THE OKLAHOMA OPEN MEETINGS ACT

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I. Introduction

Murphy's Laws tell us to "[t]rust only those who stand to lose as much as you do, if things go wrong." Though Murphy may not have been pondering the Oklahoma Open Meetings Act[1] and Open Records Act[2] when he imparted this wisdom, the saying could not be more true. Because public officials stand to lose a great deal as a consequence of violating these Acts, they should be diligent in understanding the requirements of these acts, for themselves. Violation of these laws is a misdemeanor[3]; if convicted, a public official could serve up to one year imprisonment and be fined up to $500, for each time the law was violated. In addition, violation could result in civil liability, forfeiture of office[4], and--a more serious consequence than one might think--deep personal embarrassment.[5]

The Oklahoma Court of Appeals has explicitly noted its expectation that public officers should be personally familiar with the Open Meeting Act:

> The Open Meeting Act is not obscure or incomprehensible. On the contrary, anyone with ten minutes to spare can read the whole thing and understand virtually every word. *Each member of a covered public body should have taken that ten minutes as soon as*

[1] 25 O.S.1991, §§301 *et seq*., as amended.
[2] 51 O.S.1991, §§24A.1 *et seq.,* as amended.
[3] Criminal intent is not required for a conviction, only a willful failure to comply. *Hillary v. State*, 630 P.2d 791 (Okla.Crim.App.1981) (upholding convictions of members of town board of trustees).
[4] *See, e.g.,* 22 O.S.1991, §§1181, *et seq.*
[5] Moreover, official actions taken in violation of the Open Meeting Act are invalid. 25 O.S.1991, §3313.

> *the Act become effective….Lack of familiarity is no excuse.* We agree with the Court's statement in [*Town of Palm Beach v. Gradison*, 296 So.2d 473 (Fla.1974)]:
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> "The principle to be followed is very simple: When in doubt, the members of any board, agency, authority or commission should follow the open-meeting policy of the State."[6]

Moreover, "substantial compliance" with the Open Meeting Act is not enough. A "'substantial compliance' exception," the Court of Appeals has said, "would swallow the rule…[S]trict adherence to the letter of the law is required."[7] There is no reason to assume a different result as to the Open Records Act.[8]

Almost by definition, as to openness issues, there is a tension between public officials, on the one hand, and the press and public, on the other. It is difficult to work under the public spotlight, no matter how honest or well-intentioned a public official may be. And, the motto of many a reporter appears to have been taken from another of Murphy's Laws: "Always avoid prophesizing beforehand. It is much better policy to prophesize after the event has occurred."

But a bunker mentality about openness will not change that. In a democracy, the chilling effect some public officials may feel upon their ability to function under the "openness" laws must of necessity yield to the paramount public interest in an open and accessible government. As the United States Supreme Court has said, "The effective functioning of free government…depends largely on the force of an informed public."[9] Experience has made clear that few of the revelations the public has gained through the openness laws are so

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[6] *Matter of Order Declaring Annexation, etc.*, 637 P.2d 1270, 1273 (Ok.App.1981) (emphasis added).
[7] *Id.*, 637 P.2d at 1274 (citation omitted).

permanently damaging to public officials as the public's perception there has been a cover up. Regardless of what the reality may be, controversies surrounding such diverse issues as Watergate, President Kennedy's assassination, and most recently the Clinton-Lewinsky affair, have found their life, in great part, because of the public's perception of a cover up.

II. The Oklahoma Open Meeting Act[10]

A. General comments.

The heart of the Oklahoma Open Meeting Act is not found in the provisions describing how to comply with the Act, but in the definition of a "meeting":

> "Meeting" means the *conduct of business* of a public body by a majority of the members being personally together or, as authorized by Section 307.1 of this title, together pursuant to a teleconference[.]

Clearly, the "conduct of business" is broader than merely the vote by which a decision is made, but includes the decision-making process, to the extent that process involves a majority of the members of a public body speaking together.

If the definition of a meeting is the heart of the Open Meeting Act, the soul of the Act is found in section 311, the notice provisions. The public must be told more than merely when and where the meeting is to take place, but must be given sufficient information to understand what the meeting will be about.

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[8] Although this Court of Appeals decision is not precedent, since most Open Meeting Act and Open Records Act cases are decided by this Court, the decision is nevertheless quite instructive.
[9] *Barr v. Matteo*, 360 U.S. 564, 577, 79 S.Ct. 1335, 3 L.Ed.2d 1434 (1959).
[10] Title 25 O.S.a991, §§301 *et seq.,* as amended. Unless otherwise indicated, all references to sections of the Open Meeting Act are to title 25 of the Oklahoma statutes.

Virtually all of the remainder of the Act is designed to ensure that the public has access to this knowledge.

B. The rules most often broken.

1. Informal gatherings. Section 306 of the Act prohibits "informal gatherings or any electronic or telephonic communications [except as authorized by the Act]...among a majority of the members of a public body…to decide any action or to take any vote on any matter." While on the surface, at least, most public bodies appear to comply with this requirement by taking formal votes at public meetings, the Act applies to more than action taken by public bodies through a formal vote; it applies to *meetings*, that is, to "the conduct of business" by a public body.[11]

Thus, gathering together for "pre-meeting" meetings, at which agenda items are explained or discussed with staff, could clearly be deemed by a court to be the "conduct of business." While under the Act, there is no prohibition against less than a majority of a public body's members meeting with among themselves or with staff, it seems clear that the spirit, and probably the letter of the law, is violated by "pre-meeting" meetings attended by a majority of the public body, at which agenda items are discussed. The legislature clearly intended the "conduct of business" to encompass more than merely the final vote on a matter; otherwise, it would have defined "meeting" in narrower terms.

2. Agendas items: How much is enough?

a. **General requirements** for agenda items are fairly simple, and are well understood by most public officials. The law requires that:

[11] *See, e.g.,* sections 303 and 311.

> All agendas…shall identify all items of business to be transacted by a public body at a meeting, including, but not limited to, any proposed executive session for the purpose of engaging in deliberations or rendering a final or intermediate decision in an individual proceeding prescribed by the Administrative Procedures Act.[12]

Thus, the Attorney General has held that an agenda item stating, "Information to the committee," was "too vague to inform the public of the nature of any business to be transacted under that item" and was therefore insufficient under the Act.[13]

Similarly, such vague items as "report" by the mayor, executive director, or others, is probably too vague, as the public will not be informed as to the topics to be covered by the report. Regardless of whether the public body will take action on the report at the meeting, the public body's business is being conducted. Moreover, the public body may gain information through a "report" on which action may later be taken.

b. **Executive sessions** often pose difficult problems for public bodies, insofar as the sufficiency of agenda items is concerned. By its very nature, the purpose of an executive session is to have a lawful, private discussion about matters to which the public body does not want--and is not required--to make the public privy. Nevertheless, the law requires that the agenda shall:

> (a) contain sufficient information for the public to ascertain that an executive session will be proposed;
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> (b) identify the items of business and purposes of the executive session; and
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> (c) state specifically the provision of Section 307 [of title 25] authorizing the executive session.[14]

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[12] 25 O.S.Supp.2000, §311(B)(1).
[13] A.G.Opin. No. 00-7.
[14] *Id.* at (B)(2).

Agenda items--including agenda items for executive sessions--must be worded in plain language, directly stating the purpose of the meeting, and the language used should be simple, direct and comprehensible to a person of ordinary education and intelligence.[15]

c. **Personnel matters.** Section 307 of the Act authorizes a public body to go into executive session to discuss the "employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee."[16] Public bodies are often uncomfortable about how to fashion an executive session (or regular) agenda item. to discuss personnel matters.

One solution, often used by public bodies, is to include in their agenda item all options contained in the phrase quoted above--that is, "to discuss the employment, hiring, appointment, promotion, demotion, disciplining or resignation" of the individual salaried employee. Such a practice is acceptable since it must be presumed that the public body as a whole has not already made its decision as to the action, if any, it may take. The Oklahoma courts have made clear that an agenda item referring to "*discussing* the hiring" of an employee is inadequate to authorize the public body actually to vote to hire.[17] By the same token, an item listing one employment option could be insufficient to support a vote on another option.

[15] *Andrews v. Ind. Sch. Dist. No. 29 of Cleveland County*, 737 P.2d 929 (Okla.1987).
[16] While this author is unaware of any Attorney General opinion or case on the matter, it is likely that the word "salaried" is intended to refer to employees paid on an hourly basis, as well.
[17] *Haworth Bd. of Ed. of Ind. Sch. Dist. No. I-6 McCurtain Cnty. v. Havens*, 637 P.2d 902, 904 (Okla.Ct.App.1981); *Andrews v. Ind. Sch. Dist. No. 29 of Cleveland Cnty.*, 737 P.2d 929 (Okla.1987).

The more difficult dilemma for public bodies is the requirement that the particular employee or potential employee under discussion must be identified, at all. The Attorney General has ruled that an "agenda item for a meeting of a public body in which personnel matters are to be discussed and for which an executive session is proposed must identify either the position or the individual salaried emploiyee who is the subject of the discussion."[18] Noting that the Open Meeting Act does not specify that an employee who is the subject of discussion at an open meeting must be identified on the agenda by name, the Attorney General nevertheless concluded that "identification by name is necessary unless the position named for discussion is so unique as to allow adequate identification."[19] If the action is a hiring, the agenda item must also clearly identify the specific position to be filled; an agenda item naming an individual proposed to be hired without identifying the position to be filled, is inadequate.

d. Claims or proceedings on advice of attorney. Another area in which executive session agenda items are often insufficient involves executive sessions to discuss "[c]onfidential communications between a public body and its attorney…*if* the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest."[20] The executive session agenda item should reflect there will be a report from the attorney as to whether disclosure will seriously impair the public body's

[18] A.G.Opin.No. 97-16.
[19] *Id*.
[20] 25 O.S.Supp.2000, §307(B)(4) (emphasis added).

ability to process the claim, and there will be a vote by the public body as to the public body's determination as to that matter.

As with the outcome of any executive session, if the public body intends to take action with respect to the matter discussed in executive session, the action must be taken in an open meeting, and the agenda item must reflect that action may be taken. For executive sessions concerning litigation, however, it may be impossible to vote in open session, without defeating the purpose of the executive session. For instance, the public body may authorize a monetary settlement of a claim, within a range of amounts. Obviously, the upper limit on that authority should remain confidential, or the claimant will never settle for less. Counsel's only choice will be to listen to and evaluate the comments of the members of the public body in executive session, without ever receiving explicit, formal settlement authority.[21]

3. **The duty to keep minutes in executive session.** It is clear that minutes must be taken not only of the proceedings in an open meeting, but in executive session.[22] However, the public body may choose to designate one of its own members to keep the minutes.[23] Pursuant to the Open Records Act, these executive session minutes are not open records unless there is a violation of the Open Meeting Act, as to the executive session.[24]

4. Emergencies: What are they?

[21] These problems may be exacerbated by attorney-client privilege issues, which are beyond the scope of this paper.
[22] *See e.g.,* A.G. Opin. No. 96-100, and citations therein.
[23] *Id.*
[24] 51 O.S. §24A.5.

The notice provisions of the Open Meeting Act may be suspended, where an emergency exists. An "emergency" is:

> a situation involving injury to persons or injury and damage to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss.[25]

The emergency must not only involve the possibility of injury or loss, but the public body must find that a forty-eight hour delay in meeting (the time necessary to give notice of a special meeting) would *increase* the likelihood of injury or loss, or be impractical.

Interestingly, as to emergency meetings, the literal words of the notice provisions of the Act could be construed as not requiring posting an agenda or meeting notice:

> In the event of an emergency, an emergency meeting of a public body may be held without the public notice heretofore required. Should an emergency meeting of a public body be necessary, the person calling such a meeting shall give as much advance public notice as is reasonable and possible under the circumstances existing, *in person or by telephonic or electronic means*.[26]

(Emphasis added.) However, although the author is unaware of any case or Attorney General opinion construing this language, it is strongly recommended that a public body take every possible measure to comply with the regular notice requirements for the meeting, including posting an appropriate agenda. There is no reason for any aspect of the Act's requirements, except the mere passage of time, to be ignored. Moreover, should the "emergency" nature of the meeting be challenged, the greater the effort to comply with the notice provisions of the Act,

[25] 25 O.S.Supp.2000, §304(5).

the more likely a court will find good faith (and hence no criminal violation or civil sanction) on the part of the public body.

The minutes of an emergency meeting must reflect both the nature of emergency and the reasons for declaring it an emergency. The public body should be certain that there is a true and unforeseeable emergency, such that it could not have provided the appropriate notice under the Act. It is also recommended that the public body refrain from taking any action as to the emergency except that necessary to prevent injury or loss, until a special meeting may be conducted.

5. "New business" vs. an "emergency." The notice requirements of the Act provide for a "new business" exception to the agenda requirements:

> "[T]he posting of an agenda shall not preclude a public body from considering at its regularly scheduled meeting any new business. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. "New business" as used herein, shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of posting.[27]

This exception to the agenda requirements is curious at best. It would seem that there is no real reason why a public body should ever meet to discuss "new business"--i.e., matters not on the agenda--unless the "new business" meets the definition of an emergency. Notably, the "new business" exception is authorized only with respect to regularly scheduled meetings--those regular meetings that must be scheduled by December 15 of each calendar year. While the "new business" exception might allow a member of the public body to raise an unanticipated issue, it is strongly advised that unless the new business meets the

[26] 25 O.S.Supp.2000, §311(A)(12).
[27] 25 O.S.Supp.2000, §311(A)(9).

definition of an emergency, the public body do no more than agree to raise the issue in a future meeting, after proper notice has been given under the Act.

6. Location for posting agendas. In the past, one significant problem with the notice requirements of the Act has been that the agenda is posted on a public bulletin board, but the building in which the bulletin board is located is locked during at least some of the posting period. The Attorney General has held that "the public notice required to be posted in prominent public view by 25 O.S.Supp.1997, §311(A)(9), must be conspicuously posted for at least twenty-four hours prior to the meeting in a location at its principal office (or the location of the meeting if no office exists) which is easily accessible and convenient to the public *at any time* during [the twenty-four hour] period."[28]

C. Recent developments

1. Home rule city's charter requiring all meetings to be open is subject to the Open Meeting Act exception allowing executive sessions.

The Oklahoma Court of Appeals has ruled[29] that a home rule city charter may not be used to supercede the openness requirements of the Open Meeting Act. However, in an ironic twist, in this particular case, the city charter provision did not narrow the state Act's requirements, but provided for more openness. According to the Court of Appeals' decision, the charter required that "*all* sessions" of the city's governing board "shall be opened to the public."[30]

The issue before the Court of Appeals was whether the provisions of the state law authorizing executive sessions was a matter of statewide concern so as

[28] A.G. Opinion No. 97-98
[29] *City of Kingfisher v. State of Oklahoma, et al*., 958 P.2d 170 (Ok.Civ.App.1998).

to supercede the charter of Kingfisher, which is a home rule city. The Court found that the statutorily permissible executive sessions indicate "a clear intent to protect public *and private* interests."[31] The Court reasoned that "a clear public benefit accrues from avoidance of possible costly litigation that might result from open expression" of sensitive matters.[32] The Court therefore held that charter provisions of home rule municipalities that conflict with the executive session provisions of the Act were preempted by State law.[33]

2. Open Meetings Act does not guarantee citizens a right to speak at public meetings. Although issued more than a two year ago, Attorney General Opinion No. 98-45 is recent enough to bear specific comment. The Opinion formalizes the informal legal advice many public bodies have received over the years, that the Open Meeting Act does not provide for or guarantee citizens the right to participate in the governmental decisions being made at an open meeting. The Opinion also rules that the Act does not guarantee citizens a right to express their views on the issues being considered at the meeting.

If a public body voluntarily establishes an open forum at which citizens may speak, the Opinion states, it may establish reasonable time, place and manner restrictions as to the forum. However, if the forum is allowed, any content-based

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[30] In A.G. Opinion No. 80-218, the Attorney General had held that where the charter of a home rule municipality requires "all" municipal meetings to be open, the Open Meeting Act does not allow a municipality to enter into executive sessions.
[31] *City of Kingfisher*, 958 P.2d at 173 (emphasis by the Court.)
[32] *Id.*
[33] This decision deals only with the executive session provisions of the Open Meeting Act. While the reasoning likely might apply at least to other significant portions of the Act, it cannot be assumed that all city charter provisions conflicting with sections of the Act would be preempted.

restriction on citizen speaking must be narrowly drawn to effectuate a compelling governmental interest, which must be determined on a case by case basis.

Ironically enough, many believe that the philosophy of allowing citizens to speak at public bodies' meetings flies in the face of the agenda requirements of the Act, since public bodies are unable to determine in advance what topics citizens may raise through an open forum. Some public bodies therefore refuse to allow the public to speak, for fear of violating the Act's agenda requirements, while others allow citizens to speak only on the topics already present on the agenda. Still others allow citizens to speak on any topic, but do not respond or discuss the matters raised, except possibly to agree to place the matter on a future agenda.

III. The Open Records Act[34]

A. Public policy of the Open Records Act. The Oklahoma Legislature, reacting to the Oklahoma Supreme Court's decision in *Tulsa Tribune Co. v. Oklahoma Horseracing Commission*, 735 P.2d 548 (Okla.1986)[35], rewrote section 24A.2 of the Act[36] to make clear a very strong public policy as to the open accessibility of public records. The section provides that the Oklahoma Open Records Act:

> shall not create…any rights of privacy or any remedies for violation of any rights of privacy…nor shall the…Act, except as specifically set forth in the…Act, establish any procedures for protecting any person from release of information contained in

[34] 51 O.S. 1991, §§24A.1 and following, as amended.

[35] In *Tulsa Tribune,* the Supreme Court ruled that an individual should be given written notice that a request has been made concerning information furnished by that individual to the government, and that the individual must have an opportunity to present a written objection to the release of the information. The portion of section 24A.2 on which the Court relied for this holding was repealed, and the language quoted above was enacted. *See* also, 51 O.S.Supp.2000, §24A.10.

[36] Unless otherwise indicated, all references to sections of the Open Records Act are to title 51.

> public records….The privacy interests of individuals are adequately protected in the specific exceptions to the…Act or in the statutes which authorize, create or require the records. Except where specific state or federal statutes create a confidential privilege, persons who submit information to public bodies have no right to keep this information from public access nor reasonable expectation that this information will be kept from public access; provided, the person, agency or political subdivision shall at all times bear the burden of establishing such records are protected by such a confidential privilege.

B. Rules most often broken

1. Fees and fee schedules. As a general rule, a public body may charge a fee only for recovery of the "reasonable, direct costs of document copying, or mechanical reproduction." In "no instance" shall the copying fee exceed twenty-five cents per page, for copies made on paper sized eight and one-half inches by fourteen inches or smaller.[37] Thus, a public body may not simply automatically charge a $.25 fee per page copied, but must determine whether that amount reflects the reasonable, direct costs to the public body for copying or mechanical reproduction.[38]

More importantly, however, the Attorney General has ruled that if the public body is a state agency subject to the rule-making provisions of the Administrative Procedures Act ("APA"), the public body must promulgate rules under the APA, to implement a fee schedule.[39] Other types of public bodies should ascertain whether they are subject to similar requirements.

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[37] 51 O.S.Supp.2000, §24A.5. Section 24A.5 also contains several exceptions to this general rule.

[38] In A.G. Opinion No. 99-55, the Attorney General suggests at footnote 3, that failure to charge the copying fee provided in the statute would be an unconstitutional gift, citing Okla.const. art. X, §15.

[39] A.G.Opin. No. 99-55.

Further, "[a]ny public body establishing fees under this act shall post a written schedule of said fees at its principal office and with the county clerk."[40]

2. Requirement of "prompt, reasonable access" to records.[41] While the "promptness" requirement is clear enough in principle, as a practical matter, it is probably the most often violated tenet of the Open Records Act. What is "prompt" or "reasonable" will depend upon a number of obvious factors--the location of the records, the number of records requested, the size of the public body and its capability of reproducing records. However, a public body:

> must look only to the nature of the request and the efforts necessary to respond to it, to determine a reasonable response time for the request. There is no provision in the Open Records Act for a public body to 'withhold' records for any amount of time, however, small.

3. Requirement to have a records officer available at all times. Section 24.5(5) of the Act requires public bodies to:

> designate certain persons who are authorized to release records of the public body…at least one such person *shall be available at all times* to release records during the regular business hours of the public body.

(Emphasis added.) Production of records may not be delayed because the records officer is out of the office because he or she is on vacation, or ill.

If a public body does not have regular business hours of at least thirty hours a week, the public body must post and maintain a written notice at its principal office and with the county clerk where the public body is located. The notice must designate the days of the week when records are available for inspection and copying; the name, mailing address and telephone number of the

[40] 51 O.S.Supp.2000, §24A.5(3).

person in charge of the records; and a detailed description of the procedures for obtaining access to the records at least two days of the week, excluding Sunday.[42] For public bodies that are subject to the Administrative Procedures Act, this information should be adopted in the form of a Rule.[43]

4. Forms for records requests: what information may a public body reasonably require?

The Attorney General has held that a public body may require a records request to be in writing, to aid the public body in ensuring that the request is responded to fully and competently.[44] A public body may also properly inquire from the requestor, information that would allow the public body to determine whether the records are sought for a commercial purpose or whether no charges may be imposed for a records search.[45]

As to information regarding the requestor's name and address, the Attorney General has held that "if the requestor asked that records be delivered via the mail, it would be reasonable to request a name and mailing address."[46] However, the Attorney General further stated that it "may also be reasonable to *request* the name and telephone number of a requestor in the instance where it will take the public body or public official until at least the next day to respond to a request," so that the requestor could be contacted if there are problems in complying with the request, or if the requestor has asked for an estimate of the

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[41] 51 O.S.Supp.2000, §24A.5(5).
[42] 51 O.S.1991, §24A.6.
[43] *See* A.G.Opin. No. 99-55.
[44] A.G.Opin. No. 99-55, citing 51 O.S.Supp.2000, §24A.5(3).
[45] *Id.*
[46] *Id.*

fee.[47] This comment seems to suggest that the public body may not *require* a requestor to provide that information.

5. Employee addresses and telephone numbers. The Act explicitly protects as confidential the home address of any person employed or formerly employed by a public body.[48] Furthermore, State employee telephone numbers, addresses, and social security numbers are confidential under other state laws.[49] However, no state statute protects from disclosure the telephone numbers of employees of public bodies other than the State or State agencies.

However, section 24A.7 provides that "all public bodies may keep confidential information regarding public employees where disclosure of the information would constitute a clearly unwarranted invasion of personal privacy." The Attorney General has ruled that the "Legislature could have mandated, but did not, keeping the telephone numbers of public employees other than state employees confidential. The absence of specific authority for this in section 24A.7 indicates there is no general provision for such confidentiality."[50] However, the Attorney General ruled, "In the event that disclosure of the telephone number of a public employee not covered by Section 840-2.11 constitutes a 'clearly unwarranted invasion of personal privacy,' a public body has authority ujder Section 24A.7 to keep that information confidential. Otherwise, it must be disclosed."[51]

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[47] *Id.* at fn 3 (emphasis in original).
[48] 51 O.S.Supp.2000, §24A.7(D).
[49] 74 O.S.Supp.2000, §840-2.11.
[50] A.G. Opinion No. 99-30.
[51] *Id.*

6. Telephone records. The Attorney General has ruled that telephone bills received by a municipality for the use of landline and cellular phones by elected officials and administrative personnel are records open for public inspection pursuant to the Open Records Act. A municipality may withhold portions of the bill or delete information on the bill, including telephone numbers called, only if a privilege of confidentiality exists which authorizes confidentiality of the information. The burden to establish a privilege of confidentiality rests upon the person or entity that seeks to establish it.[52] There would be no basis on which to argue a different result as to other types of public bodies.

C. Recent developments.

1. Summaries of records are insufficient to comply with the Open Records Act.

In an unpublished opinion, the Oklahoma Court of Appeals held in 1998, that public bodies must provide actual copies of records, rather than substitute the copies with a summary of what they contain.[53]

After an open records request for a municipality's payroll records, the documents were produced. However, redacted from the records were all references to sick leave and vacation leave. The municipality took the position that disclosing which days its employees took as sick leave would invade their privacy and that furnishing vacation leave dates would allow the requester to determine sick leave dates by the process of elimination.

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[52] A.G. Opinion No. 95-97.

[53] *Conner v. Basinger and the City of Del City* (unpublished), Case No. 89,284, issued April 28, 1998.

The requester then filed a petition in the district court of Oklahoma County, seeking declaratory and injunctive relief under the Open Records Act. According to the Court of Appeals' decision, the trial court ruled that the requestor should receive the information he requested; however, rather than turning over copies of the records, the municipality provided a summary of the information. The trial court accepted these summaries as sufficient to satisfy its prior judgment in the case.

The requester then appealed, asserting that the trial court should not have allowed the municipality to provide the summaries as an alternative to the actual records. The Court of Appeals agreed, ruling that there was no authority under the Open Records Act for allowing summaries instead of records. The Court ruled the requester was entitled to both the sick leave and vacation leave records, with the employee's name redacted and substituted with an identifying number.[54]

The decision also noted that the Open Records Act specifically provides that any person denied access to a record of a public body may bring a civil suit, and, if successful, shall be entitled to reasonable attorney fees. The Court thus ordered the trial court to hold a hearing to determine the amount to be awarded the requester for his costs and attorney fees.

Conclusion

It will take acts of courage to improve the public's perception--and in some cases the reality--of the moral and ethical standards of government. The difficulty in complying with Oklahoma's Open Meetings and Open Records Acts

is not in understanding what they require, but in failing to understand--or refusing to accept and implement--their intent. It is every public official's duty and responsibility to know these laws, and to convey to his or her staff and counsel, the importance of compliance.

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[54] While the Court provided that the employee's names were to be redacted from the records, this was in keeping with the original records request. Whether the employees' names were *required by law* to be redacted was not an issue in this case.