

“Property of the People” So Long as They Can Sue: How North Carolina’s Public Records Law Fails to Account for Ignored Requests*

*The North Carolina Public Records Law was rewritten in 1995 to address the advent of computerized records, and therein, the North Carolina General Assembly declared that public records, subject to certain exceptions, were the “property of the people.”¹ Such a description of the people’s right to information, on its face, looks to be broadly protective of a right to access. Other provisions of the law have similar potential to encourage disclosure by assisting plaintiffs in litigation against state agencies that wrongfully deny their requests. However, the statutory language contains a rather large hole: it does not require response to requests within a certain period of time and contains no definition of denial.² The statute only requires copies be provided “as promptly as possible”³ upon request. Such vague language has allowed for the proliferation of a nonresponse issue across state agencies, often leaving journalists unaware of whether their requests have been denied or even received. This Recent Development examines one such occurrence, in the case of *Border Belt Reporting Center, Inc. v. Madden*,⁴ and argues that legislative changes and education could prevent circumstances like those in *Border Belt* from continuing to occur.*

INTRODUCTION

State and local governments control so much—courts, elections, parks and recreation, libraries, roads, policing.⁵ Such local information naturally tends to be distributed not by large national outlets, but local newspapers and news stations that are on the ground in the area. Yet, as local news outlets become ghosts of their former selves or vanish altogether, more than fifty million Americans have been left with “limited or no access to a reliable source of local news.”⁶

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1. N.C. GEN. STAT. § 132-1(b).

2. *See* § 132-6.

3. § 132-6(a).

4. No. 24CVS000125-230 (Columbus Cnty. N.C. Super. Ct. Sep. 13, 2024).

5. David M. Lawrence, *An Overview of Local Government*, in *COUNTY AND MUNICIPAL GOVERNMENT IN NORTH CAROLINA* 3 (2d ed. 2014), https://www.sog.unc.edu/sites/default/files/course_materials/R2%20Overview_of_LG_Bluestein.pdf [<https://perma.cc/J4RJ-HSJN>].

6. Zach Metzger, *The State of Local News: The 2025 Report*, NW. UNIV.: LOC. NEWS INITIATIVE (Oct. 20, 2025), <https://localnewsinitiative.northwestern.edu/projects/state-of-local-news/2025/report/> [<https://perma.cc/B7J3-G326>].

And even for the largest of media outlets, accessing “public” information is increasingly challenging.⁷ The White House and Pentagon have enacted new policies that shrink credentialed reporters’ rights to ask questions of top government officials.⁸ In North Carolina, the General Assembly recently granted its own staff members authority to independently decide whether a record is public.⁹ Some North Carolina administrative agencies take months to respond to records requests, while some requests simply go unanswered and unacknowledged.¹⁰

Carli Brosseau, an investigative reporter at *The Assembly*,¹¹ said she cannot remember the last time she wrote a story that did not require a public records request.¹² “It’s key for doing any sort of in-depth reporting, even if just for corroborating things that people have told you,” Brosseau said.¹³ *The Assembly*’s reporting has highlighted, for example, illegal fraternity hazing on college campuses in North Carolina¹⁴ and unlawful campaign donations made by local election officials.¹⁵ And, in only five years, it has become the flagship newsroom of a network of local news outlets all seeking to tell ambitious stories that leave readers with a better understanding of North Carolina.¹⁶ But in Brosseau’s experience, even when requesting a very limited number of records that should

7. See, e.g., Andrea Shalal, *White House Restricts Access for Journalists to Press Secretary’s Office*, REUTERS (Nov. 5, 2025 at 18:02 ET), <https://www.reuters.com/business/media-telecom/white-house-issues-new-rule-restricting-access-journalists-2025-10-31/> [https://perma.cc/F8T9-HPLR (staff-uploaded, dark archive)]; Andrew Goudswaard & Helen Coster, *US News Outlets Reject Pentagon Press Access Policy*, REUTERS (Oct. 15, 2025 at 16:40 ET), <https://www.reuters.com/business/media-telecom/us-news-outlets-reject-pentagon-press-access-policy-2025-10-14/> [https://perma.cc/3L8H-HVL9 (staff-uploaded, dark archive)] (reporting on new restrictions on press access to briefings at the White House and Pentagon); *FOIA Requests, Denials, Backlogs, Delays, Costs Surge in FY 2024*, UNIV. FLA. JOSEPH L. BRECHNER FREEDOM INFO. PROJECT: BRECHNER NEWS (Apr. 30, 2025), <https://brechner.org/2025/04/30/foia-requests-denials-surge-fy-2024/> [https://perma.cc/A3TR-FJVV] (reporting the lengthening response times for FOIA requests made to the federal government).

8. Shalal, *supra* note 7; Goudswaard & Coster, *supra* note 7.

9. See Bryan Anderson, *Nothing to See Here*, ASSEMBLY (June 17, 2024), <https://www.theassemblync.com/politics/north-carolina-general-assembly-public-records-transparency-law/> [https://perma.cc/KP9D-L9SN (dark archive)].

10. Interview with Lucas Thomae, Staff Rep., Carolina Pub. Press, in Chapel Hill, N.C. (Sep. 26, 2025); Telephone Interview with Carli Brosseau, Rep., The Assembly (Oct. 20, 2025).

11. See *infra* note 62.

12. Telephone Interview with Carli Brosseau, *supra* note 10.

13. *Id.*

14. Emily Vespa, *The Enduring Hazards of College Hazing*, ASSEMBLY (Jan. 14, 2026), <https://www.theassemblync.com/news/education/higher-education/frat-hazing-nc-colleges-unc-system-pi-kapp-sig-tau/> [https://perma.cc/SY7B-SVAB (dark archive)].

15. Bryan Anderson, *Elections Board Member Bob Rucho Resigns After Apparent Illegal Donations*, ASSEMBLY (Mar. 5, 2026), <https://www.theassemblync.com/news/politics/elections/ncsbe-bob-rucho-resigns-illegal-donations/> [https://perma.cc/3YSN-S9ES (dark archive)].

16. *About Us*, ASSEMBLY, <https://www.theassemblync.com/about-the-assembly/> [https://perma.cc/RBW3-B8N5].

be “quick and easy” to provide, she expects a “quick and easy” response only about half the time.¹⁷ “The use of delay as the primary tactic in denying the request has really, really escalated,” Brosseau said.¹⁸

Brosseau has long been working with Sarah Nagem of *Border Belt Independent* to report on the Columbus County Sheriff’s Office. Law enforcement records can be challenging to access because agencies interpreting the North Carolina Public Records Law can “err on the side of opacity.”¹⁹ In North Carolina, a county sheriff does not operate under the oversight of one of the branches of state government as other government officials do.²⁰ The only real form of discipline available is removal—which is quite a rare occurrence.²¹ A county sheriff is subject to removal only by voluntary resignation, judicial removal, or being voted out of office at the end of their four-year term.²² Without many options for formal accountability, public documentation and distribution of information can create pressure for change.²³

In September 2022, a TV news station in southeastern North Carolina published a recording of then-Sheriff Jody Greene using racial pejoratives when referring to Black sheriff’s deputies.²⁴ A few months later, the district attorney for Columbus, Bladen, and Brunswick counties²⁵ laid out “claims that Greene had sex on duty with a subordinate, intimidated county commissioners, and

17. Telephone Interview with Carli Brosseau, *supra* note 10. Brosseau explained further that it depends on the agency and that, “as the situation heats up,” the same agency’s handling of requests can completely change. *Id.* “I have found that in other places as well,” Brosseau said, “though I think Columbus [County] is a very exaggerated version of what I’ve found in other places.” *Id.*

Sarah Nagem, of *Border Belt Independent*, explained that requests having to do with subject matter focused on impropriety by public officials seemed to be more often met with nonresponse. Telephone Interview with Sarah Nagem, Ed., *Border Belt Independent* (Nov. 7, 2025).

18. Telephone Interview with Carli Brosseau, *supra* note 10.

19. Kate Martin, *Police Accountability: Accessing Law Enforcement Records in NC*, CAROLINA PUB. PRESS (June 15, 2020), <https://carolinapublicpress.org/30644/police-accountability-accessing-law-enforcement-records-in-nc/> [<https://perma.cc/6VZM-TVAV>].

20. DO POLITICS BETTER: NC’s *Funky Separation of Powers—and Under Which Branch is the Sheriff?*, at 17:50–18:24 (Spotify, Mar. 19, 2026).

21. See Sarah Nagem, *Could North Carolina Sheriff Who Made Racist Comments Be Forced Out of Office?*, BORDER BELT INDEP. (Oct. 3, 2022), <https://borderbelt.org/columbus-county-nc-sheriff-wont-resign/> [<https://perma.cc/QLF5-MTT2>].

22. See N.C. GEN. STAT. §§ 162-1, 162-3.

23. Wendy Sawyer & Emily Widra, *Resource Spotlight: Data Projects Tracking Police Misconduct, Use of Force, and Employment Histories*, PRISON POL’Y INITIATIVE (Jan. 26, 2026), https://www.prisonpolicy.org/blog/2026/01/26/police_misconduct/ [<https://perma.cc/N8KG-J4DS>].

24. Ann McAdams, *Sheriff: ‘I’m Sick of These Black Bastards . . . Every Black That I Know, You Need to Fire Him . . .’*, WECT (Sep. 28, 2022, at 15:45 ET), <https://www.wect.com/2022/09/28/sheriff-im-sick-these-black-bastards-every-black-that-i-know-you-need-fire-him/> [<https://perma.cc/EV9B-XBNA> (staff-uploaded archive)].

25. *District Attorney Jon David*, N.C. CONF. DIST. ATT’YS, <https://www.ncdistrictattorney.org/district-attorney/prosecutorial-district-15/> [<https://perma.cc/Y67Y-ZFNS>].

sought to have perceived political enemies criminally charged, among others.”²⁶ Greene resigned from the office of Columbus County Sheriff in early 2023 before the allegations could be heard in court.²⁷

In the wake of this chaos, Brosseau and Nagem investigated and reported on the alleged misconduct at the Columbus County Sheriff’s Office and the federal investigation that ensued.²⁸ A large part of their efforts involved requesting public records, including, “among other things, correspondence between the [S]heriff’s [O]ffice’s top brass and county leaders, as well as letters and legal complaints from citizens relating to allegations of misconduct by sheriff’s deputies.”²⁹

In *Border Belt Reporting Center, Inc. v. Madden*,³⁰ repeated delays, nonresponse, and incomplete disclosures—after nearly two years of records requests and persistent follow-up requests—eventually led the two news outlets to sue Columbus County.³¹ On four separate occasions, the Columbus County Superior Court ordered the Columbus County Sheriff’s Office to disclose more records.³² The court has also ordered the county to pay almost \$75,000 in attorneys’ fees to the requesters.³³

The catch: a final judgment was not entered for more than three years after the news outlet’s initial requests were made.³⁴ Many of those requests went

26. Carli Brosseau & Sarah Nagem, *Clouds Over Columbus County*, ASSEMBLY (Nov. 17, 2023), <https://www.theassemblync.com/news/politics/columbus-county-sheriff-greene-investigation/> [https://perma.cc/TF8G-GBB9 (dark archive)] [hereinafter *Clouds Over Columbus*]; Amended Verified Petition for Removal Pursuant to NCGS § 128-16, Et. Seq. at 1–9, *State v. Greene*, No. 22CVS990 (Columbus Cnty. N.C. Super. Ct. Oct. 21, 2022).

27. *Clouds Over Columbus*, *supra* note 26. To replace Greene, county commissioners tapped Bill Rogers, whom one commissioner referred to as a fresh start. Sarah Nagem, *Old Wounds Reopen as Columbus County Prepares to Elect a Sheriff*, BORDER BELT INDEP. (Feb. 27, 2026), <https://borderbelt.org/four-republicans-run-for-sheriff-in-columbus-county-nc/> [https://perma.cc/M32W-EFUB] [hereinafter *Old Wounds Reopen*].

28. *Clouds Over Columbus*, *supra* note 26; Carli Brosseau & Sarah Nagem, *Why We’re Suing Columbus County*, ASSEMBLY (Sep. 24, 2024), <https://www.theassemblync.com/news/politics/justice/why-were-suing-columbus-county/> [https://perma.cc/Q79K-7CVF (dark archive)] [hereinafter *Why We’re Suing*].

29. *Why We’re Suing*, *supra* note 26.

30. No. 24CVS000125-230 (Columbus Cnty. N.C. Super. Ct. Sep. 13, 2024).

31. *Why We’re Suing*, *supra* note 28; *Border Belt*, No. 24CVS000125-230.

32. Order at 2–3, *Border Belt*, No. 24CVS000125-230 (May 16, 2025) [hereinafter *May Order*]; Order at 2–3, *Border Belt*, No. 24CVS000125-230 (Aug. 27, 2025) [hereinafter *Aug. Order*]; Order at 4, *Border Belt*, No. 24CVS000125-230 (Nov. 12, 2025) [hereinafter *Nov. Order*]; Disclosure Order at 12, *Border Belt*, No. 24CVS000125-230 (Dec. 31, 2025); Order at 5, *Border Belt*, No. 24CVS000125-230 (Mar. 6, 2026) [hereinafter *Mar. Order*].

33. Attorneys’ Fees Order at 13, *Border Belt*, No. 24CVS000125-230 (Dec. 31, 2025). The decisions have been appealed to the North Carolina Court of Appeals, and the attorneys’ fees order has been stayed pending the appeal. Order Granting Defendants’ Unopposed Motion to Stay Attorneys’ Fees Order at 1, *Border Belt*, No. 24CVS000125-230 (Feb. 11, 2026).

34. *See infra* Part II.

ignored by the Columbus County Sheriff’s Office,³⁵ reflecting what has become a common occurrence across the state.³⁶ Consider if new allegations against a sitting Sheriff surfaced early in 2026, as the current Columbus County Sheriff faces reelection in November.³⁷ Records like those requested here cannot help voters decide who their next sheriff will be in November if the county resists making them public until receiving a court order three years later, in 2029.

This Recent Development uses the facts of *Border Belt* to exemplify the type of scenario for which a state public records law should account. It argues that, through changes to the North Carolina Public Records Law, news gatherers and other public records requesters should be given more clarity and more options for recourse while facing wrongful nonresponse and nondisclosure of requested public records. Part I provides background information on the North Carolina Public Records Law, as compared to the laws of other jurisdictions. Part II explains the facts and outcome of *Border Belt*. Part III examines the all-too-common problems illustrated by the case. Finally, Part IV identifies both legislative adjustments and practical strategies for limiting instances of requests going ignored by state agencies.

I. NORTH CAROLINA’S PUBLIC RECORDS LAW

The most widely known public records law, the Freedom of Information Act (FOIA), places open-governance requirements on the United States’ executive agencies.³⁸ All fifty U.S. states have passed their own unique public records laws,³⁹ many of which contain similar provisions.⁴⁰ Some states’ laws allow agencies to charge fees to cover an agency’s costs or time spent in compiling and copying requested public records.⁴¹ Many of these statutes limit those fees to a maximum dollar amount per page or limited to the actual cost of production.⁴² Other laws limit agencies’ accepted requests to those who hold a

35. Complaint at 5–12, *Border Belt*, No. 24CVS000125-230 (Sep. 13, 2024).

36. Interview with Lucas Thomae, *supra* note 10; Telephone Interview with Carli Brosseau, *supra* note 10; Telephone Interview with Sarah Nagem, *supra* note 17. See Daniel Walton, *Public Records Must Be Produced ‘Promptly.’ How Did N.C. Towns Do?*, ASSEMBLY (Mar. 18, 2026), <https://www.theassemblync.com/news/politics/public-records-sunshine-week-raleigh-charlotte/> [<https://perma.cc/K9KL-SL9Z> (dark archive)].

37. *Old Wounds Reopen*, *supra* note 27.

38. See 5 U.S.C. § 552(a). The Freedom of Information Act (or FOIA) is nearly ubiquitous in discussion of public records, though it only applies to the federal agencies.

39. *Introduction to the Open Government Guide*, REPS. COMM. FOR FREEDOM PRESS, <https://www.rcfp.org/introduction-to-the-open-government-guide/> [<https://perma.cc/7HWF-7S5E>].

40. See generally *Open Government Guide*, REP. COMM. FOR FREEDOM PRESS, <https://www.rcfp.org/open-government-guide/> [<https://perma.cc/8K9R-FWAG>] (summarizing the public records laws of each state and offering the ability to compare across states common types of provisions).

41. See, e.g., CONN. GEN. STAT. § 1-212(a); FLA. STAT. § 119.07(4)(a), (d).

42. Compare, e.g., CONN. GEN. STAT. § 1-212(a) (providing that state government agencies may not charge more than twenty-five cents per page, while all other public agencies may charge up to fifty

certain status in relation to the state or specify outright that any person is eligible to inspect or copy records.⁴³

The public records laws of thirty-nine U.S. states and the federal FOIA each include a provision requiring a response within a statutorily defined time period.⁴⁴ Across states, these time periods are construed as deadlines for an agency to respond and either acknowledge, fulfill, or deny the request.⁴⁵ For example, in Virginia, the agency custodian of a requested record must, within five business days, provide the requested records or respond with one of four responses allowed by Virginia's public records law.⁴⁶

In 1995, when the North Carolina General Assembly amended—or rather overhauled—⁴⁷the state's Public Records Law,⁴⁸ it defined a new right within the first subsection: “The public records and public information compiled by the agencies of [the] North Carolina government or its subdivisions are the property of the people.”⁴⁹ At that time, it was the only state public records law that “declared so explicitly that government information does not ‘belong’ to the people who process it, but rather it belongs to all the people.”⁵⁰ The new law also brought with it other requester-friendly provisions, like a general

cents per page copied), with FLA. STAT. § 119.07(4)(a), (d) (providing more complex fee provisions based on size, document type and allowing for “special service charge[s]” when a request prompts “extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency”).

43. Compare, e.g., ALA. CODE § 36-12-40 (providing that only “resident[s]” of Alabama have the right to inspect or copy public records) and ARK. CODE ANN. § 25-19-105(a)(1) (providing that only “citizen[s]” of Arkansas have the right to inspect or copy public records), with COLO. REV. STAT. § 24-72-201 (providing that “any person” may access public records). This is not the end of the similarities—see the Reporters Committee's *Open Government Guide*, *supra* note 40, to explore the multitude of provisions that are similarly present across state public records laws.

44. See Michael Andre, Gurman Bhatia, JPat Brown, Jabril Faraj, Maddy Kennedy, Mitchell Kotler, Beryl Lipton, Edgar Mendez, Michael Morisy, Devi Shastri, Theresa Soley, Miranda Spivack & Curtis Waltman, *How Open is Your Government? Find Out.*, MUCKROCK, <https://www.muckrock.com/place/> [<https://perma.cc/7RK9-N4F8>] (including chart which color codes state public records laws based on which prescribe a fixed time in which agencies must respond).

45. *Id.*

46. VA. CODE ANN. § 2.2-3704. See *infra* text accompanying note 102 for information about Virginia's statutorily required responses.

47. North Carolina Press Association, *Are There Special Rules for Computerized Records?*, MEDIA L. HANDBOOK: PUB. RECS. (Feb. 13, 2020, at 15:07 ET), <https://medialaw.ncpress.com/stories/special-rules-for-computerized-records,55?> [<https://perma.cc/HSZ9-XP HQ>] (“In 1995 the N.C. General Assembly amended the Public Records Law to facilitate public access to computerized records.”).

48. An Act to Amend the Public Records Law, ch. 388, 1995 N.C. Sess. Laws 949 § 1 (codified as amended at N.C. GEN. STAT. § 132-1(a), (b)).

49. § 132-1(b).

50. Christopher P. Beall, *The Exaltation of Privacy Doctrines over Public Information Law*, 45 DUKE L.J. 1249, 1290 (1996). “The implications of this legislative policy are far-reaching: A person's rights of access appear to stem from his position as an owner of the information. He is entitled to the information not because it will help him be a better citizen in the body politic, but because he owns it.” *Id.* at 1290–91.

limitation on fees to the actual cost of production,⁵¹ an “immediate hearing” provision,⁵² and a requirement that plaintiffs who successfully compel disclosure of records shall generally be awarded attorneys’ fees.⁵³

Despite its many requester-friendly provisions, North Carolina is one of only eleven states with a public records law that does not require response or even acknowledgement by agencies within a defined window of time after receipt of the request.⁵⁴ Copies of requested materials must only be provided by agencies “as promptly as possible.”⁵⁵ The most recent Attorney General guidance, published in 2019 by then-Attorney General Josh Stein’s office, tells agencies that it is merely “best practice” to notify the requesting party of receipt of a request and to provide a time frame for response.⁵⁶ But nothing in the law requires records custodians to do so.⁵⁷ North Carolina, like many other states, also does not have a standalone appeals process for open records denials or an independent open records agency.⁵⁸ Rather, requesters who are denied or ignored must bring actions in a local trial court.⁵⁹

Once a requester decides to litigate, a dearth of North Carolina case law defining “as promptly as possible” awaits, offering no clear guidance on how long a records requestee (for example, a state agency or municipal government employee) may let a request collect dust before breaking the law.⁶⁰ In *State*

51. § 132-6.2(b).

52. § 132-9(a) (providing that public records denial disputes should be set for immediate hearing and given priority by trial and appellate courts).

53. § 132-9(c).

54. See Andre et al., *supra* note 44.

55. § 132-6(a). The law covers materials from all branches apart from the legislative branch, whose materials are governed by the provisions of Section 120. Legislative material has been subject to recent changes that allow General Assembly personal discretion over what may be released to the public. Anderson, *supra* note 9.

This Recent Development focuses on requests for copies. Public records may also be inspected “at reasonable times and under reasonable supervision.” § 132-6(a). Because in-person requests to inspect records do not as readily leave open the possibility of nonresponse when compared to requests made remotely, this Recent Development focuses on remote requests in an effort to effectively address denial by nonresponse.

56. JOSH STEIN, N.C. DEP’T JUST., NORTH CAROLINA OPEN GOVERNMENT GUIDE 11 (2019), <https://ncopengov.org/wp-content/uploads/2022/03/2019-Open-Government-Guide.pdf> [<https://perma.cc/59K6-U5KG>] [hereinafter N.C. OPEN GOV. GUIDE].

57. *Id.*

58. Andre et al., *supra* note 44.

59. § 132-9(a). These actions are to be set for immediate hearing. *Id.*

60. Rather, prominent case law citing the North Carolina Public Records Law focuses on exceptions to the definition of record, like in *News & Observer Publishing Co. v. Poole*, 330 N.C. 465, 477–81, 412 S.E.2d 7, 14–16 (1992) and *DTH Media Corp. v. Folt*, 374 N.C. 292, 299–305, 841 S.E.2d 251, 257–60 (2020); redacting responsibilities, like in *In re McClatchy Co.*, 386 N.C. 77, 92–94, 900 S.E.2d 765, 775–77 (2024); or the definition of “state agency,” like in *S. Env’t L. Ctr. v. N.C.R.R. Co.*, 378 N.C. 202, 215–21 861 S.E.2d 533, 542–45 (2021).

However, the appellate definition of the phrase “as promptly as possible,” § 132-6(a), is an unlikely solution to the problem of nonresponse. Principles of statutory interpretation, particularly in

Employees Association of North Carolina, Inc. v. North Carolina Department of State Treasurer,⁶¹ the Supreme Court of North Carolina expressly declined to address whether the length of the eleven-month delay at issue “constitute[d] a denial of access” under the Public Records Law’s “as promptly as possible” standard.⁶² Trial courts have addressed the issue, but trial court opinions can be challenging to find for journalists and attorneys alike and do not carry the same weight as appellate law.⁶³

And yet, the lack of appellate legal precedent based on response time should not be mistaken for a lack of any issue. Indeed, across jurisdictions, long response times and nonresponse to public records requests are documented problems.⁶⁴ Without any statutory requirement to acknowledge a request, how is a journalist meant to know when an ignored request turns into a denial?

Such was the case in *Border Belt Reporting Center, Inc. v. Madden*.⁶⁵

II. REQUESTS MADE, IGNORED, DENIED

The facts underlying *Border Belt* started off the same as many public records requests in North Carolina. Over the course of two years, reporters from

light of “modern textualism’s insistence of textual fidelity” to a statute’s ordinary public meaning, are likely to stop an appellate court from converting such standard to a brightline rule. See James A. Macleod, *Standard Textualism*, 124 MICH. L. REV. 661, 665 (2026) (“Textualism rests on a straightforward conviction that faithful agents must treat rules as rules and standards as standards.”) (quoting John F. Manning, *Textualism and Legislative Intent*, 91 VA. L. REV. 419, 424 (2005)).

61. 364 N.C. 205, 695 S.E.2d 91 (2010).

62. See *id.* at 213, 695 S.E.2d at 96–97. Here, the plaintiffs’ first request was sent on March 1, 2007. *Id.* at 207, 695 S.E.2d at 93. Incomplete responses led to back-and-forth communication between the plaintiff and the N.C. Department of State Treasurer’s office, which eventually culminated in a complaint being filed on February 1, 2008. *Id.* at 209, 695 S.E.2d at 94.

In the case, the court read the North Carolina Public Records Law to require a plaintiff to show three elements when alleging a violation: “(1) a person requests access to or copies of public records from a government agency or subdivision, (2) for the purpose of inspection and examination, and (3) access to or copies of the requested public records are denied.” *Id.* at 211, 695 S.E.2d at 95. The court found that the third element was sufficiently proven by evidence showing that the State Treasurer declined to provide more documents in response to allegations that the initial disclosure was incomplete. *Id.* at 212–13, 695 S.E.2d at 96.

63. Beth Soja, “*As Promptly as Possible*”: *When Does a Public Records Delay Become a De Facto Denial?*, N.C. PRESS ASS’N (May 30, 2023, at 14:52 ET), <https://www.ncpress.com/stories/as-promptly-as-possible-when-does-a-public-records-delay-become-a-de-facto-denial,2610> [<https://perma.cc/KV52-GKJ9>] (explaining that a Columbus County court found that an unjustified one-month delay was “tantamount to a denial” in 2021).

64. David Cuillier, *Bigger Stick, Better Compliance? Testing Strength of Public Record Statutes on Agency Transparency in the United States* 10–14 (June 2019) (unpublished paper presented at the Global Conference on Transparency Research, Rio de Janeiro, Brazil), available at <https://eventos.fgv.br/en/6deg-global-conference-transparency-research/executive-and-advisory-committee> [<https://perma.cc/5SFD-9376> (staff-uploaded archive)].

65. See No. 24CVS000125-230 (Columbus Cnty. N.C. Super. Ct. Sep. 13, 2024).

*The Assembly*⁶⁶ and *Border Belt Independent*⁶⁷ “attempted to work collaboratively” with the County Manager,⁶⁸ County Attorney,⁶⁹ and the Sheriff of Columbus County,⁷⁰ as custodians of public records.⁷¹ Both news outlets produce the type of in-depth reported news that is heavily dependent on public records requests.⁷² Their investigation in Columbus County was no different—if Brosseau and Nagem wanted information past the recording aired on the news, requests under the North Carolina Public Records Law were their only option.⁷³

In the course of their reporting, the reporters made fourteen records requests from both organizations, all submitted to some combination of the defendants: the Columbus County Sheriff’s Office, County Manager, and County Attorney.⁷⁴ They sought communications between and among Sheriff’s Office leadership and the County Manager and County Attorney offices, any complaints alleging misconduct at the Sheriff’s Office, and communications and payments made by any county employees and a few private businesses.⁷⁵ Six of the requests were not outright denied. Rather, they were never fulfilled or even acknowledged.⁷⁶ Two requests were denied under exceptions to the

66. The Assembly produces in-depth reporting about the state of North Carolina, the type of reporting that most obviously relies on access to public records. *About Us*, *supra* note 16.

67. Border Belt Reporting, Inc., is also known by the name of its publication, *Border Belt Independent*—“a nonprofit, digital newsroom that focuses on issues and challenges that affect Bladen, Columbus, Robeson, and Scotland counties in southeastern North Carolina.” *About the Border Belt Independent*, BORDER BELT INDEP., <https://borderbelt.org/about/> [<https://perma.cc/BT8C-4F5Q>]. *The Assembly* assumed editorial control of *Border Belt Independent* in 2024, and the outlets are now partners. *Id.*

Nonprofit local journalism is a growing industry, operating usually through lean teams reporting in “close alignment with community needs.” Hanaa’ Tameez, *Nonprofit News is Growing Strong—Especially Local Nonprofit News, a New Report Shows*, NIEMAN LAB (Oct. 8, 2025), <https://www.niemanlab.org/2025/10/nonprofit-news-is-growing-strong-especially-local-nonprofit-news-a-new-report-shows/> [<https://perma.cc/BXR6-6Z9T> (staff-uploaded archive)].

68. Edwin “Eddie” H. Madden Jr. Complaint, *supra* note 35, ¶ 6.

69. Amanda Prince. *Id.* ¶ 27.

70. William “Bill” Rogers. *Id.* ¶ 7.

71. See N.C. GEN. STAT. § 132-2.

72. See Brooke Barnett, *Use of Public Record Databases in Newspaper and Television Newsrooms*, 53 FED. COMM’NS L.J. 557, 571 (2001) (explaining that “enterprise stories,” or “stories that come about from routine searching” would not be followed up on as effectively as other types of stories in the face of limitations on reporters’ access to public records databases).

73. See *supra* text accompanying notes 19–29. Reporters often reach out to local officials for interviews, but news must be shared even when reporters are rebuffed by their desired sources. See, e.g., *Clouds Over Columbus*, *supra* note 26 (noting that both the district attorney and Sheriff Jody Greene declined to comment for an article about Greene’s resignation and investigations into abuses of power at the Columbus County Sheriff’s Office).

74. Complaint, *supra* note 35, Exhibit B at 1–4 (listing each request and its status at the time of the complaint’s filing).

75. *Id.*

76. *Id.*

North Carolina Public Records Law.⁷⁷ The remaining requests were only partially fulfilled.⁷⁸

As the unfulfilled requests and partial responses piled up, Nagem and Brosseau identified a pattern and soon pursued legal help.⁷⁹ The reporters' counsel sent letters about the ongoing nondisclosure of requested records to both the County Attorney and the Sheriff's Office's public records custodian.⁸⁰ Still, these efforts proved unsuccessful, with many requests remaining ignored, unfulfilled, or incomplete. With few options left, the news outlets brought suit under the North Carolina Public Records Law.⁸¹

Their complaint, filed September 13, 2024, "concern[ed] the . . . [d]efendants' disregard for the North Carolina Public Records Law, which evinces a pattern of ongoing and willful defiance of our state's transparency laws in Columbus County."⁸² In their complaint, the news outlets alleged that the Defendants' inaction violated the Public Records Law, because they "fail[ed] to respond to the [r]equests as 'promptly as possible.'"⁸³ The delay in fulfillment of the requests, plaintiffs contended, was "unnecessary, undue, and unreasonable," such that it amounted to a "substantial failure to comply with the Public Records Law."⁸⁴

In May 2025, Columbus County Superior Court Judge Quintin McGee ordered the Columbus County Defendants to produce all the outstanding records, alongside a privilege log⁸⁵ of documents being withheld based on the

77. *Id.* (directing attention to August 15, 2023, and September 18, 2023, requests).

78. *Id.* (noting October 25, 2022, August 15, 2023, and September 18, 2023, requests). Absent from the responses were the following requested documents: emails and other electronic communications between local officials, the exhibits to a Sheriff's Office evidence audit, Department of Justice subpoenas delivered to individual officers who worked for the Sheriff's Office, and additional invoices and records that were shown to exist in a released transaction report from the Sheriff's Office. *Id.*

79. Telephone Interview with Carli Brosseau, *supra* note 10. Brosseau explained that, when faced with nonresponse, she may take a variety of steps, like escalating the request to the head of the agency or jurisdiction, depending on the type of story. *Id.* In her experience, being at a news organization that is willing to get attorneys involved "helps a lot." *Id.*

80. Complaint, *supra* note 35, ¶¶ 24–38, 46–51. In February of 2024, the plaintiffs proceeded with efforts to initiate mediation prior to litigation. *Id.* ¶¶ 41–44. Such mediation seems not to have occurred prior to the filing of the complaint. *Id.* at 14.

81. *See id.*, Exhibit B at 1–4.

82. Complaint, *supra* note 35, ¶ 21.

83. *Id.* ¶ 61.

84. *Id.* ¶ 60 (quoting Order at 7, *News Reporter Co. v. Greene*, No. 20CVS001147-230 (Columbus Cnty., N.C., Feb. 19, 2021) (included as Exhibit A to Complaint)).

85. A privilege log is a document which includes "sufficient identification" information about each document withheld for a court and plaintiffs to understand the documents' "nature." May Order, *supra* note 32, at 3. Such a document must include certain information such that the plaintiffs may challenge whether the North Carolina Public Records Laws' exception provisions may actually apply to each withheld document. *Id.*

North Carolina Public Records Law’s exception provisions.⁸⁶ Pursuant to this order, the defendants produced more records and a privilege log of the records that they were still withholding.⁸⁷

The news outlets challenged many entries on the privilege log, resulting in the production of fifty-seven more public records on July 31, 2025.⁸⁸ In August 2025, the news outlets’ motion for an award of attorneys’ fees was granted,⁸⁹ alongside their motions for further review of the disputed documents.⁹⁰ Then, in both December and March, the court ordered yet more disclosure by Columbus County.⁹¹

In December 2025, the court also ordered Columbus County to pay almost \$75,000 in attorney’s fees, which “should be charged upon the operating expenses of Columbus County.”⁹²

Considering the successful compulsion of the defendants’ release of many previously withheld records and the award of attorney’s fees, *Border Belt* is, on its face, already a win for those who rely on the disclosure of public records to keep their communities informed. However, the case also offers an opportunity to think harder about the type of win North Carolina’s Public Records Law is designed to deliver. This victory came at a cost: court proceedings funded by public dollars, countless hours spent by journalists and their attorneys building the case, and three years of the public being deprived of access to information, which, under North Carolina law, is already their property. All of this—just to compel public officials to do something which is, by law, part of their job descriptions.

III. THE EXPLANATORY VALUE OF *BORDER BELT*

Although *Border Belt* demonstrates how the North Carolina Public Records Law helps those requesters who opt to litigate,⁹³ the case nonetheless exemplifies the uncertainty news gatherers and other requesters experience without concrete timing requirements. The trial court decision, lacking in precedential value, will not provide journalists across the state any reprieve

86. *Id.*

87. Aug. Order, *supra* note 32, at 2.

88. *Id.* The plaintiffs moved for in camera review (review by the court of the remaining documents in dispute) in August, which was granted. *Id.* at 2–3.

89. *Id.* at 3.

90. *Id.*

91. Disclosure Order, *supra* note 32, at 12; Mar. Order, *supra* note 32, at 5.

92. Attorneys’ Fees Order, *supra* note 33.

93. The plaintiffs’ strategy of characterizing the treatment of the requests, collectively, as an “unnecessary, undue, and unreasonable delay,” Complaint, *supra* note 35, ¶ 60, could be employed in future instances of nonresponse. The language seems a rather convincing foil to an agency’s claim that they moved “as promptly as possible.”

from the Public Records Law's standards-based approach to timing and the judiciary's reluctance to place a time limit on nonresponse.

This Recent Development does not suggest a complete overhaul of North Carolina's Public Records Law. Indeed, the orders thus far entered in *Border Belt* also showcase at least one of the statute's advantages for requesters, particularly those who opt to litigate.⁹⁴ The court awarded the reporters their "reasonable attorneys' fees," in an amount of almost \$75,000, as the law requires in cases where plaintiffs succeed in compelling disclosure of additional records.⁹⁵ Even where requesters opt not to litigate, the threat of these kinds of damages could compel state agencies to comply on their own accord.

But even with advantages in timing, fees, and statutory interpretation, litigation is not always (nor even frequently) the preferred choice for a journalist-requester.⁹⁶

First, litigation takes time. The complaint in this case was filed in September 2024, and the first order compelling the release of records was not given until May 2025.⁹⁷ *Border Belt Reporting v. Madden* remains without a final resolution more than three years after the first request was made to the Columbus County Sheriff's Office,⁹⁸ and more than a year after the plaintiffs filed their complaint.⁹⁹ Time is of the essence when it comes to reporting news, especially when that news concerns public officials who possess so much local power and will ultimately have to run for reelection. Second, litigation is expensive. The news outlets in *Border Belt* initially requested more than \$150,000 in attorneys' fees to be paid by Columbus County.¹⁰⁰ The North

94. Another advantage often cited is the statutory requirement that actions under the North Carolina Public Records Law be set for immediate hearing and "accorded priority by the trial and appellate courts." N.C. GEN. STAT. § 132-9(a). Further, a reading of the plain language of § 132-1(b), which states that public information and records compiled by agencies are the "property of the people," requires that the North Carolina Public Records Law be broadly construed in favor disclosure.

95. § 132-9(c).

96. Brosseau explained that, when facing nonresponse or nondisclosure, she always seeks to negotiate or escalate the situation prior to getting an attorney involved. Telephone Interview with Carli Brosseau, *supra* note 10.

Nagem said she believes a collaborative process, after clear education on what the North Carolina Public Records Law requires, would save time for everyone involved and could help with goodwill and trust between news gatherers and local governments. Telephone Interview with Sarah Nagem, *supra* note 17.

97. See Complaint, *supra* note 35, at 1; May Order, *supra* note 32, at 1. Assuming the Columbus County Superior Court acted in accordance with the immediate hearing provision of § 132-9(a), it still took about eight months for any order to come down. See Complaint, *supra* note 35, at 1; May Order, *supra* note 32, at 1.

98. See Complaint, *supra* note 35, Exhibit B at 1.

99. See *id.* at 15.

100. See News Organizations' Application for Attorneys' Fees at 1, *Border Belt Rep. Ctr., Inc. v. Madden*, No. 24CVS000125-230 (Aug. 28, 2025); News Organizations' Supplemental Application for Attorneys' Fees at 1, *Border Belt* (Nov. 13, 2025). The amount eventually awarded can be assessed against either the state agency's operating costs, or personally against public employees found to have

Carolina Public Records Law, although providing a path to reimbursement, does not account for newsrooms that may not have the financial ability to sue in the first place.

Last and most important, litigation is likely to burn goodwill, potentially posing challenges for news organizations that often need to request records from the same entities repeatedly.¹⁰¹ For example, one of the journalists who requested the records in *Border Belt*, Nagem, is editor of the *Border Belt Independent*.¹⁰² The paper reports specifically on Bladen, Columbus, Robeson, and Scotland counties,¹⁰³ and Nagem said she was all but certain that she will need to request records from Columbus County officials again in the near future.¹⁰⁴ Journalists who primarily report news about local government are likely to rely more often on access to records from local state agencies. Because of the close quarters records requesters share with the custodians of their requests, these records requesters could face long-term roadblocks if their choice to litigate results in a negative or noncollaborative relationship. Litigating at any given point is a catch-22. If a reporter fights for the records at hand, they risk sacrificing any potentially collaborative relationship with an agency. But, if they give up and let a request go, they risk losing the only teeth their requests ever had—the threat of litigation.

IV. SOLUTIONS

There is no singular solution that will entirely remedy the problem of nondisclosure by North Carolina state agencies, like counties and sheriffs’ offices. Public records laws only exist because it is presumed that agencies are reluctant to provide any information to the public. But there are legislative adjustments and practical courses of action that may encourage more collaboration between news gatherers and local agencies before litigation, or even the threat thereof, becomes necessary. Attacking the issues of nondisclosure and nonresponse from the perspectives of both the requester and the government is essential to improving compliance by state agencies. Without clear instructions on what to do when a request is received, it is possible that agencies are not acting dubiously or underhandedly when they delay or fail to respond.¹⁰⁵

participated in a violation of the North Carolina Public Records Law. § 132-9(c). However, if the employees sought legal advice and acted in accordance with such, they may not be held personally liable. *Id.*

101. Telephone Interview with Sarah Nagem, *supra* note 17 (explaining that managing relationships can be challenging as a news gatherer requesting information from the same public officials repeatedly).

102. *About the Border Belt Independent*, *supra* note 67.

103. *Id.*

104. Telephone Interview with Sarah Nagem, *supra* note 17.

105. *Id.* (explaining she sometimes wonders if public officials are simply not clear on the law).

A timed-response requirement, the implementation of an administrative appeals process, and education for local agencies and local counsel each have distinct potential to improve the public records request process by standardizing expectations.

A. *Time Pressure*

First, state agencies must face specific time pressure under the statute. The North Carolina General Assembly should amend the Public Records Law and enact a provision requiring a response within a finite number of days. The legislature could also consider imposing a fulfillment deadline; however, such a requirement raises workability concerns, given that good faith attempts to fulfill records requests take varied amounts of time based on the quantity of records requested and the complexities inherent in compiling the records.

Virginia's comparable statute offers an example of one way to strike a balance between workability and time pressure. The Commonwealth's public records law requires, within five working days of a request's submission, either provision of the records to the requester or one of four statutorily provided responses: (1) an explanation with particularity why the records are being entirely withheld; (2) an explanation with particularity why the records are being partially withheld; (3) an explanation that the records could not be found, including contact information for any public body that the agency knows to have the records; or (4) an explanation of why the requested records cannot be provided within the five-day period.¹⁰⁶

This requirement results in less vagueness compared with North Carolina's statute.¹⁰⁷ Because the law is more prescriptive, records custodians have a roadmap for compliance—while reporters and other requesters have a better understanding of what they can expect from their government. The statute could go further, providing outright that nonresponse within the window shall be deemed a *de facto* denial.¹⁰⁸ Applying that law to *Border Belt*, Columbus County and the Sheriff's Office would not have had the option to

106. VA. CODE ANN. § 2.2-3704(B).

107. Vagueness can be "useful if it is difficult to specify a rule in advance of particular cases." John O. McGinnis & Michael B. Rappaport, *The Power of Interpretation: Minimizing the Construction Zone*, 96 NOTRE DAME L. REV. 919, 947 n.114 (2021). However, McGinnis and Rappaport's description of the problem in the context of constitutional clauses can fit here in the statutory context: "Clauses with abstract meanings allow interpreters to exercise significant discretion over their content." John O. McGinnis & Michael B. Rappaport, *The Abstract Meaning Fallacy*, 2012 U. ILL. L. REV. 737, 737 (2012). Here, the interpreters exercising "significant discretion," *id.*, are the local agencies.

108. Pennsylvania's Right to Know Law has a provision like this. See 65 PA. STAT. AND CONS. STAT. ANN. § 67.901 (West) ("If the agency fails to send the response within five business days of receipt of the written request for access, the written request for access shall be deemed denied."). By expressly deeming nonresponse a denial, an updated North Carolina Public Records Law can eliminate issues of standing that may arise when, in the absence of a clear denial, a requester does not receive any correspondence within a certain timeframe.

not respond. After five days of nonresponse, a violation of the law would have been obvious to the news outlets. Such clarity, in tandem with the attorneys’ fees provision, has the potential to incentivize agencies to prioritize disclosure, knowing that requestors of public information—even if they elect not to—could consider litigation after only five days of nonresponse¹⁰⁹

B. *Administrative Appeals*

Litigation in the trial courts need not be the only path to a remedy. Twenty-five states’ public records laws and the federal government’s FOIA provide some form of appeal process.¹¹⁰ In Pennsylvania, the Office of Open Records (“OOR”) is a quasi-judicial, independent statewide agency that oversees and decides “thousands of appeals per year.”¹¹¹ If a requester is denied, they can file an appeal with the OOR.¹¹² There is no fee, and appellants do not need to hire an attorney.¹¹³ OOR determinations are binding and usually issued within thirty calendar days.¹¹⁴ Parties who disagree with those decisions may seek review by an appellate court with jurisdiction over the matter.¹¹⁵

A North Carolina version of the OOR (with procedures similar to Pennsylvania’s)¹¹⁶ and a provision that deemed non-acknowledgement of a request a denial after a specified amount of time could have helped the news outlets in *Border Belt*. The outlets could have sought appeals from the OOR about each of those six entirely unacknowledged requests and been given a binding decision from the OOR in a fraction of the time their lawsuit has taken.

Not only could a centralized agency speed up this process,¹¹⁷ but it could also provide an opportunity for the collection of data about denials across the

109. The precise length of time outlined here is not intended to be the important part of this proposed solution. Rather, the existence of the time limit itself may incentivize changed habits. Whether the window provided is five days or ten may not be as important, although journalists would likely prefer quicker responses such that the information requested remains newsworthy.

110. Andre et al., *supra* note 44.

111. *About the Office of Open Records*, PA. OFF. OPEN RECS., <https://www.openrecords.pa.gov/AboutOOR.cfm> [<https://perma.cc/AE2C-893E>].

112. *How to File an Appeal*, PA. OFF. OPEN RECS., <https://www.openrecords.pa.gov/Appeals/HowToFile.cfm> [<https://perma.cc/2DEV-7B8L>].

113. *Id.* When faced with nonresponse or nondisclosure, Lucas Thomae said, “the only option really is to sue, and that is not an option for most people.” Interview with Lucas Thomae, *supra* note 10 (referring to the personnel and financial resources required to get lawyers involved when facing nondisclosure).

114. *How to File an Appeal*, *supra* note 112.

115. *Post-Final Determination*, PA. OFF. OPEN RECS., <http://openrecords.pa.gov/Appeals/PostFD.cfm> [<https://perma.cc/U6T6-PKPX>].

116. The North Carolina Department of Justice has an Open Government Unit, which can help the public access records, but it does not possess the same features as the Pennsylvania OOR and does not have any authority over any sort of appeals. See *Open Government*, N.C. DEPT JUST., <https://ncdoj.gov/open-government/> [<https://perma.cc/GL3X-JVLS>].

117. Again—so long as a concrete timing provision is also available.

state based on how many people file appeals. With only anecdotal evidence from interviews with reporters, it is nearly impossible to tell how big a problem wrongful nondisclosure is.¹¹⁸ The Pennsylvania OOR website offers a docket search tool that shows all of its decisions from the year after the OOR's creation in 2009 to date, including a description and status of each.¹¹⁹ A tool like this could provide the public with an opportunity to see how often agencies are allowing requesters to access what is already deemed “property of the people” by the North Carolina Public Records Law.

“Transparency guardians” like Pennsylvania’s OOR already offer a check on wrongful protectionist or politically motivated withholding of records in Connecticut, Ohio, and more than fifty countries.¹²⁰ The price tag for operating the OOR—\$3,895,000 in FY 2023–24—would have added a mere 0.013% to North Carolina’s budget for the same year.¹²¹ North Carolina legislators were willing to so sweepingly deem government information “property of the people.”¹²² Accordingly, they should *also* be willing to pay for and subject state agencies to independent enforcement of the very right they created.

C. Education

Lastly, with or without these changes, information exchange is essential to the efficacy of this law. Nagem said she does not believe all public officials are ignoring or denying requests with malintent—rather, she believes it is possible that many officials may simply not have a clear understanding of what the law

118. The evidence that does exist shows a troubling view: Anecdotal reporting from *The Assembly* recently demonstrated that many local governments in North Carolina did not respond to a sample request. Walton, *supra* note 36. An analysis by *The Charlotte Observer* revealed more than 1,500 open, unfulfilled records requests filed with the City of Charlotte in the preceding five years. Mary Ramsey, *Getting Charlotte Records May Take Weeks—or Years. Council Questions City’s Transparency*, CHARLOTTE OBSERVER (Sep. 26, 2024, at 15:55 ET), <https://www.charlotteobserver.com/news/politics-government/article291923480.html> [<https://perma.cc/7HP7-FGR8>].

119. *OOR Decisions (Docket Search)*, PA. OFF. OPEN RECS., <https://www.openrecords.pa.gov/Appeals/DocketSearch.cfm> [<https://perma.cc/Y9GF-H4WF>] (To access a recent docket entry as an example, select 2025 in the “Year” dropdown under “Quick Search” and then select an entry by clicking its Docket Number). In 2025 alone, the OOR’s docket shows more than 3,700 entries. *Id.*

120. David Cuillier, *The Document Divide: Why Public Records Laws Are Failing Average Americans, and What to Do About It*, JERSEY VINDICATOR (Mar. 15, 2026), <https://jerseyvindicator.org/2026/03/15/the-document-divide-why-public-record-laws-are-failing-average-americans-and-what-to-do-about-it/> [<https://perma.cc/JV7L-T5JW>]. See generally Margaret B. Kwoka, *An Information Commission*, 112 GEO. L.J. 841 (2024), for an exploration, in the federal context, of the argument for creating an independent “information commission” to increase the scope of enforcement, and thus the efficacy, of the federal public records law.

121. *Compare* PA. OFF. BUDGET, 2023–24 ENACTED BUDGET GENERAL FUND APPROPRIATIONS (2023), *with* N.C. OFF. STATE BUDGET & MGMT., 2024–25 GENERAL FUND APPROPRIATIONS, AUTHORIZED REVENUES, AND CONDITION OF THE FUND STATEMENT DUE TO THE 2024 SESSION OF THE GENERAL ASSEMBLY (2025) (the PA OOR’s appropriations divided by North Carolina’s total FY 2023–2024 appropriations of \$29,787,259,309 equals 0.013%).

122. N.C. GEN. STAT. § 132-1(b).

requires from them.¹²³ The North Carolina Open Government Guide¹²⁴ provides only what the law requires, supplemented by some best practices.¹²⁵ The University of North Carolina School of Government and the North Carolina Association of County Commissioners both provide information to local governments about compliance with state laws.¹²⁶

However, these resources only provide information about what is legally required of local governments, which is already vague under the language “as promptly as possible.”¹²⁷ For example, the Open Government Guide does not include any case law about public records request denials.¹²⁸ It contains *suggested* instructions for state agencies to follow after receiving a public records request,¹²⁹ and it includes a brief note that litigation may be brought after a request is denied.¹³⁰

Even without legislative adjustments, local officials need to be made aware of the potential consequences of their inaction in the face of public records requests. To facilitate wider awareness, the Attorney General should prioritize consistent updates to the Open Government Guide to occur at standardized intervals. The guide should include more specific information, like outcomes of related lawsuits that have occurred since the last publication.¹³¹ Specifics about cases, especially the attorneys’ fees awarded, could be a powerful motivator for local state agencies. Factual summaries about what records courts eventually ordered to be released may also assist journalists in proactively advocating for timely disclosure in future requests.¹³²

CONCLUSION

The years-long timeline and outright nonresponse to the public records requests in *Border Belt* together demonstrate the extremes of what can occur

123. Telephone Interview with Sarah Nagem, *supra* note 17.

124. The latest version was created in 2019 by then-Attorney General Josh Stein’s Open Government Unit in partnership with the North Carolina Press Association and the Sunshine Center of the North Carolina Open Government Coalition. See N.C. OPEN GOV. GUIDE, *supra* note 56, at 1.

125. See *id.*

126. Telephone Interview with Hugh Stevens, Of Counsel, Stevens Martin Vaughn & Tadych PLLC (Nov. 5, 2025). Specific resources from these two entities were not readily found online.

127. N.C. GEN. STAT. § 132-6(a).

128. See N.C. OPEN GOV. GUIDE, *supra* note 56, at 3–23.

129. *Id.* at 11–13.

130. *Id.* at 21.

131. Brosseau said that agencies no longer expect news organizations to sue to enforce the North Carolina Public Records Law, and she believes that, as a result, agencies feel like news organizations have very few tools to encourage agencies to “do the right thing.” Telephone Interview with Carli Brosseau, *supra* note 10.

132. In the past, Brosseau has used case law to advocate for herself while reporting in other states with more accessible case law on the topic of public records. *Id.* Because North Carolina has limited appellate case law and trial court cases are hard to find, she finds it much more challenging to utilize prior decisions to incentivize requests. *Id.*

when agencies are not incentivized by a clear rule in any binding authority to respond promptly—or even at all—to records requests. Prescriptive legislation about the timing of responses that defines “denial” in a way that includes nonresponse, alongside centralized oversight and education about compliance, has the potential to provide more prompt and comprehensive request outcomes to reporters. These solutions would allow for more state government information to actually reach its rightful owners—the people.

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