



Photo by Bill Mahan

How much open government is there in Georgia?

Albany Herald
Athens Daily News/Banner-Herald
Atlanta Journal-Constitution
Augusta Chronicle
Columbus Ledger-Enquirer
Community Newspapers (North Georgia)
Gainesville Times
Macon Telegraph
Morgan County Citizen, Madison
Savannah Morning News
Thomson Newspapers (South Georgia)



In cooperation with Georgia AP and the Georgia First Amendment Foundation
December 1999

Committed for the long run

At the National Freedom of Information Coalition conference in Atlanta in May 1999, all the talk was about the open-government surveys proliferating in other states.

"Why don't we do one here in Georgia?" asked Metro Editor Chuck Williams of the Columbus Ledger-Enquirer.

Why not indeed? Surveys translate rhetoric and anecdote into action. They identify problem areas and provide a blueprint for systematic reform.

Soon eleven newspapers and/or newspaper groups had signed on. They are the Albany Herald; Athens Daily News/Banner-Herald; Atlanta Journal-Constitution; Augusta Chronicle; Columbus Ledger-Enquirer; Community Newspapers in North Georgia; Gainesville Times; Macon Telegraph; Morgan County Citizen, Madison; Savannah Morning News; and Thomson Newspapers in South Georgia.

The Georgia Associated Press agreed to carry statewide a series of articles about the survey results. Grants to pay for it were obtained by the Georgia First Amendment Foundation.

Survey leaders traveled Georgia's freeways and led training sessions at each cooperating site. Reporters

selected for the series met in Macon to plan their articles. They were published in Georgia newspapers Dec. 12-18.

Georgia's results mirror those in at least nine other states. Cities and counties are on a fast track to modernization and cooperation with citizens. Law enforcement agencies fall short, providing public documents to citizens about half the time. School districts say they lack information about what is, and is not, public.

The Georgia First Amendment Foundation is committed to this work for the long run. It will cooperate with civic, law enforcement and education groups to teach our citizens about the state's sunshine laws. Together we will raise the open-government cooperation scores posted by each agency type in this survey.

It would be good if it could, yet a single survey cannot possibly address all the state's freedom of information concerns. Among the others:

■ Georgia citizens say they have trouble obtaining court documents.

■ The openness inherent in public hospitals at their start-up decades ago is being conveniently tossed aside as they are swallowed up by for-profit corporations.

■ Arcane exceptions to free speech dot the Southern codes. A notorious example is "veggie libel," which makes it a crime for a Georgia citizen to disparage perishable food products or commodities.

All these are subjects for future coalitions to tackle as First Amendment work in our state advances from rhetoric and anecdote to action.

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Chuck Williams



Tom Bennett



David Milliron



Vita Salvemini



Michael Giarrusso



Hollie Manheimer

Survey team: Chuck Williams, Columbus Ledger-Enquirer, and Tom Bennett, Atlanta Journal-Constitution, co-leaders; David Milliron, Atlanta Journal-Constitution, database editor; Vita Salvemini, Savannah Morning News, database analyst and survey art director; Michael Giarrusso, news editor, Georgia Associated Press; and Hollie Manheimer, executive director, Georgia First Amendment Foundation. For a complete list of survey participants, turn to page 6.

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'The high points will outweigh the low' as Georgia open government increases

By TOM BENNETT

The Atlanta Journal-Constitution

ATLANTA (AP) — Without sunshine laws, your city or county could raise taxes or build a landfill just off your kitchen window without informing you. Yet after a quarter-century of these laws, compliance across Georgia is spotty at best, according to a first-ever survey.

What does that say to the state's attorney general?

"It says to me that we were on the right track when we instituted and had introduced and passed the 1998 statute that allows this office to get involved in open records and open meetings," said Thurbert Baker.

"We always had the ability to handle matters at the state level, but some of the most complex issues we were hearing about and were unable to deal with were at the local level."

Ninety percent of Georgia cities, counties and universities surveyed in September handed over public records. However, only 44 percent of city police, county sheriffs and school superintendents did so.

Surveyors — reporters from Georgia newspapers — did meet many helpful local officials.

"I've always tried to cooperate with the public, because they're their records," said Karen Huey, Cherokee County clerk.

Yet a different spirit prevailed in Telfair County, where Sheriff David T.



File photo

Attorney General Thurbert Baker: "We were on right track" with increased role in open-government disputes, he says.

Williams ran driver's license and auto tag checks on the surveyor and dispatched him empty-handed saying, "Next time, send a woman!"

Eleven newspapers and newspaper groups and the Georgia First Amendment Foundation sent 75 surveyors on 316 face-to-face agency visits in a broad geographic area from the mountains to the Okefenokee Swamp.

"There are high points and low points in the survey, and 1999 improvements in the law lead us to believe the high points soon will outweigh the low points," said Hollie Manheimer, executive director of the Georgia First Amendment Foundation.

If change is on the way it will be welcome in the Atlanta suburb of Kennesaw.

"I think everybody in the state is supposed to try to have openmeetings," said Russel Livengood, a resident. "I hope we have them here in Kennesaw now."

He and other citizens objected when the city rezoned a site for light industry. The property had been talked about for ball fields but proved too expensive to grade. Kennesaw ran a public notice and posted a sign, but there was no public comment on the city's actions. As is often the case, the consequences for a local government of not fully letting the public in on what it's doing can be pronounced.

"We have learned to try to communicate better, by using door hangers, posting on the biggest main street, and putting it on our Web site," said Bob Hail, Kennesaw city manager.

Recent statewide developments raise hopes for advocates of open government:

■ Barnes became the first Georgia governor to write sunshine laws with his 1999 measures, which clarified that government entities have just three days to turn over public records and required affidavits to justify closed meetings.

■ Baker became the first Georgia attorney general to assume coresponsibility with local district



Photo by Bill Mahan

Cherokee County Clerk Karen Huey (with a fellow staff member) says: "I've always tried to cooperate with the public, because they're their records."

Increase

Continued from page 3

attorneys for enforcing the sunshine laws.

■ Baker began an open-government mediation process. Baker's office mediated 22 matters in 1998 and 25 so far in 1999. "We've still got to get the message out that this process is available," Baker said.

■ In two 1999 opinions, Baker said Atlanta Olympics bid records should be covered by open records legislation and clarified a controversial new law that some law enforcement agencies were using to restrict access to accident reports.

Meanwhile, 16 percent of the state's counties and 12 percent of its cities have Web sites on the Internet. They can be found on the state-operated Georgia Net and the home page of the Georgia Municipal Association.

Barnes became the first Georgia governor to write sunshine laws with his 1999 measures.

A handful of these sites provide agendas and some even have the minutes of meetings. These are primary documents that inform citizens whether their government has done anything that affects their well-being, or is contemplating doing so.

Yet people, not computers, can make what Barnes calls a more "transparent" government — one that Georgia citizens can see into.

"Technology in and of itself is helpful," Baker said. "But I think you've got to have some people setting the policy and

the tone for how that technology's going to be used to advance the causes of open government, and I think Gov. Barnes and I have been very straightforward and very strong." ●

Q&A Gov. Roy Barnes

Gov. Roy Barnes wants local governments in Georgia that are "transparent" and in which "things aren't tilted, they're fair," he told Tom Bennett of the Journal-Constitution.

Question: Has any opposition since the last legislative session cooled your ardor at all for open government?

Barnes: No. This is not the first time around the track for me on it. There's always opposition each time you undertake strengthening open records and open meetings. It's a long-term proposition.

Question: After the strong stand you took in 1999, are there any converts to your point of view, or in 2000 will you have to hold up everything again until you get what you want on open government?

Barnes: There's always a natural resistance because of local governments, and legislators hear from them. What is different now, those that saw the sky did not fall when we



passed this will be easier to sell. Whether they're true converts or not, I don't know if I can answer that.

Cities and counties need to understand what I call transparency laws. It's important that you have a transparency in government to keep the confidence of the people so you can govern. That's what the county and city folks need to pick up on.

This summer Jimmy Carter had what was called the Transparency Conference. It was primarily for Central and Latin American countries. It was about how you have to create systems that give confidence in the government so there's not rampant corruption and waste and things aren't tilted, they're fair.

That's the same thing that open-government acts do. They provide the transparency that gives the confidence.

The people understand that occasionally you have to close a meeting and you have to discuss things that are sensitive. But if they don't believe you have an overall positive transparency, they will not re-elect you and they will not have confidence that you have the ability to operate the government. ●

'Just anyone' in Georgia has a right to public records

By THOMAS W. KRAUSE

The Macon Telegraph

Records Clerk Stacy Croxton of the Houston County Sheriff's Office wasn't eager to help when asked for public records.

"Are you with the press or something?" Croxton asked surveyor Christopher Schwarzen.

"I'm with The Macon Telegraph," Schwarzen replied.

"Well, that's all you had to say," Croxton said. "We can't let just anyone look at these. Next time, tell whoever's here you're a reporter."

But the truth is, "just anyone" can look at public records in Georgia, that's the law.

During an open-government survey in September, about 15 percent of law-enforcement record keepers specifically asked if surveyors were reporters. It should not matter, experts say.

Kent R. Middleton, head of the journalism school at University of Georgia's the Henry W. Grady College of Journalism and Mass Communications, said reporters often act as surrogates for the public by requesting to see public records, sitting through municipal meetings and following court cases. Nonetheless, reporters do not enjoy



Photo by Bill Mahan

J. Terry Norris, executive vice president of the Georgia Sheriffs' Association

special privileges.

"The press, in theory, has no more rights, and wants no more rights, than the general public," Middleton said.

Reporters sometimes have reserved seats at crowded meetings or are allowed to follow police into restricted areas, but these are courtesies and not legal rights, Middleton said. Those courtesies do not include public records.

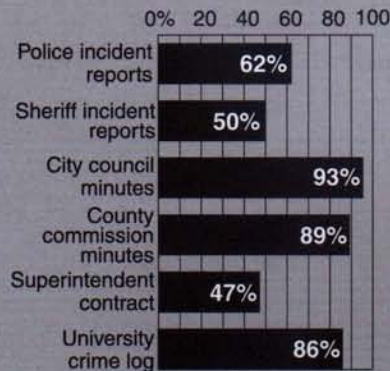
"The Legislature doesn't adopt open records laws as a special service to the press," he said. "An informed electorate needs access to public records."

J. Terry Norris, executive vice president of the Georgia Sheriffs' Association, said law enforcement officers may be more open to reporters' requests simply as a matter of human nature.

"Generally speaking, the sheriffs and the sheriffs' personnel know the reporters," he said. "You are generally more comfortable with people you know." ●

Which documents were most accessible

Percentage of requested documents individuals were allowed to inspect for each of the six document types.



Source: Georgia First Amendment Foundation
Vita Salvemini/Savannah Morning News via AP

Areas surveyed

Counties where an individual asked to inspect one or more of six public documents.



Georgia Open Government Survey

Sept. 13-17, 1999

Survey participants

ALBANY HERALD

Brian D. Bell
Valerie Davis Benton
Ken Garner
Jim Hendrick, survey captain
Wendy Isom
Cassandra Lindsay
Kay Read, survey captain
Jon Reidel
K.K. Snyder
Tim Wesselman

ATHENS DAILY NEWS/BANNER-HERALD

Ben Deck
Frank Gillispie
Eric Gonzalez
Stephen Gurr
Sarah Lee
Greg Martin
Roger Nielsen, survey captain
Lee Shearer

ATLANTA JOURNAL-CONSTITUTION

Tom Bennett, survey captain
Julie Bryant
Alfred Charles
Andrea Jones
David Milliron, database editor
Yolanda Rodriguez
Elizabeth Sims

AUGUSTA CHRONICLE

Sylvia Cooper
Steve Crawford
Meghan Gourley
Sandy Hodson
Faith Johnson
Willie Malpass
Jennifer Miller, survey captain
Julie Miller
Robert Peavy
Jason B. Smith

COLUMBUS LEDGER-ENQUIRER

Kirsten J. Barnes
Tim Chitwood
Jennifer Foster
Harry Franklin
Jim Houston
Jennifer Johnson
Dusty Nix
Michael Owen
Mark Rice
Mick Walsh
Chuck Williams, survey captain
Amy Wolford

COMMUNITY NEWSPAPERS (NORTH GEORGIA)

Carolyn Cann, The Elberton Star & Examiner
Stacy S. Chastain, The News Observer, Blue Ridge
Charles Duncan, News & Advertiser,

Dawson

Brian K. Finnicum, The News Observer, Blue Ridge
Phil Hudgins, Community Newspapers, survey captain
Wesley J. King, The News Leader, Royston
Carolyn Mathews, Dahlonga Nugget
Jeff Robinson, The News Observer, Blue Ridge
Shane Scoggins, Chieftain & Toccoa Record
Clay Wilson, White County News-Telegraph, Cleveland

GAINESVILLE TIMES

Richmond Eustis
Jim Healy, survey captain
Michael Hughes
Cincy McCurry-Ross, survey captain

MACON TELEGRAPH

Nancy L. Badertscher
Judy Bailey
Cecil Bentley
Drew Brown
Skippy Davis
Cara Donlon
J. Alan Gibson
Thomas W. Krause
James Palmer, survey captain
Robert Peecher
Randall Savage
Jarred Schenke
Christopher Schwarzen

Lance Wallace

Wayne C. Wehunt

MORGAN COUNTY CITIZEN, MADISON

Courtney Kinney

SAVANNAH MORNING NEWS

Jaymi Freiden
Vita Salvemini, database analyst and survey art director
Tuck Thompson, survey captain
Pam Walck
Kate Wiltrout

THOMSON NEWSPAPERS (SOUTH GEORGIA)

Laura Cassels, Thomasville Times-Enterprise
Weenam Chua, The Valdosta Daily Times
Juana Jordan, The Valdosta Daily Times
Brian Lawson, The Valdosta Daily Times
Steve Meradows, survey captain
Florence Rankin, The Tifton Gazette
Lowell Vickers Jr., The Valdosta Daily Times

Support staff

Michael Giarrusso, News Editor, Georgia Associated Press
Hollie Manheimer, Executive Director, Georgia First Amendment Foundation

Survey indicates poor sunshine-law compliance by Georgia's city police and county sheriffs

By CASSANDRA LINDSAY

The Albany Herald

ALBANY, Ga. (AP) — Officers don't accept many excuses when writing a ticket, but they certainly have plenty of excuses themselves for breaking the law when it comes to providing public information.

"No sir, not even our news media looks at those," said Columbus police officer Howard Hughes when asked to see the previous day's incident reports.

"What we keep in his office is not public information," said Fulton County sheriff's Lt. Donald Ferguson.

"Next time, tell your paper to send one of them women reporters," was the sendoff Telfair County Sheriff David T. Williams gave a reporter who left empty-handed.

"What are you looking for? You just come in here off the street with a pen and paper in hand ... asking to see incident reports and our log....

It's very kind of funny," a Worth County Sheriff's deputy, who refused to identify himself, said before refusing to release the report without the sheriff there.

State law mandates that law enforcement agencies release incident reports to anyone who asks. In a statewide survey, only 50 percent of sheriff's offices and 62 percent of police departments complied with the Open Records Act. Georgia Attorney General Thurbert Baker called the survey results disappointing.



Map by Mark Giles

The open-government surveyors met especially strong resistance in Jefferson, Telfair and Worth counties.

"We start with the assumption that all records are open records. The only legitimate reason for not providing public documents is if the statute provides an exception for it," Baker said.

The incident report includes the basic facts about the crime: who the victim is, who witnesses are, who the suspect is, what property is missing and an officer's written account of what happened. It is an open record under state law and should be released.

More than just the media can be affected when officers refuse to release incident reports. Neighborhood associations sometimes try to get access to reports to determine if there's a pattern of crime in

their neighborhood.

Most insurance companies require a police report be submitted in theft cases.

"There had been some rapes in the area, so our neighborhood association decided to get copies of the incident reports so they could report back to the neighborhood about some of the characteristics of the suspects," said Gerry Weber, legal director of the Georgia branch of the ACLU.

Everyone has a right to see the reports and get copies, but that doesn't mean it's easy to negotiate the law enforcement bureaucracy to get to the reports. Surveyors were questioned about who they were, why they wanted to see the reports, where they worked, sent from one office to another and even subjected to criminal background checks.

In Jefferson County, sheriff's Maj. Charles Gibbons made copies of a surveyor's driver's license, asked him if a sheriff in another county could vouch for him and called his boss at the newspaper. When Sheriff Gary Hutchins got to the office, he let the surveyor see the incident reports but refused to let him make copies without a written request.

"Any record that's public, the public has access to it. We don't try to deny them access as long as they have some kind of request, identify themselves and we know who they are. Then they're welcome to it," Gibbons said in a later interview.



Photo by Bill Mahan

A citizen seeks public information at the Macon Police Department.

Police

Continued from page 7

Officers should let anyone who wants to see a report see it and should not be conducting background checks before releasing incident reports, said

Jeff DiSantis, a spokesman for the Georgia Attorney General's office.

"There is a 1993 opinion that says give it to anyone. There is nothing in the law that gives them the authority to do the background check," he said.

Law enforcement officers gave several reasons for not complying with the open records laws. Their reasons ranged from being confused by recent changes in the law to not having enough employees to coordinate releasing

documents to saying the crime was still being investigated.

The excuses don't work, DiSantis said.

"If the law says you're entitled to it, they have to get it to you within three days," he said.

In most cases, law enforcement agencies are trying to comply with the open records laws, said Frank V. Rotondo, executive director of the Georgia Association of Chiefs of Police.

"The bottom line is we sometimes resist. First of all, change is naturally resisted no matter what, and no matter whether it be policing or anything else," Rotondo said. "And if we're going to have to comply with this, we should just comply." ●

"Change is naturally resisted no matter what, and no matter whether it be policing or anything else. And if we're going to have to comply with this, we should just comply."

Frank V. Rotondo, Georgia Association of Chiefs of Police

Reining in media was never the intent Of Georgia's 1999 accident report law

By JIM HOUSTON

Columbus Ledger-Enquirer

COLUMBUS, Ga. (AP) — When the Georgia State Patrol in September began limiting the news media's access to information on accident reports, state Sen. Clay Land added his voice to those crying foul.

"I informed the governor's office that the State Patrol was misreading Senate Bill 20, and I encouraged them to have the patrol attempt to correct that misinterpretation," said Land.

Land, author of the bill that limits access to accident reports, said the law is intended to stop ambulance-chasing lawyers and their runners by restricting availability of the reports that contain personal information on those involved in accidents, including Social Security numbers, birthdates, addresses and telephone numbers.

But the news media is included on a short list of people who should have access to the reports, Land said. Others include the people involved in the accident, their lawyers, witnesses, owners of damaged property, prosecutors and police officers, insurers and public interest researchers.

"The governor's office tried to get the State Patrol to back off, but rather than listen to the governor, the State Patrol commander wrote a letter to the attorney general asking what is required here," said Georgia Press Association attorney David Hudson of Augusta.

The State Patrol's policy restricted reports statewide until Attorney General Thurbert Baker responded, telling Col. Robert E. Hightower that the news media are entitled to the reports and should also be able to get pertinent information from the reports over the phone.

Baker's letter notes the new restrictions on access were meant to shield people from fraud or inappropriate use of information in the reports.

"It was not, however, intended to place greater restrictions on the media," Baker wrote.

Hollie Manheimer, executive director of the Georgia



Photo by Bill Mahan

Hollie Manheimer, executive director of the Georgia First Amendment Foundation, during the May 1999 National Freedom of Information Coalition conference in Atlanta.

First Amendment Foundation, said the law resulted in people tightening up access to law enforcement records generally.

"It got a little bit distorted," she said. "It was applied inequally ... and people took the directions of Senate Bill 20 and expanded them a little bit too thoroughly. People were being denied access to information that wasn't necessarily limited by the law."

"I'm hoping Mr. Baker's letter resolves this. Since the letter was written, I haven't had any complaints."

Media complaints aside, Land said he's had positive reaction from people who appreciated knowing their personal identifying information is no longer available to the general public.

Manheimer said she can see an understandable motive for the law, but she hopes there's no further "tinkering" with access laws.

"Any time you make a distinction among occupations or classes of folks seeking to get information, you've got a problem," she said. "I think any time you start playing with distinctions between groups, that undermines the public's access, generally."

Land sees those distinctions in a different light.

"My view is you've got to balance the interest in the public having access to a government document with the right of an individual to be left alone," said Land. "I think the law does that in a reasonable way."

Land said he's particularly pleased that the law has already cleared a major legal challenge. A U.S. District Court has upheld the law against a challenge to its constitutionality, he said.

"We knew it was going to be challenged," Land said. "Attempts have been made in the past to draft statutes similar to this to restrict access or use of this type of information and they've all been stricken down. We're very pleased that we were able, at least so far, to uphold the constitutionality of this one." ●

Q&A Officer Wesley Horney, Athens-Clarke County Police

Athens-Clarke County Police officer Wesley Horney has been working for the department for two years. Before that he was a practicing attorney in Atlanta. In this interview with Cassandra Lindsay of the Albany Herald, Horney said compliance with open records laws is improving.

Question: If you could change anything about the open records act what would it be?

Horney: I think I would commission a study to look at what are the best ways to protect the victims and witnesses and the information that can be provided on them dealing with certain sorts of crimes. I think that perhaps they may be left unprotected in many cases.

Question: Do you agree that compliance rates will go up as more law enforcement agencies become familiar with the new laws?

Horney: I do. ... I see things as improving. I know the way we have things, it works really well and there's no reason it can't in other places.

Question: Has the new law been a burden?

Horney: No. I think it runs better now than it has in the past. I have a lot of functions and this just takes up a small amount of the time. I just think that we have it well organized and it's just not a problem for us.

Our chief is in favor of open government. There's not this, "these are our records and you can't have them," mentality.

Question: How often would you estimate people come in who aren't media-related or lawyers and ask for an incident report?

Horney: We get hundreds and hundreds and hundreds of requests every month. And a great many of them are people wanting things on themselves or their property. But we also have people who will just call me and say I live on this street and I'm curious about what the crime is like. So a lot of times I'll refer them to an officer who handles that, and he'll talk to them. If they want specific information, they'll request incident reports.

Question: Is there a difference between what reporters are able to get and what general citizens get?

Horney: Not really, it's kind of a procedural thing. In other words, the public can have anything they want. The only difference is, like accident reports, the media can get the whole stack of them. If we had a citizen say I want to see the entire day's incident reports we would allow them to. But what we would do is supervise them if we didn't know them... to make sure when we gave the stack to the next person that it was the complete stack. But other than the accident reports, I can't think of anything we do special for the media. We try to treat everyone the same.

The basics of an incident report

Authorities fill out an incident report anytime someone files a complaint.

Source: City of Savannah Police Department

Graphics by Vita Salvemini, Savannah Morning News

Counties surveyed for police incident reports

Counties where police allowed or denied access to the previous day's incident reports.

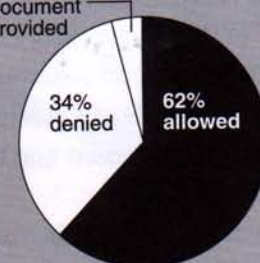
■ Allowed □ Denied □ Not surveyed



Accessibility

Percentage of incident reports individuals were allowed to inspect.

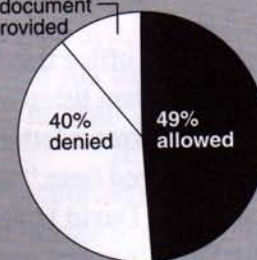
4% document not provided



Copying reports

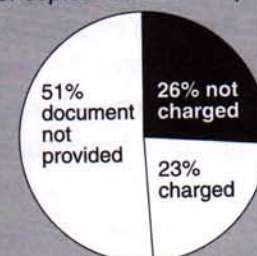
Percentage of incident reports individuals were allowed to copy.

11% document not provided



Cost for copies

Percentage of individuals asked to pay for copies of incident reports.



CITY POLICE RAYS OF SUNSHINE

Adel police were "completely cooperative and asked no questions at all," the surveyor said. Decatur police were "extremely helpful." The surveyor was given a password and access to the public computer. She printed several documents and was "in and out in no time flat." Lavonia's police chief came out and greeted the surveyor and quickly provided the records she had requested. The Thomson police receptionist promptly handed over the requested reports. Winder police treated the surveyor "with great courtesy and respect."

CITY POLICE SURVEY HOT SPOTS

Atlanta said it used to let the public see reports but not anymore. Bainbridge said it can't just print them all out on its computer. Clarkesville said reports are available only during certain times of the day. Cleveland said the ones for this month have not yet been signed. Columbus said, "Not even our news media looks at those." Forsyth said police reports aren't available to the public.

Macon said, "You just can't come in here and ask to see incident reports." Moultrie doesn't give them out to "just anybody who comes in." Norcross said it takes three or four days for them to become available. Sandersville said only lawyers can see felony incident reports.

COUNTY SHERIFF RAY OF SUNSHINE

Dougherty County "was very obliging" and permitted a surveyor to read the previous day's reports.

COUNTY SHERIFF SURVEY HOT SPOTS

Bibb County said it doesn't keep copies for the public to inspect. Clayton County said: "You're not getting that!" Cook County said most cases are still open. Dawson County said it would need three to five days. Franklin County's employee said, "They put that in the computer, and I don't know how to do that." Habersham County said the clerk was out, reports cost \$3 a page and they would be glad to read them to us. Houston County "can't just let anyone" look at the records. Jones County said it could give out records that are not embarrassing to those involved, if approved by the captain of records.

Laurens County handed the surveyor a napkin with an apparent three-digit phone extension and said call that person. Lumpkin County said incident reports aren't public records. Telfair County said the next time, send a female. The officer then ran license and tag checks on the male surveyor. White County said, "That's not public record for someone off the street." Worth County said "To come in off the street and ask for records is very kind of funny."

OTHER STATES

Georgia is the eighth state to carry out an open government survey, according to Editor & Publisher. The success rates in each for inspecting law enforcement public records:

Arkansas, sheriff jail logs, 61 percent; Georgia, city police and county sheriffs' previous day's incident reports, 49 percent; Illinois, sheriff jail logs, 65 percent; Indiana, sheriff crime logs, 54 percent; North Carolina, county crime logs, 54 percent; New Jersey, police arrest details, 8 percent; Pennsylvania, daily local police logs, 24 percent; and Virginia, police and sheriff daily logs and reports, 16 percent. •

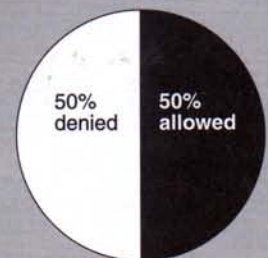
Counties surveyed for sheriff incident reports

Counties where sheriffs' departments allowed or denied access to the previous day's incident reports.



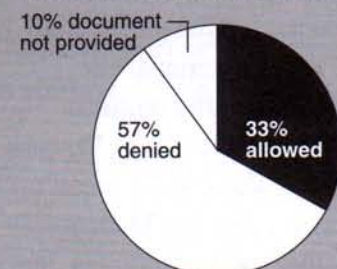
Accessibility

Percentage of incident reports individuals were allowed to inspect.



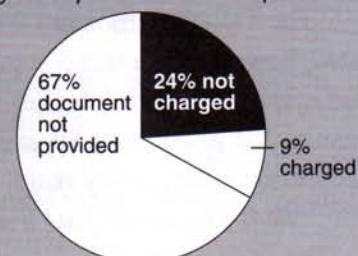
Copying reports

Percentage of incident reports individuals were allowed to copy.



Cost for copies

Percentage of individuals asked to pay for copies of incident reports.



Graphics by Vita Salvemini, Savannah Morning News

Where once there was darkness, there's light as Georgia cities embrace open government

By ROBERT PAVEY
The Augusta Chronicle

AUGUSTA, Ga. (AP) — Georgia's cities, it seems, have seen the light. In a statewide survey, they made public records available 93 percent of the time.

That score puts them well ahead of Georgia police departments, sheriff's offices and school boards in complying with the state's sunshine laws.

"Everything in this office is public record," said Susan Crowe, the city clerk of Clermont.

In Grovetown, "No one asked me who I was or who I was with," surveyor Meghan Gourley said.

There was a different story in Talbotton.

The clerk's office said that the city's meeting minutes were not available. The Manchester police chief had them, she said. When a surveyor contacted the police chief, he said he knew nothing about Talbotton's meeting minutes.

Talbotton City Clerk Vanessa Adams says she doesn't recall telling the surveyor that the Manchester police chief had the minutes. She said the minutes were mistakenly sent to the city's accounting firm in Manchester.

The Talbotton incident was isolated, however. The trend is to more and more cities taking bigger steps to ensure that public records are public, according to the survey results.

"We try to please, that's what we



Photo by Bill Mahan

"I would guess that all but the smallest rural cities" in Georgia have adopted computer systems, says Brad Williams, systems administrator for Peachtree City.

do," said City Clerk Jackie Brown of Tybee Island, a 4,000-resident beach town near Savannah.

Tybee Island is among growing numbers of cities that place public records on the Internet. Tybee offers its residents (and anyone else who wants to look online) all meeting minutes since 1991.

"A couple times when they're not up to date, we've gotten calls from people wanting to know why," Brown said.

Sixty-five Georgia cities from Hahira to Hazlehurst and points in between have Web sites, and some include instant access to public documents.

In Columbus, city council agendas are posted online in advance of all meetings. They offer information on

rezonings, bids, building projects, appointments, new ordinances, even citizen complaints.

Kevin Aker, PC services manager in the Columbus' Department of Information Technologies, said online access to public records is a relatively new venture.

"We've only been posting agendas for a few months," he said. "People want to know what's going on at city council meetings, and they need to know in advance so they can decide if they want to be there."

The online access has been so well received that city officials are working to expand the site and offer additional public records, he said.

"We're always going to be upgrading it," he said. "We put together a committee that will be in

To page 13 ►

charge, and each department will put their information out there that they think the public will want."

New technology is converting the state's once sleepy hamlets.

"I would guess that all but maybe your smallest rural cities have computerized," said Brad Williams, systems administrator for Peachtree City.

"People want to know what's going on at city council meetings, and they need to know in advance so they can decide if they want to be there."

*Kevin Aker, PC services manager, City of Columbus
Department of
Information Technologies,
which posts city agendas
online*

No Georgia city's Web site identified in the survey includes planning and zoning analyses, which would allow residents to examine the pros and cons of proposals before public hearings.

Despite these concerns, overall improvements by local governments have been dramatic, said Hollie Manheimer, executive director of the Georgia First Amendment Foundation.

"There has been a gargantuan effort among public officials to comply," she said. ●

Q&A Evelyn Turner, President, Georgia Municipal Association

Columbus Councilwoman Evelyn Turner is president of the Georgia Municipal Association, which advises and lobbies for the state's 536 cities. She had this chat with Chuck Williams of the Columbus Ledger-Enquirer.

Question: What's the GMA's stand on open government?

Turner: GMA is very supportive of open government. All discussions I've been in at GMA meetings with the executive body — even with the staff — they've been very supportive of Gov. Barnes' recent open records law.

Question: When should public business be done behind closed doors?

Turner: If you're discussing real estate transactions, in instances when you're trying to negotiate deals with the owner of property. And I say this because for some strange reason once we know somebody's interested in our property, prices seem to go up. And you start getting into a bidding war with somebody else who wants to buy it. So since you're supposed to have the taxpayers' interest at heart, you want to get the best piece of property for the lowest amount you can pay for it.

If you're talking about personnel issues. And the reason I say that, when it comes to personnel issues, until you have all the facts in hand I think it's very difficult. I don't think it serves anybody any good — nor does it do the public any good — to stand and have someone accused publicly until you have all the facts at hand.

Question: What was the GMA stand last year when Gov. Barnes was pushing his public access bills through the legislature?

Turner: We discussed that with him and GMA supported it.

Question: What about requiring public officials to sign affidavits detailing what was discussed in a closed meeting? Is the affidavit discouraging closed meetings now? The fact that you have to sign an affidavit saying what you discussed in that meeting?

Turner: I can speak only for my government. I don't think it has an impact on us one way or another because I feel like for the 12 years I've been on City Council we've been very open with the public on questions they've had about anything. Now I think one of the things the affidavit does do is knowing there could be criminal penalties if they sign it and people find out it's not true, for those governments who had a tendency to want to try to have closed meetings will think twice because that person that signs the affidavit is in serious trouble if it's found out later it's a lie.

Question: Is there a tendency for the people who run the government to think of the government as theirs rather than the public's?

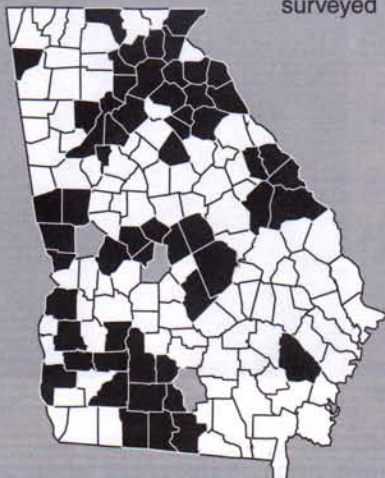
Turner: I would hope not. I've been on council 12 years, and my philosophy about city government is that it belongs to every single taxpayer in this community. I want to be remembered as a servant of the people. ●



Counties surveyed for city council minutes

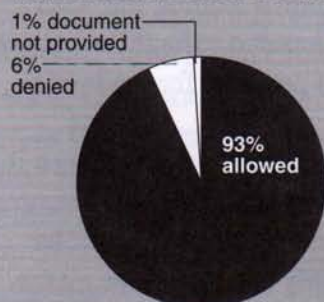
Counties where an individual asked to inspect the latest approved city council meeting minutes.

■ Allowed □ Denied □ Not surveyed



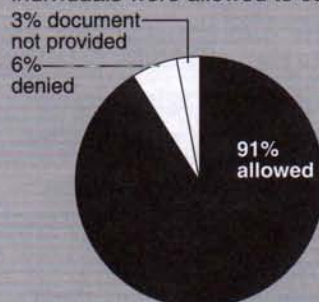
Accessibility

Percentage of meeting minutes individuals were allowed to inspect.



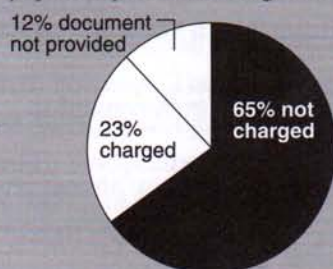
Copying minutes

Percentage of meeting minutes individuals were allowed to copy.



Cost for copies

Percentage of individuals asked to pay for copies of meeting minutes.



CITY COUNCIL RAYS OF SUNSHINE

Albany promptly produced the records and a folder to carry them in.

"You sure can," Blakely's clerk said when the surveyor asked to see the minutes.

Columbus found an extra copy of the records in a recycling bin and gave it to the surveyor at no cost.

Dahlonega keeps a book of its recent minutes on a table in the lobby for citizens to walk in and inspect.

Elberton permitted the surveyor to read the records from a computer monitor, and copies were made as requested.

Valdosta's staff was very cooperative.

Sixty-five Georgia cities have Web sites:

www.state.ga.us/index/local.cgi

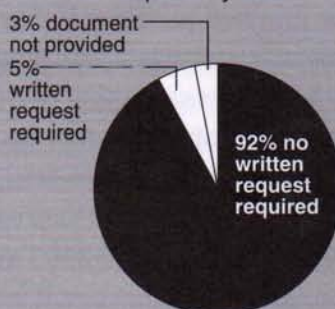
CITY SURVEY HOT SPOTS

Colbert said it had never heard such a request and the surveyor would have to sign a Post-It note to go into the minutes book.

Talbotton said the police chief in Manchester had the minutes. But the police chief in Manchester said he did not have them. The Talbotton clerk later said she could not recall telling our surveyor that, and the minutes mistakenly were sent to the city's accounting firm in Manchester.

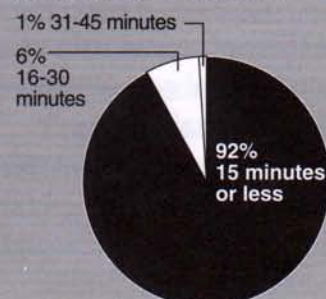
Written requests

Percentage of individuals asked to submit a written request for documents, this is not required by law.



Time spent in agency

The amount of time individuals waited for latest approved minutes.



NOTE: Numbers may not total 100% due to rounding.
Source: Georgia First Amendment Foundation

Graphics by Vita Salvemini, Savannah Morning News

Affidavits for secret meetings face first test in Evans County

By PAMELA E. WALCK
Savannah Morning News

CLAXTON, Ga. (AP) — Mitchell Peace hired an attorney and incurred a five-figure legal bill in defense of Georgians' right to know.

"I didn't want to be the first one to file a suit," he said. "I'm not doing it for myself or the newspaper, but for the public we serve."

Peace is editor of the Claxton Enterprise in southeast Georgia. He and the paper are in the middle of the first test of Georgia's newest open government law, suing the Evans County Commission for what Peace says were two illegally closed meetings.

A statewide newspaper survey found that counties generally are making public records available, but the debate over open meetings is far from over.

Gov. Roy Barnes helped write a law that went into effect July 1 requiring elected officials to sign affidavits explaining their reasons for meeting behind closed doors.

State Rep. Glenn Richardson, R-Dallas, cast the lone vote against the legislation.

"These are commissioners, not attorneys," Richardson said. "The affidavit requires the chairman to say 'We complied,' but what if there is an inadvertent remark made?"

In Richardson's view, the change in the law represents little more than feel-good legislation.



Photo by Bill Mahan

"It boils down to this: Am I going to let you run me out every time or am I going to invoke the open meetings laws?"

Attorney Glen A. Cheney, who sued the Evans County Commission on behalf of the Claxton Enterprise

"The public still doesn't have any more reason to trust than before," Richardson said. "If boards were willing to violate the law before, then what difference does it make now? If they were willing to breach the public's trust then, why not breach it again?"

False swearing is a felony punish-

able by up to five years in prison. Failure to sign the affidavit, meanwhile, is a misdemeanor. It's a legal tightrope that Georgia elected officials have walked since July.

"We try to be very careful to discuss in executive session only the three items the law allows," said Cobb County Attorney Dorothy Bishop.

"Our chairman signs the affidavits. I hate that he has to do that."

Others say an affidavit is a good idea.

"Many of these elected officials want what's best for their community," said state Rep. Tom Bordeaux, D-Savannah. "They're not in it to make a buck, but sometimes they are ignorant of the law or forget. An affidavit requirement is a constant reminder."

Bordeaux, vice chairman of the House Judiciary Committee, supports the new measures, calling them "bedrock principles (that) take Georgia further than most states toward open government."

In Claxton, Peace filed a complaint against the commissioners in July, after the board retreated behind closed doors during a budget workshop.

Chairman Marty Todd said it was to discuss "possible pending litigation" involving an employee, but the county attorney wasn't at the meeting.

Peace protested, but the commission closed the meeting and then failed to comply with the new law

Affidavit

Continued from page 15

requiring an affidavit, he said.

Five days later, at a regularly scheduled meeting, Todd announced that he had been mistaken.

"Our error was that the county attorney was not present when stating it, and we should have stated it for personnel reasons. ... It is not our intentions to try and violate the open records laws."

Once again, the board went into a closed session "to discuss personnel."

Peace protested again. "Even with their attorney present, it didn't change the fact that it was a budget matter, not a personnel issue," he said.

Peace hired attorney Glen A. Cheney to file a complaint against the Evans County Commission.

"It all boils down to this: If I let you run me out this time, it will only make it easier for you to do the same thing the next time," said Cheney. "So am I going to let you run me out every time or am I going to invoke the open meetings laws?"

In late November, Superior Court Judge Charles P. Rose Jr. ruled that the first closed session was a violation of the law, and the subsequent closed session was not. A Dec. 17 hearing was scheduled to determine sanctions and attorney's fees. ●

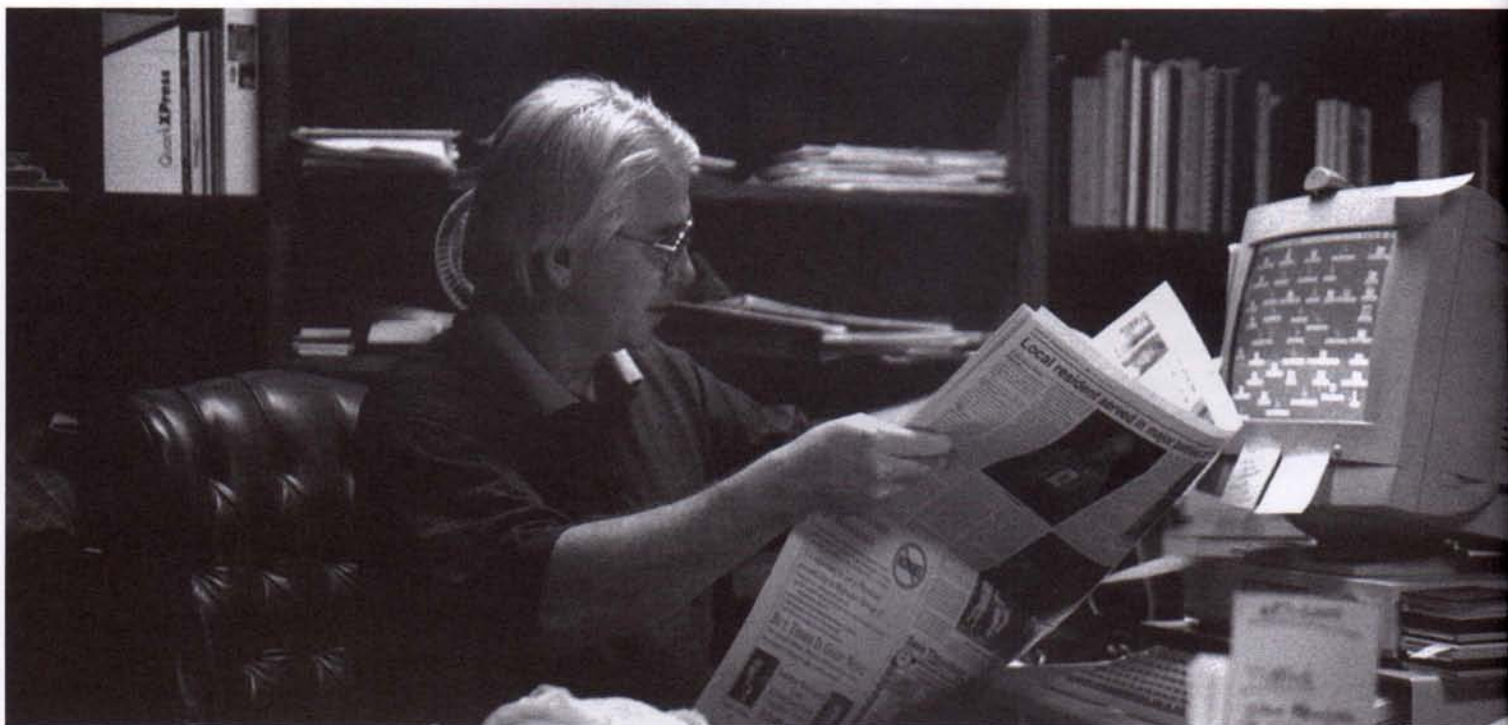
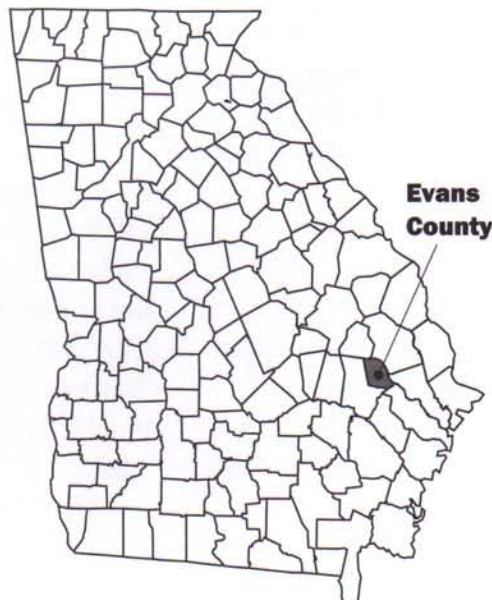


Photo by Bill Mahan

Mitchell Peace, editor of the Claxton Enterprise "didn't want to be the first to file a suit" in favor of accurate affidavits for Georgia closed meetings, but felt compelled to do so by Evans County's actions.



Sole commissioners: They have the last word in 10 Ga. counties

By CHAD ROEDEMEIER
Associated Press Writer

JASPER, Ga. (AP) — As the sole commissioner in Pickens County, Frank Martin doesn't need to hold a debate or build consensus before he makes a decision. He can pass any law he wants.

But Martin says he's no dictator, calling himself the county's "chief complaint-taker."

When something goes wrong, everyone in this rural northwest Georgia county knows who to call. Martin hears about hogs rooting around in a neighbor's garden, traffic noise on the bypass — even requests to clear fog off the mountains.

"You are going to always have to answer to somebody," said Martin, a 46-year-old who rides a Harley and chews tobacco. "The public is who you answer to."

Martin is one of 10 sole commissioners left in Georgia — the only state that allows counties to be run by one person. It's a form of government that lets counties work quickly and avoid partisan backbiting, but critics say it makes it difficult to relay the workings of government to the public.

Dan Pool, editor of the Pickens County Progress, said Martin holds regular meetings twice a month. There is no debate or exchange of ideas; Martin simply explains what he is going to do.

"Even if he wants to be open, he's not going to have a discussion with himself," Pool said. "It's only natural that he puts his decision in the best light."

Georgia is the only state that allows counties to be run by one person.

Sole commissioner governments were created at the turn of the century to let a county's leading businessman run its government, according to Jacqueline Byers, director of research for the National Association of Counties.

There has been a gradual shift to multi-person boards, but in the mid-1980s Georgia still had about 35 sole commissioners.

In some counties, voters decided the population had grown too big for one person to handle everything. In other cases, black residents used the Voting Rights Act to argue that the sole commissioner form of government keeps minorities from being elected.

The 10 counties in Georgia that still have a single commissioner are mostly rural and white. Eight counties are located in the north Georgia mountains; the other two are in middle Georgia.

"They are still around because the state Constitution allows it, and counties are creatures of the states they are in," said Ms. Byers.

The sole commissioner system also persists because many voters like it. In Chattooga County in northwest Georgia, residents voted 83 percent to 17 percent to keep the sole commissioner in 1992. Similar referendums in Pickens and Bartow counties also have preserved the single commissioner.

"With a board, you get about four or five people arguing, you just waste tax dollars and you don't get anything done," said Harold Hensley, who owns a service station in Jasper.

But public arguments are part of how democracy works, said Hollie Manheimer, executive director of the Georgia First Amendment Foundation.

"You don't have that public give-and-take if there's only one person," she said.

Georgia law requires county commissions to advertise all meetings in the newspaper and to invite the public to attend. It's illegal for a quorum of board members to meet behind closed doors.

It's easier for a sole commissioner to skirt those open meetings requirements, said Ms. Manheimer.

Martin says his administration is more open than counties with a five-person board.

"If you have a problem with your neighbor's dog barking, you don't have to wait until a commission meeting. You can walk in the door today and gripe if you want to," Martin said.

That's what makes the sole commissioner attractive, said Douglas C. Bachtel, a University of Georgia rural sociologist.

The sole commissioner form of government is efficient and responsive to the public, he said. It also avoids the gridlock that occurs in some small counties when political fights turn personal.

"It can be a benevolent dictatorship," Bachtel said.

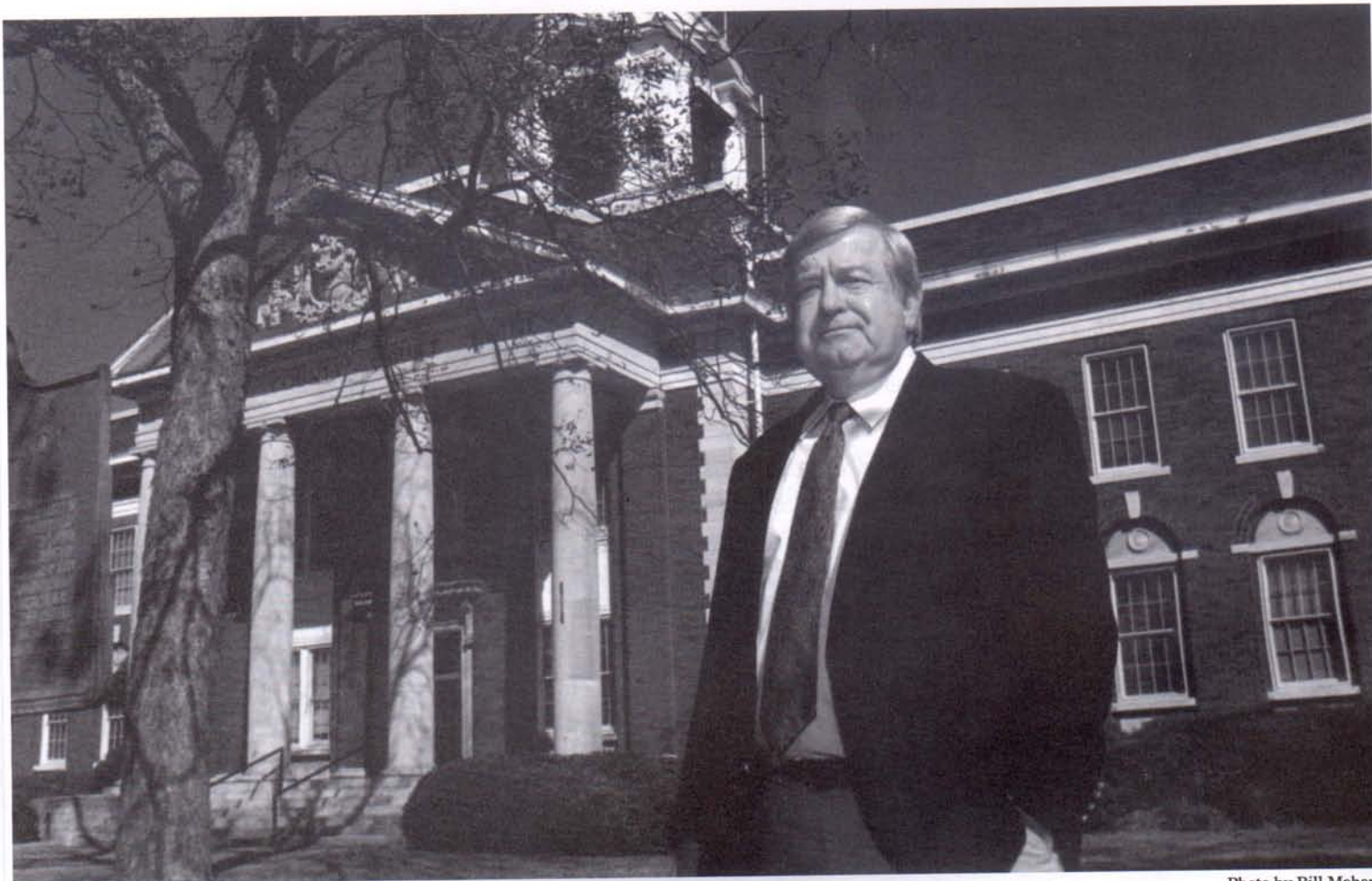


Photo by Bill Mahan

Billy Ray Godfrey, sole commissioner of Bleckley County, Ga.

Georgia's sole commissioner counties

Bartow,
Bleckley,
Chattooga,
Haralson,
Lumpkin,
Pickens,
Pulaski,
Towns,
Union and
Walker



Last word

Continued from page 17

But as Georgia counties become more diverse, the sole commissioner may disappear, said Ms. Byers.

Dodge County was the latest to get rid of its sole commissioner. Voters in the south Georgia county elected a five-person board in 1998 after the sole commissioner was convicted of vote fraud.

But at least one county is bucking the trend. Murray County, located in the northwest Georgia mountains, will have a referendum in March asking voters if they want to get rid of the current five-person board and return to the

sole commissioner.

Shirley Davis, owner of The Creme Hut restaurant in Chatsworth, helped collect nearly 4,000 signatures on a petition to change the commission. She says a sole commissioner is more accountable.

"It was hard to get an answer out of the five-man board," she said.

"All of them would just pass the buck. We felt like we could do more with a one-man." ●

Q&A Frank Martin, sole commissioner, Pickens County

"We rewrote our land development standards, and I pulled in about 30 or so citizens on committees and said, 'You guys, tell me what you want, how do you think this issue needs to be handled.'"



There are only 10 counties in Georgia with sole commissioners: Bartow, Bleckley, Chattooga, Haralson, Lumpkin, Pickens, Pulaski, Towns, Union and Walker. Frank Martin has been the sole commissioner in Pickens County for nearly three years. He gave this interview to the Associated Press.

Question: Why has Pickens County held on to the sole commissioner form of government?

Frank Martin: The sole commissioner is the only form of government Pickens County has ever had. At one time we had a request for a board of commissioners, but it was voted down, probably 12 years ago or so. Most people decided they were satisfied with the sole commissioner.

Question: Why do you support the sole commissioner system?

Martin: It's the most simple form of government there is. When somebody comes to you for a decision, within a day or so after you do your research, you can form an opinion and give them a decision.

I don't care if I'm sitting here or you're sitting here, I'm still going to support the sole commissioner because you don't have the arguments that you do under a board of commissioners.

Question: Isn't there more potential for corruption with a sole commissioner?

Martin: A lot depends on if you've got a good strong person at the helm with lots of good staff around him, someone who's trustworthy. If the guy or lady that's in charge of the single commission is not doing her job, boot her out and put in somebody you can trust.

Question: Have you ever been accused of being dictator, or king of the county?

Martin: I've had people say, "You know, you can pretty much do as you would like." But that's not necessarily true because you are going to always have to answer to somebody. And the public's who you answer to.

Question: How does a law get passed by a sole commissioner?

Martin: The way I usually do it, I invite the public for input. We rewrote our land development standards, and I pulled in about 30 or so citizens on committees and said, "You guys, tell me what you want, how do you think this issue needs to be handled." And from their findings, I could go ahead and set it up.

Question: How can a sole commissioner make sure government is open to the public?

Martin: We advertise our public meetings. Anybody who wants to can come talk at our meetings. Another thing, we've got an open door. That's one thing you don't find at a lot of board meetings. If you have a problem with your neighbor's dog barking, you don't have to wait until a commission meeting. You can walk in the door today and gripe if you want to. You said dictator, but I think Chief Complaint-Taker would be more like it.

Question: Sole commissioners run mostly small counties. Would it work in a larger county?

Martin: Sure. Bartow County is a prime example. Their population is growing strong (about 70,000), and (Commissioner) Clarence Brown has been there for six or seven years and he works real well. What's most important is that the people have to elect the kind of person they want to take charge of the community. ●

Counties surveyed for county commission minutes

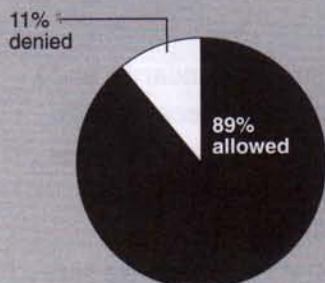
Counties where an individual asked to inspect the latest approved meeting minutes.

■ Allowed □ Denied □ Not surveyed



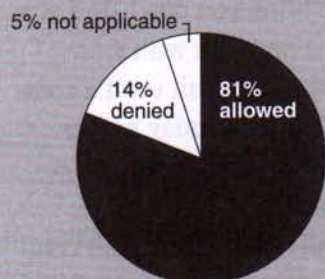
Accessibility

Percentage of meeting minutes individuals were allowed to inspect.



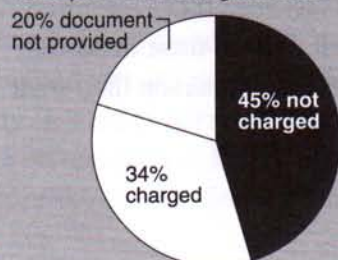
Copying minutes

Percentage of meeting minutes individuals were allowed to copy.



Cost for copies

Percentage of individuals asked to pay for copies of meeting minutes.



COUNTY COMMISSION RAYS OF SUNSHINE

Augusta-Richmond County immediately handed over the latest approved minutes, then threw in the next meeting agenda, all at no charge.

Berrien County has a copy of its open records ordinance on display at the front desk.

Cobb County produced the records within two minutes without asking the surveyor any questions.

Elbert County turned over its entire minutes book. The clerk then pointed out that by getting two-sided copies, the surveyor would only have to pay half as much.

Fannin County cooperated promptly, and then asked, "Are there any other documents you need?"

Floyd County's minutes include copies of contracts that the county has signed with suppliers.

Fulton County keeps a stack of copies of minutes ready for the public at the front desk.

Ware County added minutes from a work session.

Twenty-six Georgia counties have Web sites:

www.state.ga.us/index/local.cgi

For U.S. counties' agendas and minutes, go to www.municode.com

COUNTY COMMISSION SURVEY HOT SPOTS

Colquitt County said it would "do its best" to get them, but the county clerk would be out for many days.

Dawson County sent the surveyor from the courthouse to the county attorney's office. There the county clerk produced the records only after receiving a formal FO.I. request.

Laurens County said the minutes were unlocatable.

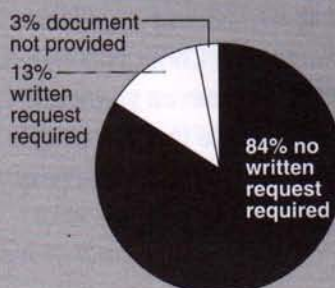
Lowndes County said the clerk was out until the next Monday.

McDuffie County said we must wait three days.

Treutlen County's clerk, which we surveyed on a Friday, said to come back the next Wednesday. The law does permit — but does not require — up to three days to produce records.

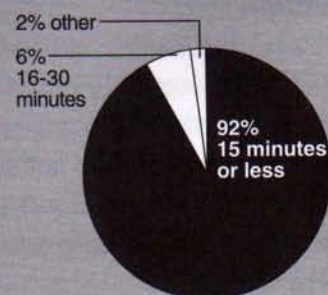
Written requests

Percentage of individuals asked to submit a written request for documents, this is not required by law.



Time spent in agency

The amount of time individuals waited for latest approved minutes.



NOTE: Numbers may not total 100% due to rounding.
Source: Georgia First Amendment Foundation

Graphics by Vita Salvemini, Savannah Morning News

What's public, what's private?

Superintendents say they're unsure

By HARRY FRANKLIN
The Columbus Ledger-Enquirer
COLUMBUS, Ga. (AP) —

Some local school officials in Georgia are unclear about what information can be released to the public and are wary of giving it to strangers, a survey conducted this fall reveals.

Twenty of 43 local school districts surveyed allowed superintendents' contracts to be examined and copied. Of the 23 that refused, some said the district has three days to produce the document, others said the superintendent would have to approve the release and others were unsure whether it was a public document.

"I've never had any document specifically telling me what I can release and can't release. That's what we depend on our lawyer for," said Muscogee County Schools Superintendent Guy Sims, whose office staff referred the request to review his contract to the school board attorney and asked that the request be put in writing.

Sims, who said he was not aware of the Sept. 15 request, said, "Everybody has read what my salary is. That's always what everybody wants to know. I don't think there was any attempt to keep anyone from seeing anything. I don't think we have determined who, how and when we will provide specific information. Unless you have designated who will be responsible for that, the person

*Open government
"comes way down on
the pecking list."*

may ask, 'Will I be reprimanded for releasing this?'"

He said school officials probably need more education about open records, but added, "That's just not a high priority in all the things we have to deal with. When your number one priority is making sure your schools are safe, you have the right curriculum and staff in place, that comes way down on the pecking list."

After Thomasville City Schools Superintendent James S. Cable was asked the amount of his salary, he told a reporter, "I just don't tell anyone who walks in my salary."

He asked that the request be put in writing, which the surveyor did Sept. 16. On Sept. 20, Cable said, that and other information about his latest expense reports was faxed to the reporter.

"I think a request like that should be in writing, a matter of protocol," said Cable. "I knew I couldn't require him to do it. That's just the way I like to work. If he had said no, I would still have to provide it."

If a teacher in his school system had been disciplined for abusing a student, Cable was asked during a follow-up telephone call whether he

would release information about the disciplinary action.

"I think discipline of a personnel who abuses a child would be confidential and I would not be able to release that," he said. "I would have to consult an attorney."

Melanie Stockwell, general counsel for the Department of Education, said such disciplinary action should be released under provisions of the state's Open Records Act.

Terry Jenkins, executive director of the Georgia School superintendents Association, said the association will try to better inform superintendents about the Open Records Act.

"We will schedule our attorney at the next meeting of superintendents to go over what they should do, he said.

Jenkins, former Troup County Schools superintendent, said there is very little information that school systems should not release.

"Ninety-five percent of everything they have is public information," he said. "That is not a difficult concept to understand. I do understand that once people come in, officials wonder what the information will be used for. But it would be the exception to the rule when the school board attorneys say you should not release information." ●

Some districts put secrecy on the agenda every meeting

By MICHAEL HUGHES
The Gainesville Times

GAINESVILLE, Ga. (AP) — In northeast Georgia, some school districts go into closed session about as often as department stores have December sales.

According to a survey by The Times of Gainesville, 45 of 76 school board meetings' agendas during the past six months listed executive sessions, which are closed to the public.

In the last six months, Habersham and Dawson counties have closed part of every meeting, and Gwinnett County has closed part of every work session. Forsyth County has closed 12 of 15 meetings, including several work sessions.

Yet in 13 of the meetings surveyed, the boards scheduled an executive session, but did not actually go into one.

Permanent lines in standing agendas list the times when school boards will go into secret session.

Some districts, such as Gainesville, list an executive session on their agendas, but rarely go behind closed doors, according to Superintendent Alan Zubay.

The system has a set format for agendas, he explained, and

item 14 simply lists the time they would close a meeting if necessary.

"We probably haven't had had an executive session in well over a year," Zubay said.

Dawson County Superintendent Herbert Burnsed said his board goes for months without closing meetings. But recently, the board has been evaluating property for future schools.

Forsyth County Superintendent Allene Magill said her growing district usually has some type of personnel, discipline or land-buying issue.

Forsyth was recently named the fastest-growing county in the United States. The 16,000-student, 2,000-employee system has opened eight schools since 1997, and plans to add another 405 classrooms in the next few years.

Ms. Magill said systems without Forsyth's growth don't have to close as many meetings to discuss buying property or hiring teachers and administrators. And smaller districts have less opportunity for reviewing student punishments.

Open government helps the school system's credibility and its trust with parents, said Supt. Anderson Byers of Jackson County.

"If you hold executive sessions every time, people tend to be suspicious," Byers said. ●

Q&A Melanie Stockwell
General counsel, Georgia Department of Education

In this interview with Harry Franklin of the Ledger-Enquirer, the general counsel for the state Department of Education acknowledges that some education administrators are confused about public information issues.



Question: Do you have a list of documents and records maintained by school systems that are considered public and should be released on request, and a list of those that are not part of the public domain and should not be released?

Stockwell: I have not seen one that's up to date. I have seen some old ones. That information is always useful. Even if nothing changes it, it gives local superintendents reminders. The list of exceptions is very self-explanatory. From our standpoint, we assume almost everything is a public document. Clearly, student records, real estate transactions under negotiation and part of personnel evaluations are exceptions.

Question: How can the State Department of Education help ensure that local school districts and the state agency act responsibly and helpful when the public makes requests for public information?

Stockwell: I think the attorney general's office should do a whole lot more with giving direction in that kind of thing.

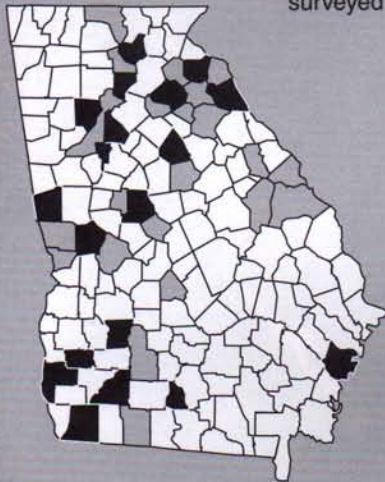
Question: Can you suggest ways to improve public accessibility to records and information that a local school district may be reluctant to release because it may not reflect positively on the school system or school officials?

Stockwell: I think the most important thing is for citizens to attend the board meetings. That's where they are going to learn what is going on and understand some other things they need to know about. They don't build up a trust with the board and superintendent if they don't attend meetings. It's all based on trust. You must build up trust and work with them. If you're fair with them, they will be fair back to you. ●

Counties surveyed for superintendent contract

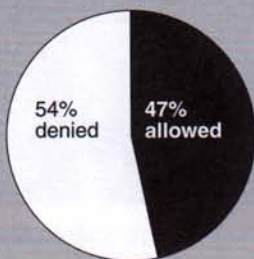
Counties where an individual asked to inspect the school superintendent's employment contract.

■ Allowed □ Denied □ Not surveyed



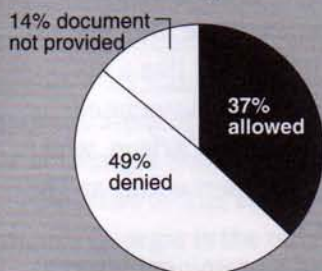
Accessibility

Percentage of contracts individuals were allowed to inspect.



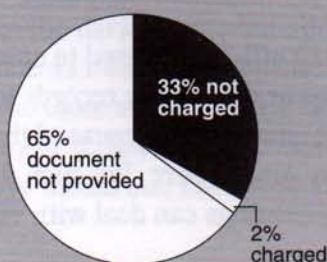
Copying documents

Percentage of contracts individuals were allowed to copy.



Cost for copies

Percentage of individuals asked to pay for copies of contract.



SCHOOL SUPERINTENDENT RAYS OF SUNSHINE

Forsyth County had heard about the survey from a neighboring county, and had the record waiting for the surveyor when he arrived.

Mitchell County promptly provided a copy of the record.

Monroe County had estimated it might take an hour to get the document, but produced it within 15 minutes.

Talbot County provided the document promptly.

Troup County complied and was "very courteous and professional."

SCHOOL SUPERINTENDENT SURVEY HOT SPOTS

Barrow County said only the superintendent could give it out, and he wasn't in.

Burke County said we'd have to see the superintendent and he was out.

Clarke County said we'd have to wait on the director of personnel, who was out of town.

Fannin County said it was too busy with its payroll to get us the document.

Fulton County said it would have to check on whether that is a public record.

Harris County said the law requires a written request answerable in three days. The law doesn't require a written request.

Hart County said only the superintendent could provide it and he wasn't there.

Jefferson County said it couldn't locate it and the superintendent was on leave having surgery.

Lamar County required three visits by our surveyor, and on the third demanded a written request.

McDuffie County balked, checked with the state Department of Education, finally said it would "put it in an envelope" for us.

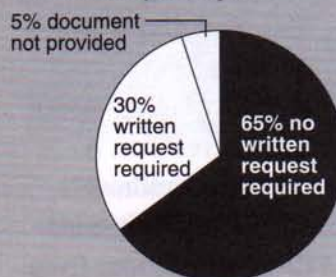
Muscogee County said its lawyer said we must request it in writing "under the Open Records Act." The law does not require a request in writing.

Oglethorpe County said a new contract just agreed to with the superintendent hadn't yet been typed up yet.

Richmond County said it would have to ask the superintendent, who was away.

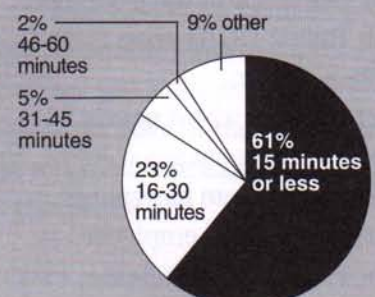
Written request

Percentage of individuals asked to submit a written request for documents, this is not required by law.



Time spent in agency

The amount of time individuals waited for superintendent contract.



NOTE: Numbers may not total 100% due to rounding.
Source: Georgia First Amendment Foundation

Graphics by Vita Salvemini, Savannah Morning News

Often a U.S. public-access battleground, UGA says it's 'trying' to comply with the law

By LEE SHEARER

Athens Daily News/Banner-Herald

ATHENS, Ga. (AP) — When surveyors fanned out across the state to ask for public records in September, the state's public college system did pretty well.

At 14 of 16 schools, officials turned over daily public crime logs, as all public colleges and universities are required to do under the Georgia Open Records Act. A new federal law that goes into effect next July will require public crime logs to be maintained by all colleges and universities, including private institutions not now covered by the state law.

But the records didn't always come easily. At Fort Valley State, for example, a reporter got bucked all the way to a vice president before the OK came.

Officials at the University of Georgia, like those at other state schools, say they are working hard to honor the state's strengthened open records and meetings laws.

"We have been trying," said UGA Police Chief Chuck Horton.

"As far as I'm concerned, our direction is to open it (any record), unless it meets one of the exceptions," said Bob Taylor, UGA's open records compliance officer.

Taylor has received nearly 80 open records requests since July 1, he said. Most came from newspaper reporters, some from employees or students, some from companies seek-

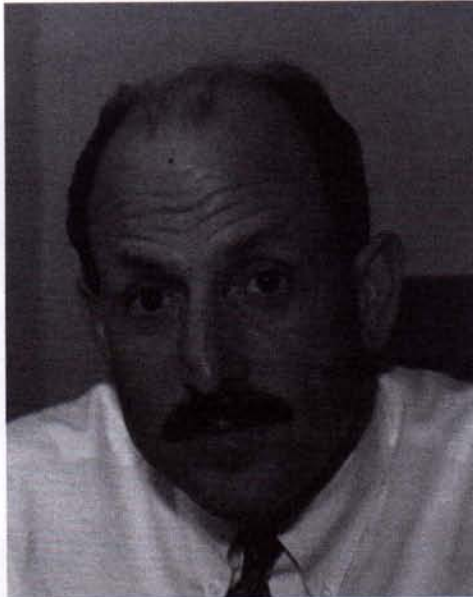


Photo by Bill Mahan

Chuck Horton, police chief, University of Georgia.

ing lists of UGA student names and addresses, he said.

Almost always, UGA turns over the records, he said.

The main exceptions he deals with are such things as student Social Security numbers, medical and veterinary records, records in pending real estate transactions and pending patent applications, Taylor said.

University records, particularly those dealing with information about campus crime, have not always been so accessible, mainly because of the 1974 Federal Education Rights and Privacy Act, also known as the Buckley Amendment, which protects the privacy of student records. A series of lawsuits and amendments, starting in the 1980s, has succeeded in removing FERPA protections from

crime incident reports and some disciplinary records involving criminal behavior, thus giving the public more information about campus crime.

Two of the most important lawsuits on this issue involved the University of Georgia and the campus newspaper, The Red and Black. The first case started in 1990 when the newspaper requested records of disciplinary proceedings involving a fraternity accused of hazing. After winning the case, the newspaper sued again in 1993, this time seeking access to records involving a student accused of setting fire to posters on the door of a dormitory room.

Those requests started a legal battle that went all the way to the Georgia Supreme Court twice before the students won. In the process, the dispute broadened into a still-unresolved national debate over public access to campus crime information.

"To me it sounded like a no-brainer," said former Associated Press staffer Carolyn Carlson, who was at the time a guest editor at The Red and Black.

She called a prominent lawyer she knew in Atlanta, and soon she and the student journalists were involved in a court case that went on for almost a decade.

UGA officials refused to open the hearings or release the records to the student newspaper because of the Buckley Amendment. But such disciplinary hearings can deal with very



Connie Sampson, police chief, Georgia State University, and one of her officers, Corporal Ray Mack.

Photo by Bill Mahan

UGA

Continued from page 24

serious crimes — drug possession and, on some campuses, even sexual assault — explained Carlson, now a graduate student and adjunct professor at Georgia State University.

Because of The Red and Black lawsuit, Georgia is the only state in the United States where all disciplinary hearings and records at public colleges are open to the public.

The public in the other 49 states is still in the dark about what criminal acts students may have been charged with, who those students are and what punishment school administrators may have meted out, Carlson said.



Photo by Bill Mahan

Kent Middleton, head of the School of Journalism, University of Georgia.

“Many crimes on campus are never turned over to the regular court system,” she said.

After The Red and Black lawsuits, a lobbying coalition of journalism organizations and victim rights groups formed to force colleges to report publicly details of all crimes that occur on campus.

“That case set a national precedent of opening student judiciary meetings and records,” said Kent Middleton, head of the UGA journalism school and an expert on communications law. ●

Prying open the iron curtain of campus secrecy

*Withholding crime information actually endangers the students
a 1974 federal law seeks to protect, an advocate of openness says*

By THOMAS W. KRAUSE

The Macon Telegraph

ATHENS, Ga. (AP) — In 1974, a virtual iron gate slammed shut, prohibiting universities from releasing students' records.

Some who were directly involved, however, say the Federal Education Rights and Privacy Act was never intended to include colleges and universities.

Congress passed the act to correct what it felt was an injustice to students and parents, said Sheldon Steinbach, general counsel for the American Council on Education, an organization of 1,800 college chancellors and presidents. FERPA's initial goal was to allow parents of students in kindergarten through 12th grade access to their children's files -- and to prevent access to anyone else.

An error in the legislation expanded the act to include institutions of higher learning, according to Steinbach.

Although it shielded student information for more than 20 years, efforts throughout the 1990s have chipped away at it.

Organizations of families of campus crime victims and journalists have fought successfully to gain access to specific information they feel students need to know -- the records of crime on their campuses.

Daniel Carter, vice president of Security on Campus, a Tennessee-based, non-profit group dedicated to the prevention of campus violence, said the withholding of crime information is actually dangerous to the same students the 1974 law is trying to protect.

"Unless students are aware of the crime happening on or around the campuses, they can't make informed decisions to avoid and prevent it," he said.

Carolyn Carlson, a former national president of the Society of Professional Journalists and a current board member of the Georgia First Amendment Foundation, said gaining access to that information has included several

long legal battles.

Most public bodies must release all information to the public unless a legal restriction exists, she said.

Universities, though funded by tax dollars, cannot release information to the public unless that information is specifically exempted from the 1974 law.

"It's kind of backwards thinking," she said.

Testimony by Carlson and Carter helped to bring about recent federal legislation allowing exemptions to FERPA for campus crime records.

A federal act was passed in 1992 that allowed school administrators to release annual reports on campus crime and allowed them to release incident reports kept by campus police. Another act, in 1998, allowed schools to release the final results of on-campus disciplinary proceedings where students were found guilty of sex crimes or violent crimes.

But even though that information is now exempt from FERPA, access to that information is not necessarily a right, said Jim Bradshaw, a public affairs officer for the U.S. Department of Education.

"Unlike a state open records law, the federal government doesn't blast open records," he said. "They say, 'If you release it, we won't prosecute you.'"

The 1992 and 1998 exemptions have allowed schools to release the records at their own discretion, Bradshaw said. Schools that continue to withhold that information are not violating federal law.

Georgia law, however, specifically requires the release of those records.

In 1993, the Georgia Supreme Court ruled that any university record that is not protected by FERPA falls under the state's open records act. Therefore, Georgia schools withholding that information are in violation of state law. ●



Photo by Bill Mahan
Carolyn Carlson, doctoral candidate at Georgia State University: her testimony helped open up campus crime data.

Q&A Stephen Portch

Chancellor, University System of Georgia

In this interview with Lee Shearer of the Daily News/Banner-Herald, University System of Georgia Chancellor Stephen Portch talks about the changes in open-record laws and how universities have adapted to the changes.



Question: New amendments strengthening state open records and meetings law went into effect in July. Has the Board of Regents taken any actions as a result?

Portch: I know that we have done some workshops when the new law came out. Our chairman publicly stated that he was for the new law and expected the university system to be a leader in response to it. I think the board and I have both basically taken the position that openness is good, though there are some circumstances that you need to be judicious.

Question: State open records law specifically protects from public view some kinds of information produced at public colleges, specifically patentable discoveries gathered by scientists and other researchers. How far does that exemption go?

Portch: Because there is an increase in sponsored research outside federal government, the complex issue there is the timing. We should not be engaged in a joint research venture if it's not going to be made public, but if someone is applying for a patent, that's an issue that has to be worked through. There are issues where you just have to sort things out. There's usually a way to work out something that works for everybody.

Question: The U.S. Supreme Court has upheld the Georgia Supreme Court's 1993 ruling that student disciplinary meetings and records at the University of Georgia are subject to state open records and meetings laws. What is the system's position on disciplinary procedures now?

Portch: There's some misconduct that's turned into an educational opportunity, and a lot of publicity isn't always going to help. But if it's serious enough for a formal process, I would say it should be open. That's one of those tricky areas because clearly you want to encourage responsible activity through judicial proceedings. ●

Counties surveyed for university or college public crime log

Counties where individuals asked to inspect a university's or college's daily public crime log.

■ Allowed □ Denied □ Not surveyed



Access to documents

Percentage of requested documents individuals were allowed to inspect.



UNIVERSITY RAYS OF SUNSHINE

Augusta State courteously produced the daily log and the school's annual crime report, too, on a day when the area was watching the approach of Hurricane Floyd.

Columbus State University produced the log and its crime reports for the last three years, and discussed the nature and incidence of crimes on campus.

Georgia Tech said it didn't know if there was such a thing as a daily public crime log, but then produced the day's log.

UNIVERSITY SURVEY HOT SPOTS

The University of Georgia said it couldn't spare personnel to redact excepted material from the police reports.

Abraham Baldwin Agricultural College said it doesn't have enough crime to merit maintaining a log.

In Hahira, Ga., John Adams is mayor -- and webmaster

By BRIAN LAWSON

Thomson South Georgia Newspapers

VALDOSTA — John Adams is mayor of Hahira, a 1,700-resident South Georgia community neighboring Valdosta, and webmaster for the city's Internet site. He began working on it three years ago.

"I began it as kind of a learning experience for me and as an information medium for the city," Adams said. "I get e-mail practically every day from people asking questions about the community, or from former residents hoping to look somebody up."

The site involves about three hours work per week and has council minutes, a link to the local Historical Society, forms for building permits and zoning applications, Adams said.

DeKalb County recently has made it possible for residents to pay property taxes and research deed information at its web site.

"We've had 100 to 150 people who have paid on-line," said Robert Goodman, manager of property records. •

Columbia County sheriff e-mails releases to media

By Phil Hudgins

Community Newspapers Inc.

APPLING — It began as a convenience: it was easier and quicker to e-mail photographs of suspects to the media than to mail hard copies.

But convenience has become a routine procedure. Now, in urgent cases, the Columbia County Sheriff's Department e-mails press releases to all newspapers and electronic media in the Columbia-Richmond County area. The response from reporters has been tremendous.

"Obviously they love it," says Capt. Steve Morris, who heads the department's patrol division and serves as public information officer.

"I think we've spoiled the reporters around here. They get what they want from us, and then they go downtown [in nearby Augusta] and have to deal with other sheriff's departments."

It hasn't always been so easy, Morris says.

"We've had some real bruises (with the news media)," he says. "But we finally decided that they have a job to do and we have a job to do. And if we make their job easier, they'll make our job easier." •

Q&A R.B. "Chips" Shore

Clerk of Circuit Court, Manatee County, Fla.

On Nov. 1, Manatee County, Fla., went public — literally. R.B. "Chips" Shore, clerk of the circuit court, posted all public documents recorded in the county since 1978 on a Web site — including mortgages, deeds, liens, divorce settlements, affidavits, bankruptcies, contracts, financial statements, judgments, marriage licenses, powers of attorney, death certificates and wills. The site, www.clerkofcourts.com, is the first known to provide such information free of charge. Shore described it to Jennifer Foster of The Columbus Ledger-Enquirer.

Question: What was the impetus for it?

Shore: There wasn't any. This has been our goal from the beginning. My concept in the office is that these records belong to the public, and they ought to be as accessible as possible. We've been trying to do this for 10 years. Technology is allowing us to do it now with the advent of the Internet.

Question: How much information is included?

Shore: Oh, I couldn't even begin to tell you. It's in the millions of pages. Actually, the way we've done it, it's actually made it easier for us because now we scan everything that comes in, and we're doing our microfilm from our scans electronically.

Question: How long did it take?

Shore: We started seven years ago with the imaging. But we knew this was going to come about, we just weren't able to get there under the old system.

Question: Did you run into any resistance?

Shore: Very little. And it seems to center around Social Security numbers (which are not blacked out on the documents), but it hasn't been as great as I expected. I think we've had three maybe four calls. We're trying to work with the Legislature in finding an answer on the Social Security question. We'd just as soon not put (numbers) out there, but the law requires us to now.

Question: What are people around town saying?

Shore: I've had tremendous feedback from almost everywhere. We've gotten e-mails from California, from everywhere. It's just amazing. And I don't know how they're finding out about it.

Question: What does this mean for freedom of information or open records access?

Shore: You can't have it two ways. You can't have the information at hand for everybody and have public information and not have it out there. •

GEORGIA OPEN-GOVERNMENT PRIMER

Georgia citizen, how do you....

1. Get the agenda of the next meeting of your city council, county commission or school board.

Sixty-five Georgia cities and 26 counties have websites. A handful of them include the agendas of the next meetings. Go to:
State.ga.us/index/gagov.html

Or go to City Hall, the courthouse or school district headquarters and request it. By law, the copying cost is 25 cents a page.

2. Get minutes of past meetings.

Few Web sites have the minutes of the last meetings. Best to go to City Hall, the courthouse or school district headquarters and request them. By law, the copying cost is 25 cents a page.

3. Read your city's land use plan.

Go to City Hall or the courthouse and request it.

4. Obtain a university or college's daily public crime log.

Go to the campus police or security department and request it. Access is guaranteed by the laws.

5. Identify your state legislators .

Go to: State.ga.US

6. Read the Georgia sunshine laws.

Go to: Ganet.org/services/ocode

Or send an optional donation and a \$1.65 (that's five stamps) self-addressed envelope to Georgia First Amendment Foundation, 150 East Ponce De Leon Avenue, Suite 270, Decatur, GA 30030 and request the booklet "Georgia's Sunshine Laws: A Citizen's Guide to Open Government," by the office of the Georgia Attorney General, Thurbert Baker, in cooperation with the Georgia First Amendment Foundation. Be sure to ask for the second edition.

7. Track legislation during the Georgia General Assembly.

Go to: State.ga.us/services/leg

8. Read Georgia attorney general opinions.

Go to: Ganet.org/ago/gaagopinions.html

A spokesman for the attorney general's office stated that an upgrade of the opinion website is planned, and the department will consider adding Attorney General Baker's letters attempting to resolve Georgia open-government disputes.

9. Read the state's evaluations of public schools.

Go to: <http://168.31.216.185/>



Georgia Open Government Survey

Sept. 13-17, 1999

SURVEY RESULTS

Percentage of government agencies permitting individuals to inspect public documents:

City police previous day's incident reports	62%
County sheriff previous day's incident reports .	50%
City council latest approved meeting minutes ..	93%
County comm. latest approved meeting minutes	89%
School superintendent employment contract ...	47%
University or college daily public crime log ...	86%

OFFICIAL CODE OF GEORGIA ANNOTATED

50-18-70. Open records defined

(a) As used in this article, the term "public record" shall mean all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, or similar material prepared and maintained or received in the course of the operation of a public office or agency. "Public records" shall also mean such items received or maintained by a private person or agency on behalf of a public office or agency which are not otherwise subject to protection from disclosure; provided, however,

this Code section shall be construed to disallow an agency's placing or causing such items to be placed in the hands of a private person or entity for the purpose of avoiding disclosure. Records received or maintained by a private person, firm, corporation or other private entity in the performance of a service or function for or on behalf of an agency, a public agency, or a public office shall be subject to disclosure to the same extent that such records would be subject to disclosure if received or maintained by such agency, public agency, or public office. As used in this article, the term "agency" or "public agency" or "public office" shall have the same meaning and application as provided for in the definition of the term "agency" in paragraph (1) of subsection (a) of Code Section 50-14-1 and shall additionally include any association, corporation, or other similar organization which (1) has a membership or ownership body composed primarily of counties, municipal corporations or school districts of this state and their officers or any combination thereof; and (2) derives a substantial portion of its general operating budget from payments from such political subdivisions.

(b) All public records of an agency as defined in subsection (a) of this Code section, except those which by order of a court of this state or by law are prohibited or specifically exempted from being open to inspection by the general public, shall be open for a personal inspection by any citizen of this state at a reasonable time and place; and those in charge of such records shall not refuse this privilege to any citizen.

HOW TO CONTACT THE GEORGIA FIRST AMENDMENT FOUNDATION

Hollie Manheimer, executive director, 150 East Ponce de Leon Avenue, Suite 270, Decatur, GA 30030. Telephone 404-525-3646, FAX 404-377-0486, email gfaf@mindspring.com, online at www.gfaf.org

The Georgia First Amendment Foundation received funding for this project through a grant from the Georgia Civil Justice Foundation, and a grant from from the Scripps Howard Foundation. The foundation also received funding for this project from the John S. and James L. Knight Foundation. Established in 1950, the John S. and James L. Knight Foundation makes national grants in journalism, education, arts and culture. Its fourth program, community initiatives, is concentrated in 26 communities where the Knight brothers published newspapers, but the Foundation is wholly separate from and independent of those newspapers.