Tom Kean, chairman of the 9/11 Commission-and one not accustomed to dealing with classified material-must have asked me scores, if not hundreds, of times: why is this material classified? I never had a very satisfactory answer for him," Hamilton said, adding, "And the trend is toward more and more classification."

### **The Trend Toward Secrecy**

As it nears its 40th birthday, FOIA is looking more than a little worn around the edges. The past several years have been particularly difficult. The first visible symptom came in October 2001, when then-Attorney General John D. Ashcroft issued a memo to federal agencies telling them to no longer presume the public had a right to government information and to look instead for a legal basis to turn down FOIA requests.

Until recently, the evidence linking the Ashcroft memo to increased government secrecy was anecdotal. That is until the Coalition of Journalists for Open Government analyzed FOIA requests and denials in 2000 and 2004.

CJOG found that even though the number of requests processed fell 13 percent, the use of three particular exemptions to deny FOIA requests-Exemption 2, information about internal agency procedures; Exemption 4, protecting trade secrets and commercial and financial information; and Exemption 5, inter- or intra-agency memos or letters-increased notably.

There has been a clear increase in utilization of those exemptions specifically mentioned in Ashcroft's 2001 memo and in the subsequent directive from White House Chief of Staff Andrew Card.

The Information Security Oversight Office, a division of the National Archives and Records Administration, reported that from 2001 to 2004, the number of annual classification decisions jumped from 8.6 million to 15.6 million. In its "2004 Report to the President," ISOO also reported that the total number of pages declassified fell dramatically from slightly more than 100 million in 2001 to 44.4 million in 2002 and has continued to decline, charting at just 28.4 million in 2004.

### **Sunshine Week and the Quest for Open Government**

Responding to this spreading culture of secrecy, the American Society of Newspaper Editors, with a grant from the John S. and James L. Knight Foundation, launched the first national Sunshine Week in 2005. The Sunshine Week concept had proven effective in Florida, where it began as Sunshine Sunday in 2002, and then in other states in focusing a critical mass of attention on the open government issue.

## **New Hampshire**

### **The Portsmouth Herald**

[http://www.seacoastonline.com/news/special/3\\_11special2.htm](http://www.seacoastonline.com/news/special/3_11special2.htm)

## **N.H. tries to balance open government with civil liberties**

By Katharine Webster  
Associated Press Writer

CONCORD, N.H. - Maybe it's New Hampshire's historic suspicion of big government. Maybe it's the state's fierce dedication to individual rights, summed up in the motto, "Live free or die."

Whatever it is, New Hampshire has mostly resisted a national trend toward greater government secrecy and less individual privacy since the terrorist attacks of Sept. 11, 2001.

Since then, federal and state laws have closed government proceedings and records while subjecting residents to greater scrutiny \_ all in the name of homeland security.

But in New Hampshire, the Legislature and courts often have enhanced the public's right to scrutinize government while protecting individuals from greater government intrusion into their private lives. When public access to government records has been limited, the restrictions usually have been to protect information about individuals collected by government: for example, the names, addresses and medical records of people filing worker's compensation claims.

"Unlike what seems to be happening at the federal level, New Hampshire legislators by and large agree with the old saying that, 'Those willing to give up a little liberty for a little security deserve neither security nor liberty,'" said lobbyist and former legislative adviser Curtis Barry, citing Benjamin Franklin.

One notable exception was an update to the state's Right to Know Law passed in 2002 that allows government bodies to go into closed meetings to discuss "security," then vote to keep the minutes secret indefinitely.

Rep. Jim Splaine, D-Portsmouth, said the change created a huge loophole without making residents safer. Now state agencies can refuse to release information about bridge safety or plans to deal with a nuclear emergency.

Local governments can abuse the loophole as well, he said.

"Under this law, police departments, fire departments can use this exclusion for almost everything, if they want to," Splaine said. "They could refuse to tell you about their plans for

covering a local parade on the basis of, 'We can't release that information because of security concerns,' so there's a lot of potential for abuse."

Jim Van Dongen, spokesman for the state Bureau of Emergency Management, said the state delivers calendars to every address within a 10-mile radius of the Vermont Yankee and Seabrook nuclear power plants with emergency information such as evacuation routes.

But since 9-11, the agency has stopped routinely giving out the entire emergency response plan. When a reporter for The Keene Sentinel asked for the Vermont Yankee plan, she was told she could read it and take notes, but could not have a copy, he said.

"The plan is and always has been public information, but since September 11 we're a little more cautious about how that information could be put out," Van Dongen said. "It's not top secret \_ it wouldn't tell a terrorist how to attack the plant \_ but the information in aggregate could be used by terrorists in a scheme to kill a lot of people."

Another homeland security law passed in 2002 actually expanded protection for civil liberties, said Claire Ebel, executive director of the New Hampshire Civil Liberties Union.

Ebel served on a task force after 9-11 that evaluated existing laws and model homeland security legislation promoted by the federal government. She said many task force members were horrified to realize how much power the governor already had: to declare a state of emergency or martial law; detain people, quarantine them or place them under house arrest; and require people to be vaccinated or receive medical treatment in violation of their personal or religious beliefs.

The updated law still allows the state to demand disclosure of medical information during a bioterrorism emergency, such as the names of people with a particular infectious disease, and to require people to submit urine and other samples for testing.

But it allows people to challenge such orders in court and severely restricts the state's use of medical information. It also requires the state to disclose summary statistics, such as how many people have been infected, quarantined, vaccinated or treated.

"We may have been the only state where something good came out of an attempt to make secret so much of the government's business," Ebel said.

Rep. Neal Kurk, a leading privacy advocate in the Legislature, says New Hampshire has proven much more sensitive to individual rights than the federal government, but he worries the Legislature will succumb to continuing federal pressure \_ and dollars.

Kurk is sponsoring a bill this year that would prohibit New Hampshire from participating in a program that he considers a national identification card system. The Real ID Act of 2005 requires states to standardize their driver's licenses, and New Hampshire could get \$3 million to update its computer systems if it participates in a pilot project, Kurk said.

"Where the federal government dangles money, it makes it harder to have a principled decision," said Kurk, R-Weare.

Since 2002, most New Hampshire laws concerning individual privacy and public access have been motivated by advances in technology or fears about identity theft, not homeland security. Others have grown out of ethics scandals.

One new law requires state legislators to report all cash gifts over \$50. It was passed shortly after then-House Speaker Gene Chandler resigned his leadership post over his failure to report almost \$64,000 in contributions from supporters.

Another law established a code of ethics for the executive branch that requires department heads and other political appointees to disclose their finances.

Meanwhile, both the Legislature and the courts are updating public access laws and rules for the electronic age.

A bill to update the Right to Know Law would define when e-mails, video-conferencing and other electronic communications constitute public meetings or records.

And last month, a study committee recommended that as the state's courts upgrade their computers, they make more information available online. Other information \_ such as the names and addresses of crime victims \_ would still be available only at courthouses.

Hearings are expected before the Supreme Court adopts final rules.

A 2004 law automatically sealing financial affidavits filed in divorce and child support grew out of concerns about identity theft. The affidavits include individuals' Social Security numbers and may contain financial account numbers and the names and birthdates of children. They had previously been public unless a lawyer or party to a case asked that they be sealed.

## **Vermont**

### **Battleboro Reformer**

[http://www.reformer.com/headlines/ci\\_3591553](http://www.reformer.com/headlines/ci_3591553)

## **Government secrecy rules**

By EVAN LEHMANN, Reformer Washington Bureau

Saturday, March 11

WASHINGTON -- More than four years after the Sept. 11, 2001, attacks, government secrecy is increasing in the United States.

Agents with greater police powers to wage war on terror can probe e-mail, obtain citizens' telephone logs and study their financial records -- all in secret, as allowed by a controversial provision in the Patriot Act.

And federal agencies are quietly removing thousands of public documents from their Web sites, a move that limits public access on thousands of topics and reflects what open government advocates say is the administration's reflexive tendency to keep information from public view.

"This administration has embraced secrecy as a right," said Steven Aftergood, director of the Project on Government Secrecy at the Federation for American Scientists.

There has been methodical shifting of unclassified material -- from the Pentagon's internal phone book to descriptions of existing military weapons and much more -- from public to private domains. Those efforts are the filter-down product of an administration that engineers secret policies -- like detainee torture and warrantless eavesdropping on Americans -- without consulting Congress.

"The problem is everything is considerably less accessible than it was before," said Scott Armstrong, a former investigative reporter with The Washington Post and founder of the National Security Archive at George Washington University. "The default is now secrecy. In a democracy, the default is openness."

The administration has greatly increased the number of documents it stamps classified, from 3.6 million pages in 1995 to 15.6 million in 2004, according to the Information Security Oversight Office. At the same time, the number of pages being declassified, which generally occurs after 25 years, plummeted from 20.4 million in 1997 to 28.4 million in 2004.

"They've taken thousands of documents that were public for years and said 'let's classify them,'" said Sen. Patrick Leahy, D-Vt., a longtime proponent of increasing access to the government. "If other countries were doing this, we'd be laughing at them."

White House spokesman Ken Lisaius said Bush "believes the government should operate as openly as possible," but added that "certain types of information must be protected" if disclosure threatens national security or criminal probes.

Jim VandeHei, White House correspondent for The Washington Post, said administration officials are wary of speaking freely about day-to-day business, and closely guard alternative views produced by internal debate.

"I think the entire administration has had a penchant for secrecy," VandeHei said. "The result is the public ends up knowing a lot less about what the government is doing."

There are officials who speak with reporters, revealing secret programs and coverups, but the Justice Department is pursuing efforts that could also slow the flow of source-derived information.

Investigators are reportedly searching for government officials who told The New York Times of the Bush administration's warrantless surveillance program and The Washington Post of secret CIA prisons in foreign countries, to which detainees captured in Iraq and Afghanistan were rendered.

The Bush administration's secrecy has been permitted to grow under a Republican-led Congress with little interest in investigating the White House.

Democrats on the House Committee on Government Reform said last year that the panel issued 1,052 subpoenas to the Clinton administration between 1997 and 2002. The same

panel, by contrast, had issued just three subpoenas to the White House during Bush's first five years in office.

Congressman Bernard Sanders, I-Vt., a member of the government reform committee, said in a statement that the White House is home to "perhaps the most secretive administration in the modern history of the United States. Whether it was the original planning for the war in Iraq, or energy policy meetings with the big oil companies, or attacks on our constitutional rights, the Bush administration has made it clear that they do not believe in open government."

Sen. James Jeffords, I-Vt., said in a statement that Bush and his administration have "taken secrecy in the federal government to a new extreme. We all understand the need for secrecy in what are truly national security issues, but the Bush administration is withholding information that has nothing to do with national security."

Leahy and Jeffords recently voted against reauthorizing the Patriot Act, saying it contains too many threats to civil liberties.

Leahy, the senior Democrat on the Judiciary Committee, has led the effort to insert civil protections into the bill. He supported various provisions offering civil protections, including one that requires the Justice Department to issue a report to Congress on how many national security letters it issues.

The letters are perhaps the most contentious, and secretive, aspect of the Patriot Act. They can be written by federal agents with no court oversight and act as an administrative subpoena.

## **Bennington Banner**

[http://www.benningtonbanner.com/localnews/ci\\_3612879](http://www.benningtonbanner.com/localnews/ci_3612879)

## **How to file a public records request in Vermont**

CHRIS PARKER, Staff Writer

BENNINGTON — Filing public records requests may be routine for those in the press, but few everyday citizens have a clue as to how to do it.



**Sunshine Week**

YOUR RIGHT TO KNOW

The requests, authorized under Vermont's Public Records Act, give people access to a treasure trove of government records. Such records are defined as any "papers, documents, machine readable materials or any other written or recorded matters regardless of their physical form or characteristics that are produced or acquired in the course of agency business."

In layman's terms, that's everything from the phone bill of your town manager to contracts between a municipality and an engineering firm and correspondence leaving a school office.

"It's central to the principle of democracy that government is accountable to the people," says Vermont Secretary of State Deborah Markowitz. "Government can't be accountable if everything is behind closed doors and secret."

Access to public documents and meetings, she said, gives citizens information about what government is doing and allows them to get involved.

Case law says government officials can't ask those who make requests for information why they are doing so. "Your motive in asking for the information is irrelevant," says Markowitz.

However, she says, officials can ask questions about the request if it is unclear what specifically is being requested, she said. Officials may occasionally hesitate giving out information, particularly in light of new privacy rights and laws being passed across the country.

During an office's regular business hours, citizens have access to hundreds of public documents and can make copies. Copying fees vary.

Markowitz advises people to be as specific as possible when filing public records requests, otherwise government agencies might argue about exactly what information is being sought.

After a person files a records request, the responsible agency "shall promptly produce the record for inspection."

If the agency considers the record exempt from inspection, within two business days it must certify in writing the reason access is being denied. The agency must also notify the person making the request of his/her right to appeal to the head of the agency.

After an appeal is filed, the agency director then has five business days to respond. If any part of the appeal is upheld, the agency must notify the person making the request.

Penalties for improper withholding of public records range from the court assessing the agency reasonable attorney and other litigation costs to possible disciplinary action.

Overall, says Markowitz, citizens have good access to public documents in Vermont on both a state and local level.

"People (in government) really bend over backwards to help people get information," she says.

For more information about the public records and the right-to-know, an official fee schedule for copies of public records, and model letters for filing public records requests, visit [vermont-archives.org/records/access/pubrec.html](http://vermont-archives.org/records/access/pubrec.html).

## **Connecticut**

### **Norwich Bulletin**

<http://www.norwichbulletin.com/apps/pbcs.dll/article?AID=/20060312/NEWS01/603120307/1002>

### ***More records go online***

By RAY HACKETT

Norwich Bulletin

COLCHESTER -- The application form for a vendor's license, the registration form for a summer youth program or the minutes and agendas for municipal meetings are only a computer click away.

That is, of course, if you want that information from the Town of Colchester. But if you're looking for something as simple as how much taxes you might owe in nearby Windham, it isn't quite that easy.

"I was very disappointed," said Michael Haney of Windham, who went looking for his tax records on the town's municipal Web page. "It was pretty case closed. You can't access very much at all."

Today is the start of national Sunshine Week, an effort by media around the country to shed light on the public's right to know. The first effort was launched March 13, 2005.

"This is not just an issue for the press. It's an issue for the public," said Cox Newspapers' Washington Bureau Chief Andy Alexander, chairman of the American Society of Newspaper Editors' Freedom of Information Committee. "An alarming amount of public information is being kept secret from citizens, and the problem is increasing by the month. Not only do citizens have a right to know, they have a need to know."

Most records can be found in the town clerk's office in each town, although other individual government departments also store data to which the public has access.

Municipalities are required under the state's Freedom of Information law, to make town records available, but the law does not require access be available over the Internet.

Each town in Eastern Connecticut has a Web site offering information to the public, but the amount of information and its ease of access varies greatly.

"The law doesn't require a municipality to even have a Web page," said Mary Schwind, director of law of the state's Freedom of Information Commission.

Killingly, for example has information about government departments and agencies on its Web site, as well as current events, school calendars and a municipal meetings list.

"I like the fact the information is readily available and you can get it without having to leave your home," said Mike Bradley of Ballouville Road, who said he checks the site occasionally for town and school activities.

Other town Web sites offer far less, however.

Access Bozrah's Web page and there's is a message that reads: "This is the official home page for the Town of Bozrah, CT. All others are not endorsed by the town and cannot be presumed to have official and reliable information. Bozrah is proud to participate in this CT Department of Information Technology/Connecticut Conference of Municipalities statewide effort to provide municipal information via the Internet. Every effort is made to include accurate and up-to-date information in good faith; however, the Town of Bozrah takes no legal responsibility for the information provided or found as a consequence of this service nor for any loss or damage resulting from this information."

But there is no information -- not even the Town Hall phone number.

"It's an issue of time and money," First Selectman Keith Robbins said. "When you've got a population of 2,400 and your staff consists of a right hand and a left hand, you don't have the money or the staff to do it. I'm not a big fan of sites that don't get updated, and maintaining it is where the cost comes in."

Brooklyn's municipal Web page provides a bit more as far as who to contact within the town, but a quick review showed some information was outdated.

Clicking on the link to the town's Planning Office, for example, shows the most updated information for "Ongoing and Recently Completed Projects" is dated May 20, 2005. Outdated information can lead a visitor to question the accuracy of other information on the site.

Ironically, even the state's Freedom of Information Commission Web page appears outdated. A listing of commission members shows the term for each commissioner listed has expired, suggesting it hasn't been updated recently.

"I can see where someone might get that impression," said Commission Counsel Gregory Daniels, the commission's webmaster. "But the truth is, they continue to serve until they're replaced, and none of them have been replaced. But I think we can correct that easily by including an asterisk and saying that."

Brooklyn's Web page also contains a link connecting visitors to [PublicRecordCenter.com](http://PublicRecordCenter.com), an independent Web page that bills itself as "the most updated and largest free public record portal on the Internet." At first blush, it appears to be a wealth of public information, offering data on bankruptcies, divorces, licenses and even "fictitious business name filings" available by county and town-by-town. Problem is, not everything offered is free. There's a fee to access a majority of the records.

Although not required by law, the General Assembly is considering ways in which public records may be accessible through the Internet. A proposed bill establishing an advisory committee to examine the idea and make recommendations no later than Nov. 1, 2007, is expected to pass this year.

"The challenge is going to be to open up the opportunity for access, but without putting the burden of paying for that on the local communities," said state Rep. Michael Alberts, R-Woodstock. "The goal of the bill is to find ways to make information more readily available and this advisory committee is one step closer to opening up town records."

One change to the proposed bill, Alberts said, is the addition of two town clerks to the committee.

"There were no town clerks included in the original bill," he said, "and there is a feeling they should be, since they are the folks most familiar with what would be required."

"I can see where it could be costly for some towns, especially the smaller ones," said Bill Nash of Norwich. "I think you need to ask yourself how much is the demand. I think bigger communities should offer it over the Internet, but I'm not sure every community should be required to."

Among Eastern Connecticut communities, Colchester appears the most advanced in what it offers through its Web page. The town invested \$5,000 to \$6,000 five years ago to set up its page, and then trained department staff on updating the information. Those updates are now a part of their job description.

"It's not perfect, but they do a really great job," First Selectwoman Jenny Contois said.

Colchester's annual cost to maintain the site today is \$300.

Using the Web page e-mail system, Colchester officials can alert residents of coming events, as well as survey residents on critical issues, such as the approaching review of the town charter.

"People are busy and they don't have time to come to meetings," Contois said. "But they want to know what's going on. Our first Web page wasn't so good and people complained about it. So we responded. And this has helped us immensely."

## **Massachusetts**

### **Quincy Patriot Ledger**

<http://ledger.southofboston.com/articles/2006/03/11/news/news03.txt>

### **Sh-sh-sh: Towns keeping secrets from you: Despite the laws, many municipalities still try to operate under public's radar**

*By JACK ENCARNACAO  
The Patriot Ledger*

When a group of Cohasset officials met in March of last year to discuss buying a 19-acre estate without notifying the public, they were not just being discreet. They were breaking the law.

The Norfolk County District Attorney's office found the session to be in violation of the state's Open Meeting Law, which is designed to curb the secrecy surrounding the deliberations of public officials.

Thirty years after such open-government laws - collectively called sunshine laws - were strengthened in Massachusetts, instances remain in South Shore communities where important decisions are made behind closed doors, custodians are reluctant to release public documents and boards hold meetings without giving proper notice to the public.

Sunday marks the beginning of Sunshine Week, a national effort to shine light on the public's right to government information.

Locally, government groups often balk at requests for public documents, say monitoring groups, and public boards turn more frequently than ever to executive sessions, where they can exclude the public and press, to make important decisions.

Vigilance about challenging such actions are as strong as ever, said Alan Cote, the state's supervisor of public records.

"We're getting more genuine appeals than we ever have," he said. "It's always a local-issue thing. People want to know what's going on in the community and how their money is being spent."

Cote said his office has stopped pursuing what it considers minor requests for public records, such as a company that makes class rings and wants school seniors' addresses. This gives the office more time to work on complaints from private citizens who want to know what their public leaders are doing.

"The frivolous ones seem to have fallen away," he said.

Another tool citizens use to enhance government transparency is reporting open meeting violations to their local district attorney's office.

The law requires all boards and committees to conduct business in public. There are some exceptions, including negotiating labor contracts, discussing an employee's health or reputation and other narrowly defined reasons.

Norfolk County District Attorney William Keating's office has investigated 97 allegations of Open Meeting Law violations in the past five years, and last year found five such violations. Plymouth County District Attorney Timothy Cruz's office investigated 106 in the past five years and found 24 violations.

"There are a lot more calls than there are investigations," said Bridget Norton Middleton, a spokeswoman for Cruz. "There are a certain percentage in the towns who are very involved and care a lot. You get a lot of repeat phone calls."

One of those groups has long been Hanson Government Watchers. Betty Dahlberg, the group's president, said public officials seem more interested in exemptions to the Open Meeting Law than the spirit of the law itself.

"It seems like these days not much of importance is done in open sessions," she said. "They just seem to find excuses to go behind closed doors more than they ever did in the past."

Dahlberg cited a situation last April, when Hanson selectmen were criticized for hiring Executive Secretary Michael Finglas during an executive session.

A similar situation in Carver last month sparked the ire of resident Paul Johnson. Selectmen extended the contract of Town Administrator Richard LaFond well in advance of its expiration behind closed doors.

“We need more than Sunshine Week, we need Sunshine Year,” Johnson said. “The Open Meeting Law and the public records law . . . there’s no teeth to it at all. (Officials) violate the law with impunity, and when they get caught they know they’re going to get their wrist slapped and walk. That’s the problem.”

Victor DeSantis, a former political science professor at Bridgewater State College, said vigilant citizens are key to maintaining open local government.

“Vigilance is cyclical,” he said. “You might have a government watchdog group up in one community and then the community next door has one. These things sort of come and go. In the lull periods, you wonder to what extent there is some sense of complacency.”

Though it rarely happens, officials who violate the Open Meeting Law may can be fined up to \$1,000.

Massachusetts adopted its first Open Meeting Law in 1958 and has had laws mandating the disclosure of public records as far back as 1851, when the Legislature decreed, “All county, city or town records and files shall be open to public inspection.” In the wake of the Watergate scandal, the laws were revamped.

Provisions governing closed meeting sessions were specified, allowing meetings to be held in private only in nine specific situations. Cote said minutes of these sessions, the printed record of what happens at public meetings, are not available quickly enough.

“There needs to be greater concentration and emphasis on minutes,” he said. “Minutes of meetings must be available at the conclusion of the meeting and they need to be as complete as possible. Even if they’re handwritten.”

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## **Milford Daily News**

<http://www.milforddailynews.com/localRegional/view.bg?articleid=88276>

### **Good-government group launches campaign to ease access to public**

By **Emelie Rutherford / Daily News Staff**  
Friday, March 17, 2006

**B**OSTON -- As Sunshine Week winds down, a government watchdog group unveiled a campaign yesterday to expand access to public records and track when government officials illegally weigh public matters in private and withhold public documents.

A key part of the new Massachusetts Campaign for Open Government, run by Common Cause Massachusetts, is a Web site ([www.maopengov.org](http://www.maopengov.org)) that tracks the type of public records city and town governments post on their official Web sites.

According to the campaign's research, only 23 Massachusetts communities -- including Shrewsbury and Concord -- currently post six key government records on their Web sites. Those six types of materials are: governing bodies' meeting agendas, governing bodies' meeting minutes, municipal budget information, general bylaws, Town Meeting warrants and Town Meeting results.

Communities such as Framingham, Waltham and Dedham post just some of the six types of records. Milford is one of the 67 Massachusetts communities that do not post any of the six on their Web sites, according to the campaign's online tally.

"We want people to be involved in their government through these Web sites, and not just by obtaining city services," said Common Cause Executive Director Pam Wilmot. Giving citizens such public records online helps foster democracy on the local level, she said.

The campaign's goal is to triple the number of cities and towns that post all six types of public records on their Web sites by next year.

To do this, Common Cause will ask its 10,000 members and other organizations to put pressure on their local governments, Wilmot said.

"We're planning to do a considerable amount of citizen outreach around this," Wilmot said. "It may be as simple as a phone call to their city clerk or Web master."

The campaign will release a full report on public records in Massachusetts cities and towns in the coming weeks, Wilmot said.

The campaign also is developing a section of its Web site where people can report perceived violations of the state's Open Meeting Law and Public Records Law.

Under the Open Meeting Law, if a quorum of a municipal or state board meets, it must do so in public except under specific exemptions allowing it to meet in private, such as discussing strategy about collective bargaining and ongoing litigation.

The Public Records Law allows people to access most documents generated by local and state government entities other than the Legislature and courts.

Several types of records are exempt and not considered public documents, including personnel records and materials tied to ongoing investigations.

Wilmot said the forthcoming violations section of the campaign's Web site may resemble part of the Maine Freedom of Information Coalition's Web page ([www.mfoic.org/violations.html](http://www.mfoic.org/violations.html)).

The Massachusetts campaign will not act on potential violations posted to the site, Wilmot said. Instead, she said, the campaign will serve people who believe they have been wronged and want to air their grievances, but are not ready to go as far as file complaints against government officials.

"Currently, this information is not being tracked other than if there is a formal complaint filed," Wilmot said.

## **New York**

### **The Saratogian**

[http://www.saratogian.com/site/news.cfm?newsid=16293809&BRD=1169&PAG=461&dept\\_id=17708&rfi=6](http://www.saratogian.com/site/news.cfm?newsid=16293809&BRD=1169&PAG=461&dept_id=17708&rfi=6)

CHRISTOPHER DIAKOPOULOS  
The Saratogian

SARATOGA SPRINGS -- There's no need to wonder what is going on in a specific department of city government -- The Freedom of Information Law in New York guarantees the right to receive 'any information kept,' merely by asking.

According to the law, people can request 'any information kept, held, filed, produced, reproduced by, with or for an agency or the state legislature, in any physical form.' That includes reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

This sounds ideal for the media, but Freedom of Information is for everyone, as shown by the results of a FOI request last year to former City Attorney Matthew Dorsey, asking who else has submitted FOIL requests to the city in 2005.

The city received 111 FOIL requests, including the one for this story, in 2005. About 10 percent were from reporters.

So who's watching who?

The Saratogian requested information from the city ranging from building permits to information on then-Deputy Public Safety Commissioner Erin Dreyer.

Police Chief Edward Moore requested information on Erin Dreyer, too.

'I requested any documentation showing payback of personal calls made by Erin Dreyer on her cell phone,' Moore said. Moore's request was promptly handled, he said, but no documentation could be found.

'In essence, they are telling me there was no payback,' Moore said.

David Bronner wanted to know how many miles Public Works Commissioner Thomas McTygue puts on his city-provided truck every day.

Molly Gagne, of the Southwest Neighborhood Association inquired who had received permits to pave over the city right of way to create private parking.

She was able to see who did so without a permit by comparing the records she received with the list she compiled of locations where the city's greenway, between the street and the sidewalk, has been paved over.

Greg Anderson, whose family's business is suing the city in federal court, citing the disenfranchisement of minorities in the city's housing policies, used the Freedom of Information law to learn more regarding the city's effort to determine the need for affordable housing.

Both Accounts Commissioner John Franck and Lawrence Britt, who ran for different city offices last year, also made Freedom of Information requests to the city in 2005.

Franck made several requests regarding assessment information.

The result of his inquiry then has helped determine his policy on property assessments now that he has been elected.

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## Westchester Journal News

<http://www.thejournalnews.com/apps/pbcs.dll/article?AID=/20060312/NEWS02/603120313/1020/NEWS04>

# Cops again flunk test of speedy access to arrest logs

By RICHARD LIEBSON  
rliebson@lohud.com  
THE JOURNAL NEWS

They still don't get it. A year after an audit by The Journal News of Lower Hudson Valley police departments found that most didn't comply with the state Freedom of Information Law, a selective new survey by the newspaper shows that local cops still greet requests with suspicion, ignorance, red tape and, in many cases, outright refusal.

"You won't even tell me why you want it," an agitated North Castle police officer said when a reporter who did not identify herself was persistent in asking for two days' worth of arrest information. "It's not happening."

On Monday, March 6, reporters went to 20 Westchester, Rockland and Putnam police departments and asked for the names, addresses and charges against everyone arrested over the previous Saturday and Sunday. They did not identify themselves as journalists unless asked.

Robert Freeman, executive director of the state Committee on Open Government, has said that anyone should be able to obtain such routine information "without hesitation."

"There are no secret arrests in this country," Freeman has said.

The newspaper found plenty of hesitation and confusion by police, and ultimately received the arrest data from only six departments, five of which did not comply until discovering that the request was being made by a journalist. The reporter sent to the state police barracks in Brewster was unable to make the request because no one was there. The barracks is not staffed full time.

Although the law does not require people to identify themselves or say why they want the information, almost every department asked.

A woman at the Harrison police records office said she had to know why the information was being requested. She then asked if the woman seeking the records was "with a newspaper." When the reporter said that she was, the clerk replied that "you should have said that," and proceeded to provide the information.

A Hastings-on-Hudson officer said he needed to know why the request was being made because he didn't know whether it would be used to "plan something against someone."

In Mount Vernon, a reporter was told to glean the information, which was incomplete, from the criminal calendar on a City Court bulletin board.

In White Plains, a reporter was directed to the night desk at 4:20 p.m. Once there, the desk officer discovered that the reporter worked for the newspaper and told her to see the public information officer, who was gone for the day.

At the 3rd Precinct in Yonkers, the desk officer said the information could not be released because it was confidential.

The woman at the Clarkstown police headquarters records window seemed dumbfounded at the request.

"You want information on all the people arrested over the weekend in Clarkstown? I can't just give you that," she said.

Freeman said he wasn't surprised by the results of the newspaper's audit.

"It seems that there is more resistance to releasing public information within the law enforcement community than in other agencies," he said. "The police are supposed to comply with the law, which says that records are presumed to be available to the public. And they shouldn't have to jump through a lot of hoops for something as routine as arrest information."

While few departments provided the information when it was requested, half asked visitors to put their requests in writing and provided forms to do so. Some sent reporters to the town or village clerk's office to make written requests. Most of the forms, apparently created by the individual departments, asked why the information was being sought.

"That's not something they're entitled to," Freeman said. "Whether you're talking about the letter of the law or the spirit of the law, the police don't have the right to ask you why you want information."

He also said the FOI Law "does not distinguish between those who seek records. The media does not have any special rights. A record that is made available to the media should be made just as available to a member of the public."

The law gives agencies five business days to acknowledge receipt of the request; by Friday a handful of police departments had done so.

Brian Nickerson, director of Pace University's Michaelian Institute for Public Policy and Management, said police "may be more skeptical of information requests because of the amount of media attention they receive. They already feel like they're operating in a fishbowl."

He said that while "the backroom management — the upper-level supervisors — may not share that attitude, it hasn't trickled down to the frontline people who deal with the public."

The only law enforcement agency that passed The Journal News audit with somewhat flying colors was the Carmel Police Department. A woman at the records bureau had a visitor fill out an FOI form and suggested that she "just wait till tomorrow — it will be in the paper. That's probably fastest."

She was wrong.

A short time later she took the form to a back office. A uniformed officer returned and provided copies of arrest records from a binder marked "Arrest log." In last year's audit, Carmel police failed to respond to a request for arrest information.

"I'm glad to hear that we did well this year," said Carmel Lt. Michael Cazzari, who handles FOI requests for the department. He said the department asks that requests be made in writing "as a record-keeping mechanism," but "we try to give people routine information like this without making them wait."

State police in Cortlandt and Somers also gave a visitor the information requested, after discovering that they were dealing with a reporter.

Lt. Glenn Miner, spokesman for the state police, said that while the agency "goes out of our way to cooperate with the media in a timely fashion," people making information requests as private citizens would normally be asked to fill out an FOI form and go through a review process.

"We do feel that it's important for the media to fulfill its role as representatives of the public," he said. "We actually get more freedom of information requests from the public than we do from the media, but they usually call and are directed to my office or to the records division to file their requests."

Freeman said the newspaper's audit is indicative of a trend that has occurred since the Sept. 11, 2001, terror attacks.

"Unfortunately, withholding information seems to be more acceptable at all levels of government in recent years, and particularly among law enforcement agencies," he said.

<http://www.thejournalnews.com/apps/pbcs.dll/section?category=NEWS02&template=theme&theme=foi06>

## **Police departments defend FOI response**

**By RICHARD LIEBSON**  
THE JOURNAL NEWS

They didn't provide basic arrest information "without hesitation" during a Freedom of

Information audit by The Journal News last week, but local cops did little hemming and hawing when asked about their reaction to the newspaper's findings.

"I thought it was somewhat misleading," state police Lt. Glenn Miner said of Sunday's report on the police survey. "We have to review these requests and gather the information. We have to balance the public's right to know with the accused's rights to a fair trial and the privacy rights of victims. ... Asking a police officer to just drop everything and fill an FOI request immediately, that's just not reasonable."

On March 6, a team of reporters visited 20 police agencies in the Lower Hudson Valley asking for the names, addresses, ages and charges of everyone arrested the previous Saturday and Sunday. The reporters did not identify themselves as such unless asked.

In the end, only one department — Carmel — provided the requested data without first discovering that they were dealing with a journalist. Most required the request to be put in writing and said it would take several days to review.

Within a few days, a number of the departments did mail the information or notified reporters that they could pick it up.

"To me, there's really no excuse for that," said Robert Freeman, executive director of the state Committee on Open Government.

"It's routine information that they probably have at their fingertips. If they were following the spirit of the law, there's no reason for them not to provide the information immediately, without hesitation."

Miner, and most other police officials interviewed yesterday, disagreed.

"That's Mr. Freeman's opinion; it's not state law," he said.

"There is absolutely no legal requirement that says records are to be made available without hesitation," said Capt. William McNamara of the Putnam County Sheriff's Office.

"If you're talking about the spirit of the law, you can take it to an absurd level. Do you want me to stop taking information about a robbery that just occurred so that I can fill an FOI request without hesitation?"

Clarkstown Sgt. Harry Bauman noted his department said the records would be available at the end of last week, but no one ever came to pick them up.

"Fair is fair," he said. "We told you when the records would be available."

Bauman said weekend arrest reports are not immediately available on a Monday morning, and it takes time for police to compile them and remove information that is not public.

"If you're talking about 25 or 30 arrests, that can take a little time," he said. "And we do have to check to make sure that we're not releasing information that we're not allowed to release — things like Social Security numbers or telephone numbers."

In Yonkers, a reporter was told by one precinct sergeant that arrest information is confidential.

Another precinct directed her to police headquarters, where after she was identified as a reporter she was given the data.

"Your reporter may have been correct about what happened at the precincts, but the bottom line is that when she came here, she got the information she asked for," said Lt. Maureen Zadorozny.

Most departments questioned the newspaper's methods and strongly disagreed with Freeman's contention that the data should have been released immediately. Several argued that by making the information available within a few days, they followed the letter of the law. Many defended the way they handled the audit and FOI requests in general.

"John Q. Public does not come in and ask for arrest information," said Miner, of the state police. "They ask for specific records, and we fill those requests in a way that is consistent with the law. As far as providing immediately to the media, we feel that we go out of our way to do that. We want news of arrests and investigations to be disseminated and to let the public know that we're doing our job."

"I feel that we absolutely complied with the law," McNamara said. "We made the information available within three days."

He said that police may seem more protective of records than other government agencies, but defended that attitude, saying "there's very little about a zoning board record that's going to stigmatize you the way I could if I give out the wrong information on a criminal case. Police need to be more circumspect."

At the same time, he said, "there is some confusion in interpreting the law, and there are differences in the way departments maintain records and handle these requests. There certainly is a need for some clarification on some of these issues."

## **FOI panel planned**

Dobbs Ferry Police Chief George Longworth, legal counsel for the Westchester County Association of Chiefs of Police, said the group plans to create a panel to discuss the issues

departments face in dealing with Freedom of Information requests and try to develop a model policy for handling them.

"If it's broke, we want to fix it, but I don't think it's as clear-cut as the newspaper story made it out to be," Longworth said. "You asked for arrest information, but what if there's a person arrested under sealed indictment, or a case where both parties in a domestic incident are arrested and can be considered both suspects and victims? There's a lot of room for discussion on these kinds of issues."

Longworth said the panel will include police chiefs, a criminal lawyer and a municipal attorney as well as a member of the media. He also said he will invite Robert Freeman, executive director of the state Committee on Open Government, and professor Brian Nickerson, director of Pace University's Michaelian Institute for Public Policy and Management, to participate.

Meanwhile, Harrison Police Chief David Hall, president of the state police chiefs association, said he plans to mail copies of the New York Freedom of Information law "to every chief in the state. I thought that after you did the story last year the chiefs would take care of the problems themselves," he said. "I guess that didn't happen."

<http://www.thejournalnews.com/apps/pbcs.dll/article?AID=/20060312/OPINION03/603120359>

## **Commentary: Open government laws cut your taxes**

**By ROBERT FREEMAN,**  
Executive Director, New York Committee on Open government

There is no doubt that a cost is incurred by government agencies when they must locate, review and make records available following requests made under the Freedom of Information Law. But it is equally clear that disclosures through the use of FOIL save taxpayers millions of dollars — far more than the cost of implementing the law.

To illustrate, last year The New York Times published articles concerning fraud and abuse in the Medicaid program. Reporting that billions of dollars were misspent every year, the newspaper further wrote that, based on records obtained under FOIL, there were numerous indications of fraud and abuse that the state had never looked into"

Just two days later, the Times reported that Gov. George Pataki had ordered an overhaul of the agencies charged with protecting Medicaid from fraud and created an independent inspector general's office.

The designation of an inspector general, coupled with better government oversight, will result in less fraud and waste. Just as important, when Medicaid providers know that the government is watching, they will be less likely to cheat. Disclosure, even the possibility of disclosure, will save taxpayers' money. Assuming that Medicaid "fraud, waste and profiteering" run into the millions, the use of FOIL by the Times and its aftermath will save taxpayers millions of dollars over the course of years.

Another example involves the abuse of E-Z Pass. The Albany Times-Union, using FOIL, reported millions of dollars in uncollected E-ZPass Thruway tolls and fines. Soon after, the Thruway Authority retained a collection agency to recover the money. Even if a

quarter of the total is eventually collected, taxpayers will gain more than \$5 million through the use of the FOIL.

When government agencies solicit bids for the purchase of goods and services and a potential bidder uses FOIL to obtain the current contract, he can offer the agency a better deal. Considering the purchases by counties, cities, towns, school districts and state agencies, taxpayers realize untold savings due to disclosures under FOIL that likely involve millions of dollars each year.

FOIL has real value, as does its companion, the Open Meetings Law. The latter requires that meetings of government bodies be conducted in public, unless there is a basis for entry into an executive session. It provides a unique opportunity for the public to observe elected and appointed officials and gain insight into the decision-making process. Additionally, it offers a means of knowing where those officials stand and the potential to affect the course of government.

Both FOIL and the Open Meetings Law include enforcement provisions. However, the teeth in those statutes are clearly baby teeth. While the governor and the state Legislature strengthened FOIL last year by imposing more specific time limits for agencies to grant access to records, that serves as an initial step in improving the law. There remain too many instances in which agencies unreasonably delay disclosure.

The legal remedy for challenging an agency's action or non-action involves bringing a lawsuit, but doing that involves too much time and money to be reasonable for most people. Further, although there is a possibility that a court may award attorney's fees to a person challenging a denial of access, the likelihood of an award is remote.

The mechanisms that encourage compliance are provisions requiring responses to requests within prescribed time limits, a first step that has been accomplished, and those that enable the public to use the courts effectively. Guaranteeing the award of attorney's fees when agencies fail to respond in a timely fashion or deny access without any real justification would be a welcome and long overdue second step.

Legislation has been introduced in the Assembly (A. 9661) that would require a court to award attorney's fees to a successful plaintiff when it is clear that the agency failed to comply with law. Other legislation (A. 8008) would make an award of attorney's fees mandatory when a court has found that a government body has violated the Open Meetings Law by deliberating or taking action in private in violation of law. The certainty of an award of attorney's fees in a proceeding in which the court finds that substantial deliberations were conducted in private in violation of law would serve as a significant and meaningful deterrent.

Both bills should be enacted. They would give open government laws real teeth, making them more useful and meaningful to every resident of New York.

<http://www.thejournalnews.com/apps/pbcs.dll/article?AID=/20060312/NEWS05/603120312>

## **Bills pending in Albany to widen access to records**

By NICK REISMAN

ALBANY BUREAU (Original publication: March 12, 2006)

ALBANY — Lawmakers have proposed several measures this year that would expand access to public documents by requiring them to be posted on state agency Web sites.

"It makes sense that we utilize all the technological tools we have by making public documents available on the Internet," said Sen. Nicholas Spano, R-Yonkers, who is sponsoring a version of the bill in the Senate. "Most of the information we have right now is already online."

Public documents can be obtained through the state's Freedom of Information Law. But government agencies have up to 20 days after receiving a request to provide records or explain why it will take longer.

The timeline was a major change that came out of the 2005 legislative session.

Before that, state and local governments had five days to respond to a request, but they could simply acknowledge the request and promise a response within 30 or 60 days, for example.

Spano said that his bill makes sense because it would save money for both the state and those who request information.

Agencies can charge up to 25 cents per page for copies of documents.

"Technically, it would actually be pretty easy, and in many respects easier than a paper process," he said.

The latest addition to the state's open-records law is a logical update to meet 21st-century needs, said Blair Horner of the New York Public Interest Research Group.

"Google puts the world on the Internet," Horner said of the popular Internet search engine. "The magic of the Web really allows you put anything up on the Web. It would be like a search engine on each one of the state agencies' Web sites."

Horner said that if passed, the measure could "make the paper and 25-cents-a-page fee obsolete."

But if compiling thousands, if not millions, of public documents and records online would be a challenge to begin with, protecting personal privacy should also be a concern, said Robert Freeman, director of the state Committee on Open Government.

"Generally speaking it's a great idea," he said. "Many records have historically been public, but whether it's wise to put all of them in cyberspace is questionable. While the public clearly benefits by having the ability to obtain government information online, we have to be careful to protect against identity theft."

For example, Freeman said, property assessment records have always been available to the public.

But they also contain names, addresses and floor plans to private homes. Freeman said the same danger goes for putting voter registration records online.

"Those can be used to acquire any number of items about us," he said. "We have to think about it before we do it."

Assemblywoman Amy Paulin, D-Scarsdale, introduced a bill that she said would make sure government agencies paid attorneys' fees when they lost cases related to violations of the Open Meetings Law, which guarantees public access to most of the deliberations of public bodies.

"We almost never see those attorney fees rewarded," said Paulin, who also introduced a different version of Spano's bill in the Assembly. "That's a real deterrent from bringing a case."

Current law says government agencies that lose cases involving open access to public meetings may pay attorneys' fees, but in many instances they don't, Paulin said.

Her bill, she said, wouldn't give any agencies wiggle room to not pay.

"Transparency is critical to maintaining a government that's open and responsive," Paulin said. "If there's a way to do it, we should."

Assemblyman RoAnn Destito, D-Rome, Oneida County, is proposing legislation similar to Paulin's, except that it deals with government agencies' having to pay attorneys' fees when they lose cases dealing with violations of the open-records law.

## **Newsday Long Island**

<http://www.newsday.com/news/local/wire/newyork/ny-bc-ny--sunshineweek-ny0311mar11,0,5927157.story?coll=ny-region-apnewyork>

By MICHAEL GORMLEY  
Associated Press Writer

ALBANY, N.Y. -- In the dark days following Sept. 11, 2001, it started to get darker in New York for the public's right to know.

One measure proposed in the legislative sessions following the terrorist attacks would have denied the public's right to public records involving nuclear power plants, airports and utilities. That would put the records off limits to residents worried about their safety. Another, proposed in May 2002, would have added one sentence to the state Freedom of Information Law that could have, in the wrong hands, negated almost all the other sentences. The proposal would have restricted any material "obtained or compiled in monitoring, investigating or preparing for suspected or potential terrorist activity."

The bill made it to the floor of Senate. But like most of the other bills aimed at restricting the state's so-called sunshine laws it was opposed by the Democrat-led Assembly.

"The governor was basically arguing that anything could be denied that could be considered part of any terrorist activity," said Blair Horner of the New York Public Interest Research Group. "One of the possible casualties of Sept. 11 could have been access to public information ... as the horror of Sept. 11 has receded, I think people are taking a more sober look at the need for public access."

Since Sept. 11, 2001, as many as 150 bills that would have provided exemptions to access to government records and open meetings were proposed, most between 2002 and 2004. But only two major bills became law. The first was the "critical infrastructure" law proposed shortly after Sept. 11, putting public records about nuclear power plants, airports and utilities off limits to the public that supports them. But the measure changed drastically by the time it was adopted in August 2003.

The New York Publishers Association particularly credits Pataki for amending the proposal. Now the records are still available to the public, but only after the request meets certain criteria designed to make sure the release will benefit residents, and not threaten their safety.

"There was, nationally, such a strong desire to just close off everything to protect us from terrorists," said Diane Kennedy of the newspaper publishers lobbying group. "I thought it was a very courageous thing for the governor to say, 'No, we are going to redraft that legislation and make it accessible under FOIL' ... the governor's language was even better than what we were asking for."

The other major public access bill was passed in 2005 and called the greatest strengthening of the state Freedom of Information Law in decades. The measure requires governments to grant or deny a written request within 20 days of its receipt. If the release of data must be delayed, the government must identify a date that records will be provided. Failure to follow the new rule would be considered a denial of a Freedom of Information Law request, and that could lead to civil court action.

Previously, state and local governments could take months or years to release documents to the public. A FOIL request filed by The Associated Press in 2000 seeking records of proven cases of cheating by teachers from the state Education Department wasn't answered for three years. Another filed by The AP with the State University of New York

for compensation, world travel and other expenses of the chancellor went unanswered for 10 months.

"I think cooler heads prevailed in New York more than in other states," said Robert Freeman, director of the state Committee on Open Government that protects and promotes the public's right to know under open records and meetings laws. "It seems there has been more thoughtfulness in New York for freedom of information than in the past."

He credits last year's inaugural "Sunshine Week" for part of that. Hundreds of newspapers statewide devoted space to revisiting the status of open records and meetings for the public. Accounts of egregious denials by governments of records requested by their citizens and editorials fueled legislative efforts.

Freeman said the attention has been a caution to government officials who might act hastily in what they believe is in the public's security interest. The advice is in the agency's annual report is what Freeman calls the Aretha Franklin rule: "You better think."