

**KAY CO. GRAND JURY  
SUBMISSION OF QUESTION**

I, Claude Williams Bill Williams,  
formally request the Kay Co. Grand Jury to consider the following question  
for review.

**Did the Kay County District Attorney violate his oath of office or act with misfeasance when he consistently ignored complaints associated with the Oklahoma Open Meetings Act and the Oklahoma Open Records Act?**

Oklahoma Statue Title 21, Chapter 19, Section 580 - Public Officer's Willful Neglect to Perform Duty states, "public officer or person holding a public trust or employment upon whom any duty is enjoined by law, who willfully neglects to perform the duty is guilty of a misdemeanor. This section does not apply to cases of official acts or omissions, the prevention or punishment of which is otherwise specially provided by statute."

Korina Schneider, the publisher of the North Central Report that serves the Grant and Kay County area, had sent lengthy email correspondences to and had several phone conversations with Will Clark, an employee of District Attorney Mark Gibson. Will Clark then forwarded the e-mails to Mark Gibson. These conversations and email discuss in great detail several violations involving the Oklahoma Open Meetings Act and the Oklahoma Open Records Act. However, these complaints have never been addressed by Gibson. Many of these complaints dealt with the City of Blackwell specifically.

Claude Williams wrote to Mark Gibson on June 5, 2007, claiming that the City of Blackwell had violated the Oklahoma Open Meetings Act, when the City Manager told Claude that on June 4, 2007, the Blackwell Charter Committee had met that day and that the Charter Committee's meetings did not have to be posted. The City Manager at the time also informed Claude that the Committee members agreed to allow him to attend.

Claude Williams also wrote a letter on June 19, 2007, reminding Mark Gibson that he had reported an Oklahoma Open Meetings violation and yet the City of Blackwell was still not posting their meetings. This letter was received by his office on June 20, 2007.

Gibson did not address the situation till April 7, 2008, in which he attended a Special Meeting of the Blackwell City Commissioners to discuss the Oklahoma Open Meetings Act and the Oklahoma Open Records Act.

Even after the meeting on April 7, 2008, citizens of Blackwell continue to be harmed by the City of Blackwell's failure to comply the two laws. Several police reports were filed with the Blackwell Police Department, and yet no charges from the District Attorney's Office were filed on the City or force them to comply.

Out of desperation a citizens group was formed and they addressed the problem by petitioning for a Grand Jury.

Submitted this day 11-28, 2008.

Claude Williams  
Requesting Party

Bill Williams  
Requesting Party

# District Attorney Reviews Open Meeting Act

By SHARON ROWEN  
News Staff Writer

BLACKWELL — Kay County District Attorney Mark Gibson reviewed aspects of the Oklahoma Open Meeting and Record Acts with Blackwell City Council members Monday.

"I'm not here responding to any situation, complaint, or concern," said Gibson.

"My purpose is to avoid that."

Gibson said problems concerning the Act usually occur because of ignorance of the law and are rarely intentional.

"The Open Meeting Law applies to every public body, to every council and to every committee of the council if there is a majority involved," said Gibson.

He added that if an entity is supported by public funds it is subject to the law.

"I made this presentation in Ponca City one time and was asked if the Ponca Playhouse was subject to the Act," Gibson said.

"According to the Attorney General they are subject to the Act because they received a grant from the State Arts Council. I do not believe the original intent was to know how much money Ponca Playhouse is spending on costumes," he said.

He stressed that the law applies to committees if it is granted decision making authority and then defined an open meeting as a gathering of a majority of members.

"In Blackwell three of you are a majority," he said.

"Two can decide how they are going to vote, but three or more together can't discuss business. The law does not require members ignore each other. You can go places together as long as there are no business discussions. You may not circumvent the Act. Decisions are to be made in this room only. You can't call another and ask what they think. You can't poll one another."

Council member Nita Carroll said she was delighted to hear that three members can be in the same place at the same time. "I have attended weddings and went to another

room because others were there," Carroll said.

Gibson then defined the purpose of an agenda as a tool telling the public what is going to be discussed.

"One group that was created, at their very first meeting I went to them and gave about a 20 minute overview and explained that if it is not on the agenda, you don't talk about it. And if it doesn't say action, you can't vote on it," he said.

"I walked out of that meeting and within 30 minutes someone came to tell me they were talking about things not on the agenda. I do not have much patience for that after it has been explained," he said.

Agendas are to be posted 24 hours before a meeting and 48 hours before a special meeting.

He highlighted that anyone who has requested special agenda notices are entitled to receive them. A public body may charge an \$18 fee.

Gibson then defined an executive session.

"Just because the law authorizes executive sessions doesn't mean a public body has to conduct them," he said.

"The one thing I try to stress more than anything else to anybody that serves on a public body is don't do it unless there is a really good reason to, because the bottom line is as soon as anyone goes into executive session, the conspiracy rumors start flying. A huge part of the problem is perception," he said.

"A lack of discussion leads to the perception that the issue was discussed in a back room. I urge you to examine yourselves and say we are to support and keep the public informed."

Gibson explained that under the Act, executive sessions are permitted for purposes that include the discussion of employment, hiring, appointment, promotion, demotion, discipline or resignation of any individual salaried public officer or employee, or for discussing negotiations concerning employees and representatives of employee groups; the purchase or appraisal of real property and confidential communications between

a public body and its attorney and that minutes must be kept.

He said if a body is found to have made a decision in executive session, the decision is null and void and the minutes are made public.

Gibson clarified that salary is an open record and that discussion of hourly paid employees can not be discussed in executive session.

He added that an employee must be named on the agenda if they are going to be discussed and that executive sessions are rarely needed. He stressed that no action can be taken during executive session.

He defined new business as something not known about 24 hours before the meeting and is rarely appropriate.

Gibson said that ignorance of the Act is no excuse for violations.

"These are laws and different lawyers have different thoughts," Gibson said.

"Bottom line I am the final say in Kay County unless it goes to the Attorney General's office or a court. If your attorney says something different from what I told you then you need to do what I say."

Gibson then focused on the Open Record Act.

The Act states that a public body must provide prompt, reasonable access to its records and that someone must be available at all times to release documents. In no instance shall the record copying fee exceed 25 cents per legal-size page or smaller, or a maximum of \$1 per copied page for a certified copy. Also, a search fee should not be charged when the release of records is in the public interest. This includes but is not limited to the release of information to the news media.

"When someone submits a record to the city it is open," said Gibson.

"This includes hateful letters. If a letter is written to the police department it is open even if it is unsigned."

Gibson said that someone with the ability and knowledge to pull a record should be available during business hours and that people are not required to give their name or

# Open Records and Meeting Act



**KAY COUNTY District Attorney Mark Gibson, left, reviewed the Oklahoma Open Meeting and Record Acts at a special meeting of the Blackwell City Council April 21. Council members Piccola Hudson-pillar, Max Wirtz, and Nita Carroll are shown in the background. (News Photo by Sharon Rowen)**

the reason why they want the record.

Council member Max Wirtz expressed concern about the time and effort spent searching for record requests.

"I would hope that we could recover some of the expenses of this not that we don't want to have this information for our people but it does cost our people at the same time," said Wirtz.

City manager Mike Jeffers said people are coming to city hall by the groves making open record requests.

"I saw our conference table covered with requests," he said. "Again there are only so many hours in the day. Do we need to work 24 hours a day to get these requests ful-

filled," he asked.

Gibson said staff is not required to work overtime to fulfill requests.

He added that public bodies do not have to create documents that do not exist such as lists.

Council member Brad Bechtel asked Gibson if he has ever been bothered by a nuisance.

Gibson said it doesn't matter who the person is or their purpose and that they can ask for items everyday if they desire to do so. Blackwell police chief Fred LeValley asked if police records have to be available 24 hours a day.

"I got a call at 12:15 a.m. demanding certain records," said LeValley.

Gibson said overnight hours are not regular business hours.

A citizen asked if action taken during an open meeting is legal if the agenda is not posted correctly.

Gibson said if the notice requirement or the time requirement are not compliant, actions are null in void.

"At the same time all the public body has to do is redo the items at the next meeting," he said.

Greg Deffner said that he received a letter from city attorney Mary Ann Karns denying him access to information. Gibson said without details he could not comment.

He stressed that records have to be provided.