

RIGHT TO KNOW ADVISORY COMMITTEE

DRAFT AGENDA

September 29, 2011

1:00 p.m.

Room 438, State House, Augusta

Convene

1. Welcome and Introductions
2. Updates from Subcommittees
 - Bulk Records Subcommittee
Mike Cianchette
 - Public Records Exceptions Subcommittee
Shenna Bellows
 - Legislative Subcommittee
Mal Leary
3. Discussion: How to resolve FOA request/response problems? Is there a resolution process that is fair to both requesters and public offices?
4. Other?

Adjourn

**TITLE 5
ADMINISTRATIVE PROCEDURES AND SERVICES**

**PART 1
STATE DEPARTMENTS**

**CHAPTER 9
ATTORNEY GENERAL**

§200-I. Public Access Division; Public Access Ombudsman

1. Public Access Division; Public Access Ombudsman. There is created within the Department of the Attorney General the Public Access Division to assist in compliance with the State's freedom of access laws, Title 1, chapter 13. The Attorney General shall appoint the Public Access Ombudsman, referred to in this section as "the ombudsman," to administer the division.

2. Duties. The ombudsman shall:

- A. Prepare and make available interpretive and educational materials and programs concerning the State's freedom of access laws in cooperation with the Right To Know Advisory Committee established in Title 1, section 411;
- B. Respond to informal inquiries made by the public and public agencies and officials concerning the State's freedom of access laws;
- C. Respond to and work to resolve complaints made by the public and public agencies and officials concerning the State's freedom of access laws;
- D. Furnish, upon request, advisory opinions regarding the interpretation of and compliance with the State's freedom of access laws to any person or public agency or official in an expeditious manner. The ombudsman may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under Title 1, chapter 13. Advisory opinions must be publicly available after distribution to the requestor and the parties involved; and
- E. Make recommendations concerning ways to improve public access to public records and proceedings.

3. Assistance. The ombudsman may request from any public agency or official such assistance, services and information as will enable the ombudsman to effectively carry out the responsibilities of this section.

4. Confidentiality. The ombudsman may access records that a public agency or official believes are confidential in order to make a recommendation concerning whether

the public agency or official may release the records to the public. The ombudsman's recommendation is not binding on the public agency or official. The ombudsman shall maintain the confidentiality of records and information provided to the ombudsman by a public agency or official under this subsection and shall return the records to the public agency or official when the ombudsman's review is complete.

5. Report. The ombudsman shall submit a report not later than March 15th of each year to the Legislature and the Right To Know Advisory Committee established in Title 1, section 411 concerning the activities of the ombudsman for the previous year. The report must include:

- A. The total number of inquiries and complaints received;
- B. The number of inquiries and complaints received respectively from the public, the media and public agencies or officials;
- C. The number of complaints received concerning respectively public records and public meetings;
- D. The number of complaints received concerning respectively:
 - (1) State agencies;
 - (2) County agencies;
 - (3) Regional agencies;
 - (4) Municipal agencies;
 - (5) School administrative units; and
 - (6) Other public entities;
- E. The number of inquiries and complaints that were resolved;
- F. The total number of written advisory opinions issued and pending; and
- G. Recommendations concerning ways to improve public access to public records and proceedings.

6. Repeal. (repealed)

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

**An Act To Implement the Recommendations of the Right To Know
Advisory Committee Creating the Public Access Ombudsman**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §200-I is enacted to read:

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 - (1) State agencies;
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 - (6) Other public entities;
- E. The number of inquiries and complaints that were resolved;
- F. The total number of written advisory opinions issued and pending; and
- G. Recommendations concerning ways to improve public access to public records and proceedings.

→ **6. Repeal.** This section is repealed June 30, 2009.

Sec. 2. Pilot project. Notwithstanding the Maine Revised Statutes, Title 5, section 200-I, subsection 1, the Department of the Attorney General may establish the Public Access Division and appoint the Public Access Ombudsman as a pilot project if funding is available.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

ATTORNEY GENERAL, DEPARTMENT OF THE

Administration - Attorney General 0310

Initiative: Allocates funds for a part-time Assistant Attorney General position and general operating expenses required to carry out the purposes of this Act.

FEDERAL EXPENDITURES FUND	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	0.500
Personal Services	\$0	\$39,458
All Other	\$0	\$1,718
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$41,176

Effective July 18, 2008

III. RECOMMENDATIONS

The Advisory Committee makes the following recommendations. Because Resolve 2005, chapter 123 authorizes the Joint Standing Committee on Judiciary to report out legislation after receiving the Advisory Committee's report, rather than permitting the Advisory Committee to submit legislation directly, and because of the time constraints, the Advisory Committee is providing its recommendations in concept draft form, which allows the Judiciary Committee to develop the language as its members determine is appropriate.

1. Permanent advisory board

The Advisory Committee recommends the establishment of a permanent advisory board on public access to records and proceedings. The membership of the board should include representatives from all branches of state government as well as all levels of government. The Advisory Committee recommended that the board be named the Right To Know Advisory Committee to make it clear to everyone concerned, especially the public, what the purpose of the entity is. The main duties of the board should include at least the following.

A. To provide guidance in ensuring access to public records and proceedings. The advisory board will work with the Ombudsman (see recommendation 2) to address general compliance issues and respond to requests for interpretation and clarification of the laws. The advisory board may make recommendations for changes in the statute to improve the laws, and may make recommendations to agencies and public officials with regard to best practices in providing the public access to records and proceedings.

B. To serve as the central source and coordinator of information about the Freedom of Access laws and the people's right to know. Rather than each agency developing their own resources from square one, the advisory board will provide the basic information about the requirements of the law and the best practices for agencies and public officials. It will also provide general information about the Freedom of Access laws for a wider and deeper understanding of citizens' rights and their role in open government. The advisory board, with representation from all branches and levels of government, will coordinate the education efforts by providing information about the Freedom of Access laws and who to contact for specific inquiries.

The Advisory Committee envisions this role of the permanent advisory board to include establishing a website that states the Freedom of Access laws and provides specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. It should include the

contact information for agencies, as well as how to reach the Ombudsman with complaints and concerns. The website should also include, or be linked to, a list of statutory exceptions to the public records law.

C. To serve as the central resource for training and education about the Freedom of Access laws. Although each agency will want to tailor training for the specific records and meetings pertaining to that agency's mission, the advisory board can provide the core resources for the training, share best practices experiences and be responsible for establishing and maintaining on-line training as well as written question-and-answer summaries about specific topics.

D. To serve as a resource for the Judiciary Committee in its role as the review committee in examining public records exceptions in both existing laws and in proposed legislation. The review of the existing and proposed exceptions is a valuable tool in ensuring that the public's records are accessible, which is an essential factor in open government and in building and maintaining the public's trust in their government. The review process needs to be evaluated and perhaps revised to provide more information and guidance in a timely manner to the Judiciary Committee. The advisory board may choose to recommend more standardized language in the statutes to clearly delineate what information is not public and the circumstances under which that information may appropriately be released.

It should be noted that the full range of the duties outlined here are somewhat dependent on the adoption of the Advisory Committee's recommendation to create a freedom of access Ombudsman. In order for the advisory board to function as envisioned, staff will be necessary. The Ombudsman may be able to at least partially address those needs. The Advisory Committee recommends that the Judiciary Committee not lose sight of the necessity of staffing resources.

2. Freedom of access Ombudsman

The Advisory Committee recommends the establishment of a freedom of access Ombudsman, a funded position within the Office of the Attorney General. The Ombudsman will be the link between the public and the governmental agency when there is misunderstanding, confusion or dispute over access to public records and proceedings. The Ombudsman will respond to questions, help determine what records or information must be accessible and help determine how agencies can best provide access to public records. The Ombudsman will be available to help information requestors narrow their requests to relevant and helpful documents, reducing unnecessary work and frustration on all sides of the question.

The Ombudsman will be in regular contact with the permanent advisory board (see recommendation 1 above) to help identify common misunderstandings and ambiguities in the laws. The Ombudsman will work with the advisory board to develop training and

educational sessions and materials for agencies and public officials as well as the public. The Ombudsman will also collect data about the types of questions and complaints and report that information to both the advisory board and the Legislature for use in formulating proposed changes in law and practice.

The Advisory Committee recognizes the work the Attorney General's Office has devoted to filling the problem-solving role of the Ombudsman without any additional funding. Recent events and public interest make it clear that the complete Ombudsman responsibilities are deserving of full funding. Based on the anecdotal information provided about the Freedom of Access requests received by agencies and the concerns raised by advocates, the Advisory Committee believes that funding such a position will, in the long run, lead to greater efficiencies and cost savings. Conflicts will be resolved quickly and agencies will not need to spend hour upon hour figuring out how to respond to overly-broad requests.

The Advisory Committee strongly supports the creation and funding of the Ombudsman. The Advisory Committee does not, however, believe it would be appropriate to ask the Attorney General's Office to take on any of the Ombudsman's duties without sufficient funding; the Advisory Committee does not support expanding the role of the Attorney General without additional resources.

Report 2007

□ Establish a Public Access Ombudsman position within the Attorney General's Office

The Advisory Committee has unanimously endorsed the establishment of a Public Access Ombudsman, a funded half-time position within the Office of the Attorney General. The Committee has recommended to the Governor that funding for the position be included in the Governor's proposed fiscal year 2007-2008 budget currently being developed for presentation to the Legislature in early January. If funding for the position is not included in the proposed budget, the Advisory Committee supports the introduction of separate legislation creating the Ombudsman position.

The Advisory Committee believes that an Ombudsman is necessary to educate and assist state agencies, local governments and the public with regard to understanding Maine's Freedom of Access laws. Based on the anecdotal information provided about the Freedom of Access requests received by agencies and the concerns raised by advocates, the Advisory Committee believes that funding such a position will, in the long run, lead to greater awareness and compliance with the Freedom of Access laws and generate greater efficiencies and cost savings for state agencies asked to respond to requests for access to public records and proceedings.

The Advisory Committee has developed draft statutory language and a financial estimate for funding a half-time position. Based on the draft, an annual cost of less than \$60,000 is expected. The draft language and budget estimate is included as Appendix D. Under the proposal, the Ombudsman will be the link between the public and the governmental agency when there is misunderstanding, confusion or dispute over access to public records and proceedings. The Ombudsman will respond to questions, help determine what records or information must be accessible and help determine how agencies can best provide access to public records. The Ombudsman will be available to help information requestors narrow their requests to relevant and helpful documents, reducing unnecessary work and frustration on all sides of the question. The Ombudsman will also have the authority to issue advisory opinions. We envision that the Ombudsman will work in coordination with the Right to Know Advisory Committee to develop training and educational sessions and materials for agencies and public officials as well as the public. The Ombudsman will also collect data about the types of questions and complaints and report that information to the Governor, the Legislature and the Advisory Committee for use in formulating proposed changes in law and practice.

Ombudsman budget estimate - draft

AAG		
Range 30 step 4		FY08
start date		7/1/2007
Headcount		0.5
Personal Service		29,110
with benefits		19,538
PS subtotal		48,648
All Other		
travel		1,700
dues,printing		3,000
training		50
telephone		600
wan,email,computer & software		2,425
AO subtotal		7,775
Grand Total		56,423



STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION

*Appendix G
only*

Fifth Annual Report
of the
RIGHT TO KNOW ADVISORY COMMITTEE

January 2011

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APPENDIX G

Options for Delivery of Freedom of Access Services to the Public

Proposals for Freedom of Access Services

Submitted by the Maine Right to Know Extern Sean O'Mara for inclusion in the Maine Right to Know Advisory Committee Report on 12/2/2010.

Summary

This report outlines planned and potential means of supporting greater public access to government in accordance with the goals of Maine's freedom of access statutes. Increased knowledge and legal empowerment of the people of Maine would further the joined goals of greater access and accountability. The Right to Know Advisory Committee's current plan to accomplish this is to connect people to Maine attorneys through the Volunteer Lawyers Project. By providing volunteers and law students with the necessary training and supervision, the Volunteer Lawyers Project can provide freedom of access information to those who need it, legal representation from Maine lawyers when appropriate, and a measure of the need for such services in the state. The Volunteer Lawyers Project will work with the Maine Right to Know Advisory Committee, the Office of the Attorney General, and the Maine School of Law Extern to develop freedom of access services to the public that are similar to those being offered in other states.

Current Status of Freedom of Access Resources

The Maine Legislature, acting on the recommendations of the Maine Right to Know Advisory Committee, has made significant and sweeping improvements to the state's freedom of access laws. This process is on-going and includes: greater educational outreach to public officials, greater accessibility to agencies via online media, and the development of more uniform agency statutes.

These efforts are best complemented by increased awareness of the public's rights under the state statutes, particularly as these laws are amended. An educated public will better ensure the accountability of government officials. The Maine Right to Know website supports this process by providing answers to what rights are delineated in the law, but it is less effective at the point of assisting individuals with specific questions or inquiries.

The exact definition of what are "reasonable translation costs" of public records, what constitutes a "reasonable period of time" to acknowledge receipt and produce records for freedom of access requests, and questions regarding technology use in meetings are among the issues that have yet to be fully resolved. The specific situations that often form the basis of statutory interpretation are usually not easily navigated by a layperson. Moreover, an average citizen might not press his or her statutory freedom of access rights due to a lack of confidence or familiarity with the legal system.

The need for answers is illustrated by letters from constituents from around the state received by the Office of the Attorney General. While responses to these constituent letters addressing the general state of the law are helpful, the office is limited to serve only as an educational resource for these individuals.

What Other States are Doing

To address these public concerns, a few law schools in other states have stepped into the gap. For over a year, the Chicago Kent College of Law has operated the Center For Open Government. <http://www.kentlaw.edu/academics/clinic/cog.html>. This center responds to the calls and e-mails of citizens of Illinois. The inquiries are researched and

responded to by the three law students in the program, with all responses reviewed by the program's director.

This program was started by the efforts of two civil rights attorneys, who provided the money for the program's budget, while the school provided the overhead. These two attorneys have taken on 4-5 cases that came through the program in the year since the program started. The law students do not directly represent clients, although they are looking into that option. Currently, the law students do some of the research and help to file claims. The program's director, Terrance Norton, indicated that the steady number of inquiries and applications for representation has been increasing, and he expects them to increase more as awareness of the project grows. Journalists have made a significant number of these inquiries and applications.

In Illinois, there is also a Public Access Counselor, who writes decisions on freedom of access issues, which are binding unless appealed to the court system. Similarly, Yale Law School has created an externship where students work with media attorneys to prepare state access cases or federal freedom of information requests (FOIA) and appeals. Other schools, such as the Columbia University School of Law, have hosted open government workshops in cooperation with federal and state committees working on increased access to public information via technology.

Planned Solution for the Problem

What follows is a description of the planned solution currently being developed, as described and approved by the Maine Right to Know Advisory Committee.

In collaboration with the Volunteer Lawyers Project and the Office of the Attorney General, the Maine Right to Know Advisory Committee recommends

establishing a service to assist individuals with freedom of access issues. This service would help individuals request documents, gain access to meetings, and appeal any denial of those requests. The goal of the proposed services is to provide increased governmental accountability through educating and assisting the public with their rights under the Maine freedom of access laws.

The plan is to advertise freedom of access assistance through the Volunteer Lawyers Project. Individuals that call or send a letter, or who simply need more information about their rights under the freedom of access laws, will have information sent to them, or their questions will be forwarded to either the Attorney General's Office or to the Maine Right to Know Extern at the University of Maine School of Law. If the person calling needs legal representation in appealing a denial of access, then the Volunteer Lawyers Project will refer the person to an attorney, which necessitates the involvement of members of the state bar. Currently, participation is being sought from attorneys who are willing to consider referrals from the Volunteer Lawyers Project involving freedom of access issues. The freedom of access laws provide that attorney's fees can be awarded in certain circumstances. The Volunteer Lawyers Project has agreed to assist people up to 200% of the federal poverty guidelines in order to fit within its eligibility requirements.

The Right to Know Advisory Committee anticipates that some legal representation will be needed as this is a developing area of the law. Changes are made each year dealing with fresh challenges, such as electronic meetings and evolving privacy concerns that affect every Maine citizen. Before fundraising from government and private sources can be successful, the Advisory Committee must assess the demand for this sort

of representation. Assuming attorneys are available, the Volunteer Lawyers Project will take requests for assistance and record all inquiries, both those in which assistance was granted and those beyond 200% of the poverty level. If the number of calls exceeds five per month, the Voluntary Lawyers Project will need additional funding to support the additional resources required.

If enough attorneys respond to the request for participation, the Maine Right to Know Extern will work with the Voluntary Lawyers Project to set up the intake process and training to provide services as soon as possible. If too few attorneys respond, then additional communications to attorneys who work in related fields, including outreach at Maine Bar Association events, could be undertaken. If the need is significant, or if necessary attorney participation is not achieved, additional options can be pursued next year through applications for grant funding.

Other Potential Solutions

What follows are four potential options for programs that could take the place of or provide additional freedom of access services in the future depending on the nature of the need and available funding.

Option 1: Freedom of Access Clinic

The University of Maine School of Law could create a program similar to that of Chicago-Kent. This option would provide citizens with the possibility of representation through associated attorneys, as well as responses to their inquiries researched by the law students and reviewed by a supervisor. If money can be raised from members of the local bar, or from another source, then the clinic could have a full-time director and secretary

like Chicago-Kent's. Mr. Norton estimated the yearly budget at Chicago-Kent's clinic to be approximately \$100,000.

If that level of funding is available, then the clinic could be an expansion of an existing clinic. The supervision could be provided by an attorney, a designated professor, or a supervisor in the existing clinic. Students could be authorized as student-attorneys to represent some litigants in their appeals depending on the need.

Option 2: Freedom of Access Externship

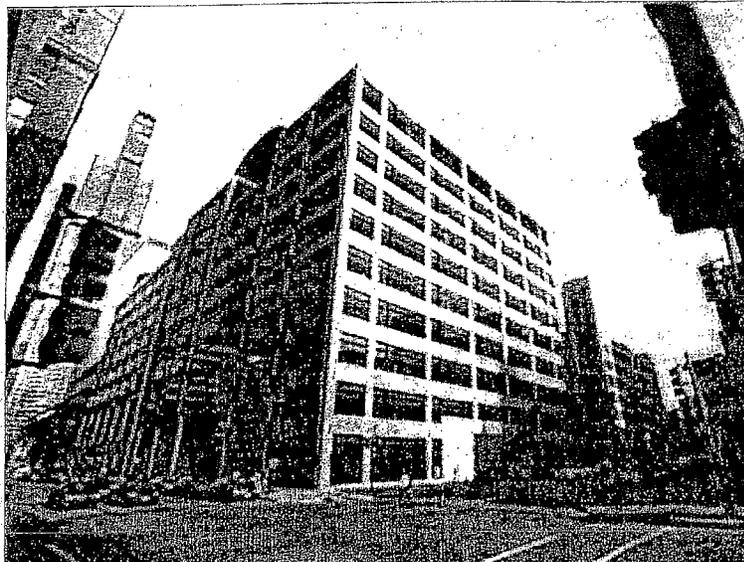
In addition to the current externship with the Right to Know Advisory Committee supervised by the Office of the Attorney General, an externship with a participating member of the local bar could be created to facilitate student representation of freedom of access requests. This option would not require additional funding, but would require a local attorney or attorneys to supervise the student-lawyer. This externship would be different than the current externship in that it would be capable of offering legal advice or assistance directly to the public.

Option 3: Freedom of Access Information Service

A member of the local bar or a law professor could supervise a law student who would conduct research and respond to requests by members of the public over a designated e-mail account. The e-mail could be listed on the Maine Right to Know website and made publicly available, with a law student drafting responses. This option would be inexpensive and would provide people with answers to their questions, but would not provide them with legal representation. This might be helpful for those who have difficulty understanding their rights under the law. Due to potential liability, this position might also be restrictive in the ability of the student to offer legal advice.

Option 4: Freedom of Access Ombudsman

The University of Maine School of Law could host a statutory freedom of access ombudsman, with student support. The position of ombudsman currently exists in a few states including Illinois and Indiana. The ombudsman would not provide legal representation but could either write binding decisions, as in Illinois, or could simply be an influential expert whose opinions do not carry legal weight but might help resolve freedom of access disputes.



Chicago-Kent College of Law runs an open government clinic.

Law schools step in to help maintain sunshine

Clinics spring up to help those who want access to government records and meetings

By MIRANDA FLESCHERT

When the District of Columbia denied WTOP Radio reporter Mark Segraves' Freedom of Information Act request for mayoral expense and travel records in February, the investigative reporter would have welcomed some assistance in appealing the denial.

"Recently it has become apparent that there is a need to litigate FOIA more now than there was before, but there just isn't the money to do that," Segraves said.

As circulations decrease and newsroom and radio station budgets dwindle, it's become increasingly difficult for news organizations to pursue what can often be protracted and expensive disputes over refused public records requests. In response, a few law schools have stepped in to guide citizens and groups through the open records process.

"Other institutions have to pick up the slack and one of the alternatives is NGOs and law schools," said Terrance A. Norton, the director of an open

government clinic at Chicago-Kent College of Law.

A full-blown clinic is already up and running at Chicago-Kent College of Law. The Center for Open Government — the brainchild of Clinton Krislov, an adjunct professor and plaintiffs' class-action attorney — is a part of the school's clinical education program that helps citizens gain access to local and state government records and proceedings.

Chicago-Kent law students, with the help of supervising professors, will represent records requesters free of charge. The center will primarily handle cases dealing with violations of the state's open meetings and public records laws, which were revised earlier this year after a spate of recent state scandals that showed a lack of government transparency, according to the law school's press release.

"If laws are there for our benefit, we should be able to get all information necessary to find out what appointed and elected officials are doing with our tax dollars," Norton said.

Though the center just opened in September, students already have several cases

in the works. One woman from a local suburb sought help from the center after the village board of trustees, in a closed session, laid off 11 employees including her husband, a firefighter. The center will help her litigate what it argues is a violation of the state Open Meetings Act. Another client is a man seeking access to financial records from the Illinois High School Association to determine whether there are gender disparities in the funding of sports programs. IHSA, like the National Collegiate Athletic Association, has claimed it is not a public body and therefore not subject to open records laws.

Norton, a former Chicago-Kent professor who has handled open government cases for more than a decade, says that in addition to supplementing the open records lawsuits filed by media organizations, the clinic will close a gap in the nonprofit world. Eventually, it could expand to take on other issues, like whistleblower cases.

There are lawyers for minority groups, for those who are evicted from their homes, the developmentally disabled, victims of age discrimination, "but no lawyers to represent citizens who want to play a proper role in democracy, to move the levers of power," Norton said. "I think there is a need for citizens to have representation in whatever context."

The concept is promising, said David Tomlin, associate general counsel for the Associated Press. "Everyone is concerned now with pressure on budgets, and on personnel and staff time, that news organizations are going to do less litigating and less pursuing legal remedies in the area of First Amendment, open records and open meetings," he said. "It is clear that creative solutions are called for and this could be one of them."

Though Chicago-Kent's legal clinic is currently the only of its kind, other schools are also preparing students to litigate public records cases. At Yale Law School, students in its practicum on media freedom, which is offered as an externship, are paired with practicing media lawyers and prepared to handle both state open government and FOIA cases at the federal level. "We are hoping it will be a really important institution for promoting media access to government information," said Jack M. Balkin, Yale's Knight Professor of Constitutional Law and the First Amendment and an



Yale Law School's program pairs students with lawyers to handle open government cases.

adviser to the practicum.

Yale law student Nabilha Syed developed the idea for the practicum with a colleague after participating in a Yale clinic on balancing civil liberties and national security after 9/11. Balkin helped establish the program and connect students with media-law mentors.

"I care about the growing culture of secrecy in the law and this is what we need to go after. That was the push we needed to create the project," Syed said.

David Schulz, of Levine, Sullivan Koch & Schulz LLP in New York, supervises Syed's work and says that all types of journalists, from the solo blogger to the mainstream media, have shown an interest in working with the law students to resolve their disputes.

"The Yale program is very encouraging because there is a huge need for legal expertise as more and more journalists are working as independent bloggers or for online sites where they lack the resources of a larger organization," Schulz said.

As with Chicago-Kent's program, Yale's externship practicum is new this school year. Yet Syed has already been involved in four cases, including a whistleblower's appeal contesting a motion to seal exhibits in the case. She hopes other universities follow suit and get students involved in FOIA issues.

"There is a pressing need for law schools to take up this mantle," Syed said.

William G. McLain, an associate pro-

fessor at the University of the District of Columbia's law school, agreed that law students can play an important role in FOIA litigation.

McLain first introduced his students to public records issues during a class on disaster and the law that dealt with the aftermath of Hurricane Katrina, including examining the issues surrounding the drowning deaths of inmates at a prison in New Orleans.

McLain's students filed a FOIA request with the District of Columbia's corrections department to find out whether Washington was any better prepared if a similar disaster occurred. The request was denied, citing homeland security concerns, and the appeal is pending in the D.C. Superior Court.

"These agencies [in the district] know that they can just stiff requesters and they'll just go away because they don't know what else to do. There is a need for representation and someone needs to step in and fill it," McLain said.

So McLain is preparing to meet the need and open a full-fledged public records clinic. Though the plan is still in its formation stage, he anticipates a strong interest from both colleagues and students — and estimates that given the district's high rate of records denials, there could be more cases than the clinic can even handle.

"It's really an idea that's time has come and if it hasn't come, it ought to immediately," McLain said. ♦

Ombudsman and other resources

Alaska	Ombudsman	The State's Legislative ombudsman may be a source of help for citizens denied access to public records by state agencies.	AS 24.55.200
Arizona	Ombudsman	Complaints regarding the actions of an agency can be made to the Office of the Ombudsman-Citizens Aide. In response to a complaint, the Ombudsman-Citizens Aide has the power to investigate the administrative acts of agencies and make recommendations to the governor, the legislature and the appropriate prosecutor	AZ 41-1371 to -1378
Connecticut	Commission (Freedom of Information Commission)	The State's Freedom of Information Commission has an ombudsman program which involves the assigning of a staff member to a FOIA appeal to act as a liaison between the parties, and attempt to effect a settlement. Whenever a requestor has been denied access the 5 members of the Freedom of Information Commission hold hearings. The Commission conducts training sessions for members of public agencies. The Commission has the power to investigate allegations, hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and require the production of items relevant to the investigation.	Conn Gen Stat§ 1-200 to 1-259
Florida	Mediation (AG)	The Florida Legislature has created a Voluntary Mediation Program within the Attorney General's Office to mediate disputes involving access to public records. The Attorney General's Office is required to employ mediators to mediate such disputes, recommend to the Legislature needed legislation regarding access to public records, and assist the Department of State in preparing training seminars record public records access	See Fla. Stat. § 16.60 (2000)
Georgia	Mediation (AG)	The Office of the AG has established an informal mediation program whereby citizens requesting information can submit complaints and ensure that local governments fulfill obligations under the act.	

Ombudsman and other resources

Hawaii	Ombudsman	The ombudsman, who is appointed by the legislature, has jurisdiction to investigate the administrative "acts of agencies."	Haw. Rev. Stat. § 96-5
Illinois	Ombudsman (Public Access Counselor - AG)	The Public Access Counselor established in the Office of the Illinois Attorney General has jurisdiction to resolve and mediate FOIA disputes. A public body that asserts that records are exempt must, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The Public Access Counselor will, then, decide whether those exemptions are properly invoked. The Public Access Counselor may also issue binding opinions, which are considered final decisions of an administrative agency, for purposes of administrative review under the Administrative Review Law.	5 ILCS 140
Indiana	Ombudsman (Public Access Counselor)	The Public Access Counselor is appointed by the Governor for a term of 4 years. The PAC is responsible for administering a program to train public officials, conduct research, prepare interpretive and educational materials in cooperation with the AG, respond to informal inquiries, issue advisory opinions, and make recommendations to the general assembly concerning ways to improve public access.	Ind. Code § 5-14-4
Iowa	Ombudsman	The office of the Citizen's Aide/Ombudsman has statutory authority to investigate any administrative action of any agency including compliance with Iowa's Open Record Law. (Agency = Any court or judge or appurtenant judicial staff; members, committees, or permanent or temporary staffs of the Iowa general assembly; the	Iowa Code § 2C.9(1)

Ombudsman and other resources

		governor of Iowa or the governor's personal staff; or any instrumentality formed pursuant to an interstate compact and answerable to more than one state.)	
Kansas	FOA officer	Each public agency is required to appoint a freedom of information officer to assist the public with KORA requests and disputes. The AG can investigate violations of KORA.	K.S.A. 45-226
New Jersey*	Commission (Government Records Council)	Government Records Council established pursuant to OPRA hears complaints. The Council is established in the Department of Community Affairs and consists of the Commissioner of Community Affairs or their designees, the Commissioner of Education or their designee, and 3 members appointed by the Governor with at least one member being of a different political party. The Government Records Council established an informal mediation program to facilitate the resolution of disputes regarding access to government records. The AG acts as attorney to the Government Records Council.	N.J.S.A. 47: 1A-7
New York*	Commission (Committee on Open Government)	The Committee on Open Government is responsible for overseeing and advising with regard to the Freedom of Information, Open Meetings, and Personal Privacy Protection Laws. Specific responsibilities of the Committee under FOI involve furnishing advisory opinions, both oral and written, to any person and promulgating rules and regulations relative to the procedural aspects of the law. The Open Meetings Law requires the Committee to provide advice to any person. Advisory opinions are also prepared concerning the Personal Privacy Protection Law at the request of persons who are subjects of records covered by the law, as well as at the request of state agencies seeking to comply with the statute.	Public Officers Law, Art. 6, 7, 6-A

Ombudsman and other resources

North Dakota	AG opinions	<p>.Any interested person may request an AG's opinion to review a written denial of a request for records. If the AG issues a written opinion concluding that a violation has occurred, the public entity has 7 days to disclose the record, to issue a notice of a meeting that will be held within a reasonable time to correct the violation, or to take steps to correct any other violation.</p>	N.D.C.C. § 44-04-21.1
Oklahoma	AG opinions	<p>The AG will issue opinions on specific questions concerning the application of the Act. Once opinions are issued, covered agencies must act consistent with the opinion.</p>	51 Okla. Stat. §24A.1 et seq.
Pennsylvania	Commission (Office of Open Records)	<p>The new Right to Know Act took effect January 1, 2009.</p> <p>The Act mandates the creation of an Office of Open Records in the Department of Community and Economic Development. Section 1310(a). The Office is led by an Executive Director who is appointed by the Governor for a term of six years (with a maximum of two terms) and who may appoint attorneys to act as appeals officers as well as other staff as appropriate. Section 1310(b).</p> <p>The Office of Open Records has the following responsibilities:</p> <ol style="list-style-type: none"> 1. Provide information relating to the implementation and enforcement of the Act. 2. Issue advisory opinions to agencies and requesters. 3. Provide annual training to agencies, public officials and public employees. 4. Provide annual, regional training courses to local agencies, public officials and public employees. 5. Assign appeals officers to review appeals of decisions by commonwealth and local agencies, and issue orders and opinions. 	Act 3 of 2008, §1310

Ombudsman and other resources

		<p>The Office must retain attorneys to serve as appeals officers and review appeals and, if necessary, hold hearings on a regional basis.</p> <p>6. Establish an informal mediation program to resolve disputes under the Act.</p> <p>7. Establish an internet website with information relating to the Act, including information on fees, advisory opinions and the name and address of all open records officers in the Commonwealth.</p> <p>8. Conduct a biannual review of fees charged under the Act.</p> <p>9. Annually report on "its activities and findings" to the Governor and General Assembly. This report shall be "posted and maintained" on the Office's Web site.</p>	
Utah	Commission (State Records Committee)	<p>State Records Committee's duties include: meeting once every 3 months, reviewing and approving retention and disposal of records, and hearing appeals from denials of access to public records. The AG provides counsel for the records committee and reviews proposed retention schedules. Any individual may appeal the decision of the State Records Committee or the governmental entity's decision by filing a petition with the District Court.</p>	Utah Code Ann. § 63G-2-501 et seq.
Virginia	Commission (Virginia Freedom of Information Advisory Council)	<p>The Virginia Freedom of Information Advisory Council has a staff that answers inquiries on a formal and informal basis, but does not perform any ombudsman function with regard to any public body.</p>	Va. Code Ann. § 2.2-3713(A)
Washington	AG opinions Ombudsman	<p>If a state agency denies a person an opportunity to inspect or copy a public record, the individual may request the attorney general's office to review the matter and provide a written opinion. Opinions are not binding but may be persuasive. The Attorney General's</p>	RCW 42.56.530

Ombudsman and other resources

		Office has an "open government ombudsman," who is available to consult on and assist with public records and open meetings issues. http://www.atg.wa.gov/OpenGovernment/Ombudsman.aspx .	
West Virginia		State agencies and other governmental agencies may request the AG to render an official opinion regarding WV FOIA.	W.Va. Code § 29B-1-5(1)
Wisconsin		Any person can request advice from the AG as to the applicability of the records act under any circumstances.	Wis. Stat. § 19.39

Source: www.rcfp.org

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RIGHT TO KNOW ADVISORY COMMITTEE

NOTICE OF PUBLIC HEARING: 9:00 AM FRIDAY, OCTOBER 14, 2011 **Room 438, State House, Augusta, Maine**

Bulk Records Subcommittee: Key Policy Issues and Questions

The Bulk Records Subcommittee of the Right to Know Advisory Committee is seeking input from State and municipal government agencies and other interested parties regarding the application of the freedom of access laws to requests for bulk data. The Subcommittee has identified several key policy issues and questions relating to bulk record and is soliciting comments on the questions below from governmental entities and others who are affected by bulk data requests.

The Bulk Records Subcommittee will hold a hearing to receive public comment on these issues on Friday, October 14th at 9:00 am in Room 438, State House, Augusta, Maine. You are also invited to respond to any of the questions below in writing. Please submit written comments through staff: margaret.reinsch@legislature.maine.gov or colleen.mccarthyreid@legislature.maine.gov. For more information, contact staff at (207) 287-1670.

1. What is bulk data and how should it be defined?
2. What is the appropriate method of determining the cost that a requestor must pay for bulk data?
3. Should a requestor of bulk data be entitled to the records in the format and type of access requested? Should a distinction be made between a requester seeking access to records and a requester seeking ownership of records?
4. Should the law distinguish between bulk data requests of public records for commercial purposes versus requests for noncommercial purposes?

<http://www.maine.gov/legis/opla/righttoknow.htm>

