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## OPINION Guest column

# Transparency: an inch from extinction

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Government—like kudzu—isn't inherently bad. But when unchecked, it's at best a menace and at worst remarkably destructive.

The Arkansas Freedom of Information Act is the single best check for the public on government behavior. It allows any citizen—and their representatives in the press—to request copies of public records, including access to databases, as well as to attend meetings of governing bodies.

Some government records remain off-limits to the public. But therein lies the rub. Too often custodians of public records have an inflated view of which records are exempt, which records should be exempt, and their entitlement to be the sole authority on these decisions.

Unsurprisingly, therefore, during every legislative session, the FOIA comes under attack, often by euphemistically named organizations like the Arkansas Association of Counties or the Municipal League. These private lobbying entities are paid with your tax dollars by local officials often to advocate against your transparency rights for the benefit of those officials and the bureaucrats they oversee.

Rest assured, however, these aren't the only organized efforts seeking to shackle your ability to obtain government documents. There are many, including public agencies' in-house lobbyists, also deceptively known as "offices of government relations and legislative advocacy," who lobby the Legislature to reduce your oversight of their activities, all while you pay their unnecessary salaries.

Why do we pay government entities to hire staff to lobby government?

Their actions speak louder than their often anodyne words. They've lobbied to restrict access to coroner's reports, which frequently provide critical safety information to the public. They've sought to charge you for the labor of government employees—who you've already paid—when they provide public records in response to FOIA requests. Remember, these government employees already receive taxpayer-funded salaries.

They've tried to deny you access to public records created by government attorneys even though these lawyers are every bit the public servants subject to your scrutiny as are all other government employees. Attorneys on the public dime aren't entitled to special dispensation.

They've even tried to convince the Legislature to allow government bureaucrats to decide whether your request is too much of a "burden" for them. Do I even need to articulate the absurdity of that?

Hello fox, here's the henhouse: Enjoy.

In years past, transparency advocates measured success in how well they have been able to beat back the marauding hordes of lobbyists seeking to undermine your access to the records you paid to create. State senators Alan Clark and Mark Johnson, for example, recently were instrumental in scuttling the awful coroner-secrecy bill. Kudos for holding the line. No bridge should be allowed to fall!

But, the times they are a-changin', and several legislators, including Clark and Johnson, have been proactive in fighting to improve access for the public.

For example, Sen. Dan Sullivan from Craighead County introduced several bills to improve the FOIA. After the City of Little Rock said it intended to fight all the way to the Supreme Court to prevent citizens from using phones to copy records because in the city's, uh, mind somehow phones aren't enough like copy machines to be allowed for copying under the FOIA, Sullivan introduced a bill—which is now law—resolving that you can. Sometimes lawmaking is about stomping the stupid out of the other side.

As a result of another Sullivan bill that became law, successful FOIA litigants are now indisputably entitled to receive attorney's fees if the government's record production occurs after the requestor files suit. And to show you that transparency isn't a left-or-right issue, but rather a right-or-wrong issue, my state senator, who is a Democrat, Clarke Tucker, agreed to co-sponsor the bill and present it on the floor of the Senate. Kudos to the both of them. Take back that bridge!

There's a lot more to do. Johnson is interested in providing civil penalties for repeat FOIA violations. Sullivan and Sen. Kim Hammer have previously introduced bills to stop public entities from transparently (pun intended) avoiding the FOIA by operating through private foundations that they help create; think Razorback and Red Wolves Foundations.

Others have suggested establishing a procedure wherein citizens can get opinions from a civilian FOIA review panel rather than having to file suit. I like that idea.

And there's a recognized need among some legislators to better define "public meetings" to prevent members of governing bodies from operating in secret in violation of the open-meetings portion of the FOIA. Let's get it all done!

Chutzpah is Yiddish, the largely dead language spoken by European Jews before WWII, for "audacity," and the classic example is a murderer who kills his parents, then seeks mercy from the court because he's now an orphan. But the boldness of some government officials and their paid lobbyists who take your hard-earned money then actively thwart your oversight interests might need to become the updated illustration.

Thank God, however, Arkansas has a new breed of legislators who've got chutzpah of their own, irrespective of whether they can even pronounce the phlegm-inducing word. To these excellent public servants I say: Zei gezunt, Yiddish for "stay healthy." We need you around for a long time!

This is your right to know.

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