

A Pop Music Primer

on Open Government

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By virtue of two Ohio statutes, "Public Bodies" (e.g., state and local governments, school boards, state universities, etc.) are required to conduct meetings in public and to make their records available (subject to limited exceptions) to any member of the public upon request. The two statutes—one covers records and the other covers meetings—are sometimes referred to loosely as "The Sunshine Law." It's an apt title, and an important law that forces government to act in a transparent fashion. Of course, like any law, it has plenty of nuances, but most of those are easy to remember, provided you've got a rudimentary knowledge of pop music. Here are some song titles that all relate, in one way or another, to the Sunshine Law. For fun, see if you can guess the artist. Names will be revealed at the end.

- "Want Ads"**—Resumes received by a public body are public records.
- "The Way It Is"**—Initial incident reports concerning a crime are public records.
- "I Am the Walrus"** ("I am he as you are he as you are me and we are all together")—A public body may not avoid its duties under the public records act by transferring its duties to a private entity.
- "I Want a HIPAApotamus For Christmas"**—Where a state open records law mandates disclosure of a public record, the state law supersedes the privacy provisions of the federal Health Insurance Portability and Accountability Act.
- "Take Me to the River"**—Financial and proprietary information, submitted in connection with the location or relocation of a business to a port authority, is not a public record.
- "Our House"**—Home addresses of state employees are not public records, even if contained in records that are.
- "Photograph"**—Police officer photographs are exempt from disclosure under the Public Records Act.
- "Get Your Number"**—Prior to releasing information from a court's civil case files, the clerk of court has a duty to redact Social Security numbers included in those files.
- "You Keep Me Hanging On"**—Where a school board has repeatedly delayed providing records in response to a newspaper's public records request, the newspaper is entitled to a court order compelling the school board to timely provide the information in the future.
- "Eve of Destruction"**—A public body may be fined \$1,000 for every public record it improperly destroys. A recent case assessed fines in excess of \$860,000.
- "Hurt So Good"**—A public body may be liable to pay the requester's attorney fees upon an unreasonable refusal to produce the records.
- "When We Get Behind Closed Doors"**—Public bodies may meet privately in "executive session" but only for reasons expressly set out in the statute.
- "My Advice 2 You"**—Advisory boards—appointed by public bodies—are subject to the Open Meetings Act.
- "The Way You Do the Things You Do"**—If a city's charter makes no provision for executive session, the city council cannot avail itself of the Open Meeting Act's executive session provision.
- "Games People Play"**—"Serial Meetings" (sequential meetings of subgroups not constituting a quorum) are not a permitted means to avoid the Open Meetings Act.
- "E-Mail My Heart"**—Correspondence via e-mail and telephone between three members of a five-member public body does not violate the Open Meetings Act.
- "We Have No Secrets"**—A resolution can be invalidated because the resolution resulted from impermissible discussions during executive session.
- "I Fought the Law (and the Law Won)"**—If the court issues an injunction (resulting from a violation of the Open Meetings Act), the court shall order the public body to pay a civil forfeiture of \$500 to the party that filed the action, and the court shall also award to the filing party all court costs and reasonable attorney's fees.

The bottom line is that citizens have a right to monitor their government. If you want to know what a public body is up to, ask. As the song (from the musical "Hair") says, "Let the Sun Shine." ■

Answers: 1. Honey Cone; 2. Bruce Hornsby; 3. The Range; 4. The Beatles; 5. Gayla Peavy; 6. Talking Heads; 7. Def Leppard; 8. Mariah Carey; 9. The Supremes; 10. Barry M. Goldwater; 11. John Mellencamp; 12. Charlie Rich; 13. Gang Starr; 14. The Temptations; 15. Joe South; 16. Brittany Spears; 17. Carole Simon; 18. The Bobby Fuller Four.