

The Columbus Dispatch

» Hot Links:

EDITORIAL

Open-records access cloudy

Government officials find ways to thwart the public's right to know

ABOUT OUR EDITORIALS

Dispatch editorials express the view of the *Dispatch* editorial board, which is made up of the publisher, the president of *The Dispatch*, the editor and the editorial-writing staff. As is the traditional newspaper practice, the editorials are unsigned and intended to be seen as the voice of the newspaper. Comments and questions should be directed to the editorial page editor.

ABOUT THE DISPATCH

An independent newspaper serving Ohio since July 1, 1871.

- John F. Wolfe: Chairman and Publisher
- Michael J. Fiorile: President and Chief Executive Officer
- Jon B. Schwantes: Corporate Director of News
- Benjamin J. Marrison: Editor
- Glenn Sheller: Editorial Page Editor

ALSO IN OPINION

- Editorials
- Op-Ed Columns

SUBSCRIBE TO THE DISPATCH



Sign up for home delivery of *The Columbus Dispatch* and find out What's In It for You.

Tuesday March 18, 2014 5:28 AM

Comments: 0

0

3

18

Maintaining government transparency requires unceasing public vigilance. Despite Ohio's open-records law, many public servants need to be reminded that they are simply the stewards, not the owners, of government records, and their job is to make them available, rather than inaccessible.

This is Sunshine Week, a national observance of the importance of government transparency. Civic watchdogs and journalists know that gaining access to public records never seems to get easier, with public officials and their attorneys always looking for ways to say "no" rather than "yes."

Of late, a favorite way to dodge a public-records request is to claim that it is "overly broad."

Critics say the Ohio Supreme Court's 2008 decision in *Glasgow vs. Jones* has been seized on by obstructionist bureaucrats. In the decision, the court ruled that Columbus attorney Jeffrey L. Glasgow exceeded the scope of the Ohio Public Records Act by requesting every email, text message and related document from two state representatives over an extended period of time. Glasgow's was an exceptionally broad request, argue advocates of open records, but the court's decision did not provide cover for officials simply looking for an excuse to deny records.

"*Overly broad* is the phrase du jour," said Tim Smith, a lawyer and director of the Media Law Center for Ethics and Access at Kent State University. He says the Ohio Supreme Court has shown a "clear dislike for records access."

Experts say that those seeking documents should try from the outset to be as specific as possible in their request to reduce the likelihood of being turned down. But open-records advocates say that very narrow requests aren't always possible, and shouldn't be necessary.

"We as citizens should indict our public servants for being ridiculously technical and continually looking for any reason to just say 'no,'" said David Marburger, a Cleveland lawyer specializing in government-access law.

Public access to records has been chipped away by the legislature as well as the judicial system. Information about numerous classes of public employees has been closed based on unproved claims that the information puts such employees at risk, despite the fact that such information was routinely available for years under Ohio's 50-year-old open-records law, which originally exempted only medical records.

This is not a problem just for the press as it tries to do its job as a government watchdog. It also affects any citizen trying to get information from his city council or school board, or an environmental group seeking to keep tabs on government regulators. While the news media often has the experience and the resources to take legal action to overcome illegal withholding of records, individuals and citizens groups often do not have the means to fight.

Adding to the challenge for those whose requests are denied: Ohio law sets penalties for improperly denying documents at a mere \$100 a day, with a cap of \$1,000. Legal fees, if they can be recovered, are capped at \$10,000 — typically not enough to get an attorney to take a case to the Ohio Supreme Court.

Though Ohio's Sunshine Laws were among the best in the nation, they have been eroded significantly and deliberately. For years, the trend has been in the wrong direction. It's time to reverse course.

Favorite Print Story

3