What is Records Management?

- Goal of RM is to ensure that records are properly retained for legal, compliance, and business purposes, and properly disposed of when no longer needed.
- Part of the larger profession of Information Management.

Why are Records important?

Records enable an agency to:

- Conduct business in an orderly, efficient and accountable manner,
- Deliver services in a consistent and equitable manner,
- Support and document policy formation and decision making,
- Provide continuity in the event of a disaster,
- Meet legislative and regulatory requirements including archival, audit, and oversight activities,
- Provide protection and support in litigation
- Protect the interests of the agency and the rights of employees, citizens both present and future, and
- Maintain enterprise and agency memory.
Requirements for Records Management

- Georgia Records Act (O.C.G.A. § 50-18-90 et seq.)
- Requires each agency to:
  - To develop retention schedules for agency records and destroy records only in accordance with those schedules
  - To approve a records management plan by ordinance or resolution

Retirement of records:


Georgia Records Act requires each local government to adopt a retention schedule and mandates the Board of Regents to issue a common schedule.

Requirements for Records Management

O.C.G.A. § 50-18-70, the Georgia Open Records Act (GORA),

1. Requires that records be retained per retention schedule
2. Encourages the appointment of a GORA officer
**GORA Officer**

Model resolution published by ACCG

1. All written requests directed to position
2. All county websites to display GORA officer name and contact
3. Any requests received by other county employees forwarded

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**Compliance**

Compliance with the law requires you to:

- Know what information & records it creates and maintains
- Know how long to keep information
- Manage information in ALL media and formats
- Establish policy & procedure for the management of information

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There are three aspects of law that every city and county clerk should be familiar with as it relates to records management:

**Georgia's Sunshine Laws**

**FOIA**

**Tort Laws**

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**Georgia's Sunshine Laws**

The Georgia Sunshine Laws are comprised of both the Open Records Law and Open Meetings Law to give guidance to how government records are handled and who has the rights to access them.

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**Georgia's Sunshine Laws**

Both the Open Meetings Law and the Open Records Law apply to all entities which are an "agency" of the state or local government in Georgia.

**What does the law define as an agency?**
Georgia’s Sunshine Laws

The term “agency” is broadly defined in O.C.G.A. § 50-14-1(a)(1) to include the following:

- Every state department, agency, board, bureau, commission, public corporation and authority;
- Every county, municipal corporation, school district and other political subdivision;
- Every department, agency, board, bureau, commission, authority and similar body of each county, municipal corporation or other political subdivision of the state;
- Every city, county, regional or other authority established pursuant to state law; and
- Non-profit organizations that receive more than one-third of their funds from a direct allocation of state funds from the governing authority of an agency.

All private entities that carry out governmental functions are subject to Open Records provisions of the Sunshine Laws.

What is FOIA?

- The Freedom of Information Act (FOIA) is a law that gives you the right to access information from the federal government. It is often described as the law that keeps citizens in the know about their government.

FOIA Requires

- Federal agencies are required to disclose any information requested under the FOIA unless it falls under one of nine exemptions.
- The FOIA also requires agencies to proactively post online certain categories of information, including frequently requested records. Congress, the President, and the Supreme Court have all recognized, the FOIA is a vital part of our democracy.
What is Tort Law

Definition of “Tort Law”- The area of law that covers the majority of all civil lawsuits.

The concept of tort law is to redress, restore and or right a wrong done to a person, usually by awarding them monetary damages as compensation.

Open Records

The public has a right to see, inspect and copy all “public records.” Georgia’s Open Records Law provides the public with broad access to governmental records and documents…

But what is considered “public records”

What are Public Records

Documents Papers Letters Maps

Books Tapes Photographs Data
**Processing the Open Records Request**

- Open records requests may be made to any custodian of the desired records.
- A written request is not required.
- Only requests made in writing are subject to criminal and civil enforcement proceedings and penalties in the law.
- In addition, an agency can require that all written requests go to a specifically designated records custodian who must be identified on the agency’s website if it has one.

**Time is of the Essence**

The agency must provide an answer as to when the requested records will be available for inspection within three business days of receiving the request.

What do you do if you can’t find the record?

**OMG Moment!!!**

If the records exist but are not available to inspect within three business days, you must give the requester a description of the available records and a time that they will be available for review and copying must be provided within the three day time period, and the records themselves or access to them must be provided “as soon as possible.”

After you pull yourself together....
Open Meetings

- Georgia’s Open Meetings Law requires that state and local governmental bodies conduct their business so citizens can review and monitor their elected officials and others working on their behalf.

- The Law requires that government meetings be open to the public.

- The Law also requires governmental bodies to provide reasonable notice of all meetings.

What Meeting Are Open?

- City councils;
- County commissions;
- Regional development authorities;
- Library boards;
- School boards;
- Commissions or authorities, such as hospital authorities, established by state or local governments;
- Planning commissions;
- Zoning boards;
- Most committees of the University System of Georgia (such as those involving grievances, disciplinary matters, athletic matters and other student-related matters not specifically related to education); and
- Non-profit corporations operating public hospitals.

How Should Government Provide Access?

In the event of an emergency meeting, the notification shall include the posting at least 24 hours in advance at the regular meeting place and oral notification to the newspaper which serves as the legal organ for the county.

In counties where the legal organ is published less than four times a week, notice also must be given to any local media outlets that make a written request to be so notified. Such outlets must be notified at least 24 hours in advance of the called meeting.
911…How Do We Handle Emergency Meetings?

The public must be given full access to all open meetings and may make video and audio recordings of all open meetings.

The Law also requires that agencies provide notice to the public in advance of all meetings, even emergency meetings.

That means agencies must make information available to the general public, in the case of regular meetings, by posting at least one week in advance a notice containing the information in a conspicuous location at the agency’s regular meeting place and on its website if the agency has one.

Agenda’s and Minutes…Oh My!

Prior to all meetings, including emergency meetings, the agency holding such meetings must make an agenda of all matters expected to be considered available upon request and must post the agenda at the meeting site as far in advance as possible within two weeks prior to the meeting.

Minutes of all public meetings must be kept in writing and made available to the public for inspection no later than immediately following the next regular agency meeting.

Minutes are subject to the Open Records Law after approval, unless voluntarily released before approval. A summary of the meeting also must be provided by the agency within two business days.

The Law Regarding Closed Meetings

The Open Meetings Law provides exceptions that allow certain closed meetings and some confidential actions, and a government entity may close a meeting only if a specific statutory exception applies, O.C.G.A § 50-14-3.

A meeting can be closed to the public only by majority vote taken in a properly noticed and open meeting.

Like the exceptions to the Open Records Law, exceptions to the Open Meetings Law should be narrowly construed so as not to undermine the general purpose of the Law.

The most commonly used exceptions are for personnel matters (but only for discussion and deliberation by the governmental entity, not for votes); attorney-client discussion of actual or potential lawsuits or claims; and real estate.

Agencies may also close a meeting for the discussion of matters made confidential by statutes other than the Open Meetings Act.
**Open Records Exemptions § 50-18-72**

- Specifically required by federal statute or regulation to be kept confidential.
- Records of the Department of Early Care and Learning that contain the (A) Names of children and day and month of each child's birth; (B) Addresses, telephone numbers, or e-mail addresses of parents, immediate family members, or emergency contact persons.
- Records consisting of confidential evaluations submitted to, or examinations prepared by, a governmental agency and prepared in connection with the appointment or hiring of a public officer or employee.
- Records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity, other than initial police arrest reports and initial incident reports provided.
- Jury list data, including, but not limited to, personal names, dates of birth, addresses, race, gender, telephone numbers, social security numbers, and when available, the personal security and other confidential identifying information that is collected and used by the Council of Superior Court Clerks of Georgia for creating, maintaining, and maintaining county jury source lists pursuant to the provisions of Chapter 12 of Title 15.
- Records pertaining to public employees that reveal the public employees' home addresses, home telephone numbers, day and month of birth, social security numbers, insurance or medical information, etc.

**Open Meeting Exemptions § 50-14-3**

- Meetings of the Georgia Bureau of Investigation or any other law enforcement or prosecutorial agency in the state, including grand jury meetings.
- Minutes of executive sessions shall also be recorded but shall not be open to the public.
- The deliberations and voting of the State Board of Pardons and Paroles; and in addition such board may close a meeting held for the purpose of receiving information or evidence for or against any person who is the subject of any investigation or prosecution of that person for any unlawful offense.
- Meetings when discussing or deliberating upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of an officer or employee in an agency.

**Penalties for Non-Compliance to Open Records Law**

Anyone who the court finds "knowingly and willfully" failed or refused to timely provide access to records not subject to exemption is guilty of a misdemeanor punishable by a fine not in excess of $1,000.00.

Alternatively, a court may impose a civil penalty not to exceed $1,000.00 against anyone who negligently fails or refuses to timely provide access to such records. The court also may impose a criminal fine or civil penalty not in excess of $2,500.00 for each additional violation committed within a year of the first violation.
Penalties for Non-Compliance to Open Meeting Law

All actions taken during a meeting closed in violation of the Law are void and can be set aside by a court if challenged within ninety days of discovery. Anyone who "knowingly and willfully" conducts or participates in a meeting without complying with every part of the Law is guilty of a misdemeanor punishable by a fine not in excess of $1,000.00.

Alternatively, a court may impose a civil penalty not to exceed $1,000.00 against anyone who negligently conducts or participates in a meeting without complying with the Law. The court also may impose a criminal fine or civil penalty not in excess of $2,500.00 for each additional violation committed within a year of the first violation.

Additionally, public officials who participate in closed meetings in violation of the Law can be subject to recall. Moreover, failure to give adequate notice can result in the invalidation of the proceedings, the issuance of legal injunctions and the requirement to pay the objecting party’s legal costs.

In addition, the Attorney General may bring a civil or criminal action to enforce compliance with the Law. As with the Open Records Law, a government agency may be liable for the attorney’s fees of a party who brings a lawsuit to require compliance with the Law if that agency has acted without substantial justification.

The Bigger Cost of Mismanaged Information

WASHINGTON – The scenario was simple enough, relatable in any office. An employee had a USB drive. Stored on that drive were emails, sent by a client, to be held for safekeeping. Except the emails were not just any emails, and the client was not just any client. The correspondence of former Secretary of State Hillary Clinton contained classified information. And it’s unclear when the unsecured drive was put into a State Department-provided safe at the office of Clinton’s lawyer David Kendall, an attorney with the D.C. legal powerhouse Williams & Connolly. Credit: J. Scott Applewhite/Associated Press

Final Thought!

You are not just a City or County Clerk…
You are not just the “Records Person”…
You are more than just the “Go To Person”…

You are a Records Management Professional…
You are the Subject Matter Expert…
You are Regarded and Valuable…
The Gate Keeper…The person that holds your City, your County, your organization together with integrity and continuity to the citizen’s you serve!
Questions?

For further assistance, contact me at Jared Hill jalanh478@gmail.com