

**Jack Helms****Sunshine and Transparency Laws****March 24, 2019****Summary:**

Over the past 50 years, and especially since the Vietnam War and the Watergate scandal, sunshine laws and the calls for more transparency in government have been increasing consistently at both the state and national level. Sunshine laws have mandated a more uniform way of releasing information to the public, especially through meetings held by committees and members of congress. However, there is a growing group of analysts who believe that the current level of transparency in government is causing more gridlock and polarization than it solves. The main arguments are that it is interest groups that are making the most use of the transparency and sunshine laws, not the public, causing polarization to occur at the elite level. The main type of polarization occurring is perceived polarization through the media and interest groups using the information made public by the sunshine laws. Arguing the opposition, analysts state that the level of polarization, or gridlock, in the government is not related to the sunshine and transparency laws, but has been occurring regardless of the laws, and has been slowed by transparency in government. As of now, there is still a debate on whether the sunshine laws have caused an increase in polarization, but there is more evidence pointing towards this being the case.

**Definition:**

Transparency laws are laws that force the government to reveal information in legislation, such as what is discussed at meetings or on the house and senate floor.

**Overview:**

- Sunshine and transparency laws have been around since the Freedom of Information Act(FOIA) was enacted in 1967. Since then, two more laws, the federal advisory committee act (1972) and the government in the sunshine act (1976) have rounded out “the big three” laws that deal with transparency in the government (Grumet, 2014).
- These acts require the release of information from almost all meetings, excluding matters of national security or police matters. The Government in the Sunshine Act specifically calls for every portion of a meeting to be open for public observation (Government in the Sunshine Act, 1976).
- Under transparency laws, documents and events outside of meetings are also supposed to be released, with the exceptions to this minimized as much as possible (Kenton, 2018).
- The FOIA protects a citizen’s right to request certain information from the federal government.
- All matters that require “deliberation” are usually subject to the transparency laws, and this is where, it is argued, that problems arise. Some analysts like Lynn Sanders question the importance and usefulness of deliberation (Sanders, 1997).
- Outside of the legislative branch, the executive branch also deals with transparency pressures now. White House visitor lists are required to be published now, and when the George W. Bush administration attempted to reverse the precedent, pressure was so great that they were forced to continue their releases (Frum 2014).
- CSPAN is also a part of these transparency laws. The cameras in the house and senate chambers have contributed to the perceived polarization mentioned earlier.

Arguments for transparency	<ul style="list-style-type: none"> <li>• <u>Transparency has helped with productivity in the house and senate</u>, and there is no evidence that productivity has decreased due to sunshine and transparency laws and their requirements such as cameras in the house and senate chambers (Bass, Brian, and Eisen, 2014). Data shows that the level of bills passed in the senate increased from their level once cameras were introduced in the chamber, and <u>were still higher than pre-transparency numbers after the FOIA was enacted</u>.</li> <li>• Transparency laws have helped expose potential scandals in the government, such as the 40-minute meeting Bill Clinton had with Eleanor Mondale in 1997 (Frum 2014)</li> <li>• In their article, Jacobson and Kernell explain how they used data from the 1986 election cycle to support the argument that when combined with strong candidates, voters care deeply about issues in the government and nation (Jacobson and Kernell, 1990). <u>Transparency gives voters an idea of what their representatives vote for in Washington</u>.</li> </ul>
Arguments Against Transparency	<ul style="list-style-type: none"> <li>• Representatives that say one thing during their campaigns and then are filmed or through transparency laws are revealed to have spoken for the opposite side are labeled as <u>hypocrites with inconsistencies</u>, which in turn causes more rigidity and unwillingness to cooperate in bipartisan bills, causing stalemate and gridlock (Cain, 2016).</li> <li>• Public deliberation does not improve the arguments or bills in a legislature, but instead <u>causes a groupthink in democratic processes</u> (Sanders, 1997).</li> <li>• Increased transparency has created more administrative and judicial supervision over legislators, and these supervisors are away from the public eye and not elected (Frum, 2014).</li> <li>• Representatives sometimes must make decisions in private, using private information, and without these private meetings, they can be swayed by outside pressure, which often does not lead to the best policy outcome, or is tainted by outside groups (Stasavage, 2007).</li> <li>• Interest groups use the information released from sunshine laws and transparency laws far more than the public (Cain, 2016). Legislators must balance the pressure from narrow interest groups and the interest of the public, and transparency laws make that job much harder (Grumet, 2014).</li> <li>• Elite Polarization from the hypocrite calls cause a lack of bipartisan efforts, which in turn causes public polarization.</li> </ul>

### Conclusion:

-In conclusion, there is substantial evidence that sunshine and transparency laws have contributed to perceived polarization. However, analysts have not agreed on whether the polarization caused by transparency is worth it. Given the evidence, I believe that the level of transparency we have now is worth the polarization caused by interest groups and the media.

## Works Cited

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Lynn Sanders *Against Deliberation*. *Political Theory*, 25(3), 347-376, (1997). Retrieved from <http://www.jstor.org/stable/191984>

In this paper, Sanders explains that deliberation in a democratic process is flawed. She notes that in a public deliberation, the discourse is often controlled by people who have a natural ability to speak, those who have a reputation for speaking, have the most experience doing so, or a combination of the three. Conversely, those representatives who do not have the three traits discussed above might have better ideas or insights, but due to their inability to participate in the deliberation, they are ignored. Sanders does not believe that deliberation should be stopped, but rather contracted in its current state. She lays out her case that public deliberation in its current (1997) form creates more disenfranchisement than it does democratic solutions.

THE GOVERNMENT IN THE SUNSHINE ACT, 5 U.S.C. § 552b, (1976)  
[https://www.gsa.gov/cdnstatic/SunshineAct\\_R2B-x3-g\\_0Z5RDZ-i34K-pR.pdf](https://www.gsa.gov/cdnstatic/SunshineAct_R2B-x3-g_0Z5RDZ-i34K-pR.pdf)

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