**OPINION: We can't rely on public officials to voluntarily surrender information**

By Richard Karpel

The commissioners in Guilford County, N.C., voted this year to move all public notices required by state law from local newspapers to the county’s website. [Four companies that publish newspapers in the county recently filed suit](https://www.greensboro.com/news/government/guilford-county-newspapers-suing-to-stop-legal-notices-change/article_8b7c5097-2cc6-50e6-8c1e-30746c03b1a6.html) to have the ordinance — and [the statute that enabled it](https://www.greensboro.com/news/government/legislators-approve-guilford-county-legal-notices-bill/article_e00fc640-9641-5208-8618-f9cfa700ecc7.html) — ruled unconstitutional. If the lawsuit fails, Guilford will become the first county in the U.S. to completely arrogate to itself the responsibility for publishing its notices. And there is a grave danger that the practice will spread to the rest of the state.

There are many reasons why this is a spectacularly bad idea. Perhaps one of the best is simple human nature: If you give people the ability to hide information that is embarrassing or otherwise inconvenient to reveal, nine times out of ten they will hide it.

Earlier this month, elected officials and government employees in Robeson County, N.C., provided us with a timely illustration of how they hide unpleasant information when presented with the opportunity to do so. [According to the county’s largest newspaper](https://www.robesonian.com/news/111975/relatives-of-2-commissioners-left-of-tax-delinquency-listhttps://www.robesonian.com/news/111975/relatives-of-2-commissioners-left-of-tax-delinquency-list), the names of close relatives of two county commissioners were omitted from a delinquent-tax notice published in a local weekly paper. The Robesonian also reports it was the second straight year the names were excluded from the list, so it’s clear it wasn’t the result of a simple mistake. A public official in the county whose identity has yet to be revealed made it happen.

Perhaps even a better example came to us recently from Michigan, where late last year the state’s environmental agency published a notice about a Nestle Waters proposal to pump more groundwater from public wells for its Ice Mountain bottling plant in the state. The agency knew it was a controversial matter since earlier attempts by Nestle to use public groundwater met with widespread opposition. Yet the only notice the agency provided about the proposal was posted on its own website.

The notice had been buried on that website for 41 days before a reporter from the Grand Rapids Press discovered it and wrote a story about the proposal. For those 41 days, the notice had attracted zero public attention or comment — not even from an environmental organization that has for many years fought Nestle in court to reduce the amount of water the company can withdraw from Michigan wells. Within the first three days after the newspaper's story was published, the agency received 3,000 comments and the public outcry over the proposal forced it to extend the comment period and schedule a public hearing. It eventually received over 80,000 comments.

In retrospect, it's pretty easy to see why the agency decided not to publish the notice in a local newspaper — an option it had been granted a few years earlier by the state legislature.

Public notice laws were enacted in all 50 states by previous generations that understood that some information is so important we can’t rely on public officials to voluntarily surrender it. So they passed laws stating precisely when and where such information must be published and didn’t leave it to the government to do the publishing. Excluding newspapers from that process would be a significant blow to transparency and a threat to the proper functioning of our democracy.

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