

Senators,

My name is Patrick Richardson and I have been a journalist in Kansas for nearly 30 years.

I have lost count of the number of KORA requests I have filed, or ordered reporters working for me to file, over the last three decades.

What I have learned in my years of service to the communities I covered is -- that in many ways -- the Kansas Open Records Act is broken.

What I discovered is -- while routine requests are generally handled fairly easily and with little drama, once a news organization asks for information a governing body, be it hospital board, county commission, school board -- or city commission -- does not want released it becomes increasingly difficult to obtain the information.

One of the chief ways a custodial organization -- and be it noted, the records maintained by public agencies are *in their custody*, they belong to the public, not the agency -- will seek to circumvent KORA is to charge what we in the industry call "a go-away price."

That price is usually an exorbitant figure attempting to make obtaining records prohibitively expensive -- rather than pay it, they hope you'll "go away."

Perhaps the most egregious example of a "go away price," in my experience, was in the fall of 2019.

Return with me, if you will, to September 17, 2019. It was, as I recall, a blustery day but pleasant as early autumn often is in Southeast Kansas.

I was, at the time, the Managing Editor of the Pittsburg *Morning Sun*, and had just put the paper to bed, when one of my reporters called me frantically to tell me that the City of Frontenac had [just fired the city administrator](#), (whose contract had just recently been renewed -- with a raise) the city clerk and the city attorney -- and then the mayor resigned in protest.

We quickly got the story online, and it became clear -- since there had been *no* discussion in executive session prior to the firings, and indeed none at previous meetings and the governing body had seemed pleased with its top officers -- that there was a Kansas Open Meetings Act violation in this meeting.

The next day we fired off a [records request](#) demanding: "All electronic and written communications, including but not limited to letters, text messages and emails, sent to or from Frontenac City Council members John Macary, Pat Clinton, LaDonna Pyle, Mike Snow, Marc McCully, David Hogard and Brad Reams, Tim Fielder, Terri Kutz, and Linda Grilz for the period Monday, August 26, 2019 to Tuesday, September 17, 2019."

Three days later the new city clerk -- who had been fired by the city administrator for [twice-failing a random drug test](#) shortly before his own firing -- responded telling us and KOAM TV, which had filed a substantially similar request, that they could not fill our request because they did not have a city attorney. Of course, under KORA, no attorney is required and the city clerk *is* the custodian of records.

We, of course, reiterated this position to them and then, some *two weeks* after the initial request we and KOAM were told the records [would cost \\$3,500](#) -- each.

Senators, if that is not the very Platonic *form* of a "go-away price" I don't know what else it could be.

The law requires that fees be "reasonable" and those simply were not -- something with which Kansas Attorney General Derek Schmidt [agreed](#).

I left the *Morning Sun* before this was resolved and the tiny staff was unable to follow up as much as anyone would have wished.

To date, the City of Frontenac has not been held to account for their violations of either KOMA or KORA -- although a pending federal lawsuit most likely will. The circumstances surrounding the firings remain opaque -- although it is clear, at least circumstantially, what happened.

I cannot say that SB386 will correct all of the deficiencies in the Kansas Open Records Act -- it will not -- but year after year the primary method for records custodians across the state to avoid providing records they don't want the public to see is to either charge insane fees or make it difficult to pay (for example, requiring records be paid for by cash or check, rather than the credit/debit cards every district in the state is capable of accepting) hoping that anyone requesting the records will simply "go away."

Ladies and gentlemen, if a news organization the size of Gannett -- which owned the Morning Sun at the time -- balks at exorbitant fees, how then shall a small town, family-owned paper pay them? How, indeed shall a private individual?

Ladies and gentlemen, senators all, were I among your number not only would I rise to support this bill, but I would urge my colleagues in both Houses of this Legislature to pass this unanimously.

Instead, I urge you, as a journalist, a private citizen, a voter and a life-long *proud* Kansan to support SB386.

Sincerely,

Patrick Richardson