

## **Here's how bad public records laws are in Massachusetts**

Want to know why your kid's principal was fired? Too bad.

Or who's sitting in jail right now? None of your business.

What about the names of people charged with domestic violence? Nope.

When it comes to public records laws in Massachusetts, there's a lot you don't know.

It doesn't have to be that way.

I spent the last five years as a police reporter in Columbus, Ohio, before moving back home to Boston a few months ago. What I've rediscovered about my home state: Our public records laws are abysmal, especially compared to those elsewhere.

There are 19 pages of exemptions alone in the 60-page guide to Massachusetts public records. How does this supposedly progressive state have such backwards open government laws?

Massachusetts has a "culture of secrecy," said Pamela Wilmot, executive director of the open-government organization Common Cause Massachusetts. She's not sure exactly why it exists — maybe the state's long history makes it more resistant to change.

"It's unconscionable and unfortunate and can't be allowed to continue," she said.

This week, the *Boston Globe* fought back. The newspaper sued several law enforcement agencies, including the Massachusetts State Police and Boston Police Department, for refusing to hand over mug shot and police incident reports involving officer arrests. It's the organization's fifth public records-related lawsuit since the beginning of last year.

Boston police have already given in on one point. On Wednesday, Commissioner William Evans said the department will begin releasing the names of any officers arrested from now on.

The *Globe*'s latest suit says that the agencies are wrongly hiding behind the Criminal Offender Record Information Act — known as CORI — when denying public records requests for mug shots and incident reports of officers arrested for drunk driving. They claimed that the records were exempt under CORI.

Meanwhile, the agencies have posted on their blogs and Facebook pages the names of civilians charged with operating under the influence.

The suit also challenges the Department of Corrections's refusal to release the chronological booking log, even though the agency farms out the list of inmates to a for-profit company that provides a searchable database of inmates.

In Ohio, not only are records public, they're easy (or at least easier) to get.

In my old job covering crime and breaking news, I could quickly get police incident reports, 911 calls and mug shots, usually for free or 5 cents a page.

State prison inmates are easily searchable. Some counties post a list of jail inmates online, too.

Most Ohio court records are readily available online — and free. Meanwhile, copies at Suffolk Superior Court in Boston cost the public \$1 a page, and they can't be scanned or

emailed. And even once the state's long-awaited \$75 million online court system is finally complete, the public won't have access.

Public officials in Ohio can't charge for the time it takes to gather records. In Massachusetts, the quoted cost for records often includes an hourly rate for an employee to complete the request. Agencies are allowed to charge a "reasonable" fee, but that can run into the thousands of dollars, preventing the public documents from being released at all.

Bridgewater State University officials recently billed the *Brockton Enterprise* \$60,000 to provide emails sent during a six-week period between university officials discussing a child rape case at a campus daycare center.

Also unavailable in Massachusetts: personnel files, evaluations, resumes, disciplinary records, and promotion, demotion or termination information that could give parents and residents a sense of who's working in their community.

Even a public school board meeting — broadcast live on cable access television — isn't a public record here.

In Ohio, all of those records are available.

Sure, it's not always sunny in Ohio. Organizations play the delay game. While Massachusetts has a 10-day limit, Ohio agencies only need to respond in a "reasonable" time frame.

Additionally, more organizations have started claiming that requests are "overly broad," especially when it comes to emails.

And some agencies have to be reminded about what records are public. I remember standing outside a judge's office in a rural Ohio courthouse with my newspaper's lawyer on the phone, arguing with the judge that he couldn't withhold the name of a juvenile just because the kid was charged with murder. (That's another difference from Massachusetts: In Ohio, juvenile cases are open to the public, and files are accessible with a judge's permission).

There's some hope for us here in Massachusetts. Two state legislators filed a bill that would increase access to public records, though open government advocates say it doesn't go far enough.

The bill would limit fees for filing public records requests, require government agencies to appoint a specific person to handle the requests, provide electronic versions of public records when possible, and require the agencies to cover attorney fees when a petitioner challenges a denied request in court.

That last part is important. Today that protection isn't in effect. Even if the *Globe* wins all of its lawsuits, the newspaper will still lose: Massachusetts is one of just four states that doesn't pay attorneys' fees to those who win public records lawsuits.

By Allison Manning