

Less-than-public records

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THE MASSACHUSETTS Public Records Law gives government officials too many ways to withhold information. When a citizen requests an official record, the agency in question is required to answer the request within 10 days. But agencies sometimes respond slowly, demand exorbitant fees, improperly claim one of the numerous exemptions in the law, or just blow off the request.

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Recently, at a State House forum hosted by Commonwealth magazine, Representative Antonio Cabral of New Bedford recalled asking a district attorney for figures on money raised from

drug forfeitures. The request was turned down, he said, on the grounds that the Public Records Law exempts information related to criminal investigations. The argument was bogus; releasing general budget information doesn't compromise any investigation.

If only this were an isolated example. When Commonwealth recently made 44 simple requests for public records, only two were answered in strict compliance with the law. Citizens can appeal to Alan Cote, the state's supervisor of public records. But even if he rules that a document should be made available, he has little power to enforce that judgment. Worse, recalcitrant bureaucrats have kept Cote from making adverse rulings simply by denying him access to even look at the documents in question.

The need for reform is acute - especially now, as accusations of influence-peddling on Beacon Hill fuel public cynicism.

A bill sponsored by Cabral would fix several nuts-and-bolts problems with the system. It would increase the fine for officials who violate the law from \$20 to \$500. It would give Cote's office - a branch of the secretary of state - the power to subpoena documents and the ability to directly ask courts to enforce its rulings. The bill would also restrict fees to the actual cost of producing a copy of a public record. And it would require agencies to deliver computerized records to the public in electronic form, which should cut costs. These steps would all be helpful.

But the bill doesn't go far enough. The Legislature should narrow or eliminate many of the exceptions to the Public Records Law. Of course, lawmakers exempted themselves from the law more than a century ago. Under court precedents, the judiciary and the governor's office also claim exemptions. Other provisions meant to protect the privacy of state workers, the integrity of criminal investigations, and the safety of public buildings can be used as pretexts to withhold information.

More fundamentally, what's needed is a cultural shift. While states such as Florida are known for making vast amounts of public information easily available to residents, such openness just isn't in the DNA of government in Massachusetts. Public scrutiny of government work may be a thorn in the sides of some agencies, but it's a vital part of a democratic system. ■

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by thezak February 11, 6:07 AM

🗨 The power of custodians to deny access to files does obstruct justice, covers up wrong doing of people in positions of authority, and can put the public at risk. Then there are cases where



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