



Ohio Coalition for Open Government

OPEN GOVERNMENT REPORT

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Does Ohio Supreme Court support open government? OCOG analyzes six years of cases to find out

By Dennis Hetzel and Courtney Stanley

A report by the Ohio Coalition for Open Government (OCOG) confirms the view that the Ohio Supreme Court most often sides with officials in cases involving government access and transparency, but a recent string of decisions has shifted outcomes more in citizens' favor.

The Ohio Coalition for Open Government built a spreadsheet to track court rulings and the votes of individual justices in open-government cases the Court has handled since 2010.

Forty-four rulings were examined from July 2010 to July 2015. The final OCOG analysis excluded routine prisoner appeals and eight cases in which the opinions were too mixed to be fairly scored one way or the other. Of

For OCOG's complete analysis of Ohio Supreme Court rulings, see pages 8 to 11

the remaining 32 cases, 12 were voted in favor of open government – including the five most recent decisions tabulated – and 20 favored restricting or denying access.

Among the sitting justices, Justice Terrence O'Donnell was the justice most likely to decide against access – 77 percent of the time (excluding routine prisoner cases). Justice Judith French was the justice most likely to vote in favor of parties seeking access. She voted against access 60 percent of the time, a 17 percent difference from O'Donnell.

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Did charter school operators win battle but lose transparency war?

By Dennis Hetzel, OCOG President

No Ohio Supreme Court decision in recent years has been awaited much more than a September 15th ruling on a lawsuit involving charter-school sponsors who sued the operators of those schools over who had to pay for supplies bought with public money.

So, why should you care about a contract dispute? The case also has important implications for the ability of Ohio citizens and journalists to get access to details on how charter schools are spending nearly \$1 billion in taxpayer dollars that now come their way annually. My read of the decision suggests that the charter operators – for-profit companies in many cases that have made thousands of dollars in campaign contributions – might have won the battle but lost the war.

Well, maybe.

Here's a call to action: Ohio citizens and journalists should test this new decision. Make

fresh records requests to charter school operators for detailed records on how they spend public dollars – requests that would have been denied in the past. Education reporters across the state have been frustrated for years about the lack of accountability – regardless of how you feel about charters as public policy.

The "battle" in the case was whether the contract between charter-school sponsors and White Hat Management, an Akron-based, for-profit operator, was valid. White Hat reportedly bought textbooks, computers and furniture bought with some of the \$90 million that went to seven Hope Academies and Life Skills Centers in the Cleveland and Akron areas. The items were titled in the schools' names. The contract required the schools to pay White Hat the current value of the items from an accounting standpoint if they wanted them back.

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For continually updated OCOG news, go to our new website www.ohiopengov.com.

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OCOG moves forward to meet new challenges, but it needs your support

By Dennis Hetzel, OCOG President



Hetzel

For several years, we've heard complaints that the Ohio Supreme Court is anything but friendly to citizens in open government cases, most of which involve access to records or efforts to keep meetings open to the public.

At the Ohio Coalition for Open Government, we decided to find out. With the help of the Ohio Newspaper Association's summer intern, Courtney Stanley from the University of Cincinnati, and the advice of several Sunshine Law expert attorneys, we built a spreadsheet that analyzed every decision the Court had made in open government cases since 2010. We also developed a "scorecard" so you can see how every justice is voting.

With this issue of our OCOG newsletter, we are releasing the results. While the analysis indeed shows a tendency to side in favor of government by the justices, recent trends have been more encouraging. We are making our complete analysis available as well as the response by the Supreme Court after we sent them an advance copy. This seemed only fair. It's all available at the OCOG website, so you can make up your own mind.

It was the second summer in a row in which OCOG was directly involved with a major project of statewide impact. In 2014, OCOG helped to lead an audit of public records compliance that covered governmental bodies in all 88 Ohio counties.

We have a long list of people who receive our OCOG communications, but I'm frankly not sure if enough of you appreciate the importance of OCOG.

And many aren't cognizant of the severe limitations on its resources, which are less than \$60,000 at this writing – with considerable pro bono staff support from the Ohio Newspaper Association. That should matter to you a lot, because OCOG's involvement in Sunshine Law cases helps Ohio citizens every day.

Just in the past year, OCOG's support has helped achieve three major victories. The Ohio Supreme Court ruled that the names of substitute teachers and a callback from a 911 dispatcher in a murder case were indeed public records. Otterbein University student journalists achieved a major win when the Court ruled that police departments with sworn officers at private college are subject to the open records law. No longer can these campus officers operate in secret.

OCOG also is backing two pending Supreme Court cases that are very important. One case involves the Olentangy School District, in which a majority of the board excluded a member and used email to end-run the open meetings law. Another involves the refusal of the Columbus police – and many other departments – to allow access to case files in closed criminal cases. Literally, police are using an outdated court ruling to argue no file is "closed" until the defendant is dead. That doesn't do you much good if you're in prison for a crime you didn't commit.

The demand on resources grows. With that in mind, OCOG's board met recently to discuss priorities in the future. Increasing resources is critical, but that won't happen unless and until there's a solid strategic plan and a higher profile.

Here is some of what we're doing, planning to do or hoping to do that's new:

- Starting at the next ONA convention in February, there will be an annual OCOG award recognizing a person, group or organization that has made a major contribution to open government in Ohio. A committee is now working on the details of what this award will be called and how it will be decided.
- We are unveiling an OCOG version of the "Legislative Watch List" that ONA provides its members. This will not take specific positions on pending legislation – that isn't appropriate – but it will alert OCOG members to the status, pros and cons of pending legislation involving Ohio's sunshine laws.
- We'll be expanding our social media presence, particularly with Facebook and Twitter. (And you can check out OCOG's website anytime at www.ohioopengov.com.)

- We want to create a downloadable “wallet card” for citizens and journalists with key points about Ohio’s sunshine laws, including how to appeal denials of access. Related, we also will “mobile-optimize” the website as soon as we can, so this information is readily available on any device. We may want to build an app.
- Longer term, as resources allow, we have some bigger ideas. One is to have training on sunshine laws for

citizens across the state. Another is to significantly grow our “defense fund” to directly support more legal battles. The biggest idea of all may be to eventually spin OCOG off on its own with its own director.

I can’t conclude this column without a pitch for support. OCOG membership is optional. You can become a member of OCOG with a yearly payment of \$35 for individuals; \$50 for non-profit; and \$70 for attorney/corporate membership.

The number of Ohioans supporting OCOG is unacceptably small. Please give this some consideration. You can join OCOG and donate to the organization by credit card when you fill out OCOG’s online donation and membership form. OCOG is a 501(c)3 non-profit organization.

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Does the Ohio Supreme Court support open government?

Continued from page 1

“We wanted to see if trends emerged as you examine dozens of rulings,” said Dennis Hetzel, president of OCOG and executive director of the Ohio Newspaper Association. “A lot of these decisions are 4-3 or 5-2, so obviously the justices don’t view the law in the same ways.”

The Ohio Supreme Court was given an opportunity to review the analysis and responded in part by saying, “The role of the Supreme Court of Ohio in open government cases is to interpret and apply the public records access laws passed by the General Assembly. The Supreme Court is not free to use cases to legislate its own views on open government.”

For the complete response from the Ohio Supreme Court, see page 8.

“We agree that people should keep in mind that there are a lot of factors that go into decisions, starting with the facts of the case, the existing law and evidence as presented,” Hetzel said. “Sometimes it means a poorly written statute needs fixing, which was starkly demonstrated

by their recent ruling involving Ohio charter schools. A number of decisions in recent years have made it particularly difficult to gain access to government records in Ohio.”

Hetzel said one recent case, *Murray v. Chagrin Valley Publishing*, actually is a libel and defamation case, but was included in the database after some deliberation.

“It fits our criteria of including meaningful cases on open government issues. In July, the Supreme Court refused to consider Murray’s appeal of the lower-court decision against him,” Hetzel said. “We believe a decision in favor of Murray would open the door to more actions that chill the First Amendment rights of citizens to comment on matters of public concern.”

The OCOG analysis was compiled using the WestLaw website to identify and summarize relevant cases. Courtney Stanley, a recent graduate of the University of Cincinnati and a summer intern at the ONA, worked with Hetzel and Jason Sanford of the ONA on the initial analysis, which was then reviewed by several Ohio attorneys who are

experts in open government cases.

To view the OCOG spreadsheet, go to www.ohioopengov.com/news/supremecourt. Hetzel said that OCOG plans to update the spreadsheet as new rulings are issued.

“For example, the Supreme Court just ruled in *Clough v. Franklin County* that a mother did not have the right to see documents related to an investigation of suspected abuse of her daughter,” Hetzel said. “Regardless of how you feel about that outcome, it’s an interesting case and should be part of our database.”

Hetzel added that OCOG is closely following two pending cases. One involves a school board majority’s use of e-mail for deliberations instead of having a discussion in a public meeting. The other case challenges the refusal of the Columbus Police Department to allow access to records in a murder case in which the defendant claims he is innocent.

For more on OCOG’s analysis of Ohio Supreme Court rulings, see pages 8 to 11.

Did charter operators win battle but lose transparency war?

Continued from page 1

In a sharp dissent, Justice Paul Pfeifer called the contract “unconscionable and one-sided.” (What could be more ironic than buying school supplies with taxpayer dollars and then having to use more taxpayer dollars if you want them back?) The court majority said maybe so, but the contract was valid under the law. The court also took a swipe at the law, noting there’s little accountability for school operators.

The Legislature has work to do. We think they dropped the ball this spring by not finishing a charter-school reform bill that would have meant greater accountability.

The “war” is a broader conflict – the ability to track public money in the hands of private entities. In the case of charter schools, only lump sums in broad categories get revealed. Contrast this to the checkbook-level scrutiny that public school districts must provide upon request.

In the ruling in the White Hat case, some of the justices also noted that providing an education is a core government function, and that the school operators have a fiduciary responsibility to their sponsors. Translation: This means accountability.

In a Columbus Dispatch story about the case, Karen Hockstad, a Columbus

lawyer who represented the charter schools, said that’s how she reads it – the public should be able to get financial records now from charter-management companies.

Lou Colombo, counsel for the Ohio Newspaper Association, cautions that there are gray areas in the decision issued by the sharply divided court but agrees the court has provided reason for optimism on greater access to information about public dollars being spent by private entities – at least when it comes to education.

So, go for it. Citizens and journalists should ask for the records. Let us know how it goes.

Open Government Commentary

A made up public records exemption causes real headaches

By John C. Greiner

The Ohio Public Records Act contains 29 exemptions. Which means the law literally has more exemptions than letters in the alphabet. That of course is not a huge problem in itself – the legislature has assigned two letters – “aa” – “cc” to denominate the exemptions once they reached “z.”

But apparently 29 exemptions aren't quite enough for some public officials. And as a result, a new exemption, which is nowhere to be found in the Ohio Revised Code has emerged in recent years – the “prosecutor's discretion” exception. Here's how it works. A prosecutor gets his hands on a record. He decides it is best for the public not to see the record until he sees fit. The problem for the prosecutor, though is there's no exemption in the Public Records Act that applies to the record. So under the law, the prosecutor has to release it upon request. But that conflicts with his decision to withhold the record.

So he holds the record, maintains the Confidential Law Enforcement Investigatory Record (CLEIR) exception applies, and when he is good and ready, and only when he is good and ready, does he release it. Mission accomplished. Say hello to the newest exemption. I'd call it “dd” but that would suggest the Ohio legislature had actually enacted it. And of course, they haven't. But that little detail doesn't seem to matter much to some people who are supposed to uphold the law.

Where have we seen this effort? Butler County Prosecutor Michael Gmoser used it to delay production of 911 tapes involved in a Hamilton Ohio murder in 2012. In that case, a woman called the 911 operator to report that her husband had stopped breathing. That call got disconnected and the 911 operator called back. A young man answered the return call and said that he's killed his step-father. Prosecutor Gmoser refused to produce tape of the call back, claiming, among other things, that the return call was an “investigatory” call.

The Ohio Supreme Court has made it abundantly clear that 911 calls are not investigatory records. They may lead to the initiation of an investigation, but in

themselves, they merely record facts, much like an incident report. That body of case law did not deter Prosecutor Gmoser. Nor did the fact that even if the call back transformed the call into an “investigation” it still did not satisfy the elements of the CLEIR exception. The call did not identify an uncharged suspect, did not disclose an unnamed source, did not put a police officer's life in jeopardy, nor did it in any way disclose confidential law enforcement techniques. Given that the 911 operator's questions concerned the medical condition of the victim, it was impossible to identify any law enforcement techniques involved, much less any “confidential” techniques.

In 2014, Attorney General Mike DeWine refused to release footage recovered from a Walmart surveillance camera which depicted Beaver Creek police officers shooting and killing John Crawford. Mr. Crawford was shopping at the Beaver Creek Walmart and had taken an air rifle off a shelf. Crawford was carrying the air rifle around the store. A 911 caller alerted the police who entered the store and gunned Crawford down. A grand jury declined to indict any of the police. DeWine handled the investigation at the request of the Montgomery County Prosecutor.

DeWine refused requests to release the Walmart video for more than a month. He released it only after the grand jury decided not to indict. During the month he kept the video under wraps, he claimed the ongoing investigation made the footage exempt. But again, the footage simply did not satisfy the CLEIR elements. The footage was from a camera placed in the store by Walmart, not by any law enforcement unit. It simply recorded the activity in front of it, along with all the other cameras placed throughout the store. The footage of the shooting did not disclose an unnamed suspect, did not identify a confidential source, did not put any police officer in danger and did not disclose any confidential law enforcement investigatory techniques. And yet it was released only when the Attorney General felt like releasing it -- in his unchecked and unfettered discretion.

The latest prosecutor to invoke the non-existent exception is Hamilton County Prosecutor Joe Deters. In the

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To learn more about Graydon Head, visit www.graydonhead.com.

recent death of Samuel DuBose, who was killed by University of Cincinnati Police Officer Ray Tensing, Deters, like DeWine, withheld footage (in this case from a body cam) which a number of media outlets requested. Like DeWine, Deters claimed the footage fell under the CLEIR exception. Like DeWine, Deters was wrong. The body cam footage recorded a routine traffic stop which ended when Tensing shot DuBose in the head.

Once again, the footage disclosed none of the items listed in the CLEIR exception. There was, simply put, no excuse to hold the footage. But once again, the prosecutor exercised his discretion and deigned to let the public see the footage when he deemed it appropriate. He exercised authority he simply lacked.

In the Butler County case, the Ohio Supreme Court awarded fees to The Cincinnati Enquirer, which successfully challenged Gmoser's actions. No one took DeWine to court in response to his actions in the Walmart matter. Six media outlets in Cincinnati field a mandamus suit in the Ohio Supreme Court against Deters challenging his actions in the DuBose incident. Given that Deters released the body cam footage five days after the suit was filed, it is conceivable that the Supreme Court will rule the matter moot. But it would be nice for the public's right to know if the Court would issue a ruling and put an end once and for all to the exception that has been enacted not by the Ohio legislature, but by local prosecutors.

Are police body camera videos public records? The final answer may lie with the Ohio General Assembly

By Monica Dias, OCOG Trustee

When things go wrong between a police officer and a citizen, police body cameras often capture crucial evidence. But are police body cam recordings a public record, or can they be withheld from the public as part of a police investigation?

A recent shooting by a police officer in Cincinnati has forced the issue front and center before the Ohio Supreme Court.

On July 19, a police officer for the University of Cincinnati shot and killed a man during a traffic stop. The next day, news reporters from various media outlets submitted public records requests to the UC and Cincinnati police departments for copies of the police officer's body cam recording. The Hamilton County Prosecutor's Office denied those requests, arguing that the recording was a "confidential law enforcement investigatory record" and was exempt from disclosure under the Ohio Public Records Act. Prosecutors also told the media that the grand jury had not seen the video, and prosecutors did not want to taint the grand jury process.

Generally, the Ohio Public Records Act requires release of records kept by any public office, unless the Act specifically exempts the record from disclosure. The Act exempts "confidential law enforcement investigatory records" from public disclosure, but only if release of the record would create a high probability of disclosure of certain information, including "specific confidential investigatory techniques or procedures or specific investigatory work product."

On July 27, six media organizations sued Hamilton County Prosecutor Joseph T. Deters in the Ohio Supreme Court, demanding release of the police body cam video. They argued that police body cam videos are like routine incident reports and 911 recordings, which Ohio courts have ruled are not "confidential law enforcement investigatory records" and must be released to the public. Ohio courts have consistently found that incident reports and 911 calls initiate a criminal investigation and are not part of the investigation. For that reason, they do not reveal specific confidential investigatory

techniques and are not exempt from public disclosure as confidential law enforcement investigatory records.

But Deters argued to the Ohio Supreme Court that police body cam videos are like videos taken from police cruisers, or so-called "dash cam videos." In the only case to consider whether police dash cam videos are public record, the Twelfth District Court of Appeals in Clermont County ruled that police dash cam recordings are exempt from public disclosure because they are confidential law enforcement investigatory records.

In *Miller v. Ohio State Highway Patrol*, decided in 2012, a citizen requested records from the Ohio State Highway Patrol regarding a trooper's investigations of traffic stops, including a DUI. The Highway Patrol denied access to the police dash cam video of the DUI stop. The court of appeals ruled that the dash cam video fit squarely within the exemption for confidential law enforcement investigatory records. Specifically, the court ruled that releasing the dash cam video would have a high probability of disclosing the trooper's particular investigative techniques in assessing whether the driver was intoxicated and whether the trooper had probable cause for an arrest. Unlike a 911 call or a police incident report, the dash cam video did not initiate the investigation, the court ruled. Rather, the dash cam video was created by the trooper "to preserve a crucial aspect of his investigation and information-gathering specific to a probable violation of Ohio law," the court found. Therefore, the court concluded that the police dash cam video was exempt from public disclosure.

Is a police body cam video a public record because it's like a 911 call or a police incident report? Or is it exempt from disclosure because it's like a police dash cam video? Regarding the UC officer's body cam video, the issue may be moot. On July 29 – nine days after the first public records request for the video – the grand jury indicted the officer on a charge of murder, and the Hamilton County Prosecutor's Office released the video to the media. Deters has asked the Ohio Supreme Court to rule against the media on grounds that the lawsuit is moot and that *Miller* decides the issue. The

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Dias

court has not ruled.

The final answer may lie with the Ohio legislature. The shooting involving the UC officer and other high-profile police body cam cases across the country have prompted some legislators to consider filing body cam legislation this fall.

The Ohio Newspaper Association plans to be involved in those efforts in hopes that any such legislation preserves the ideal that initial activity recorded by police is presumptively a public record, and is released to the public upon request.



The Ohio Newspaper Association's discussion paper "Police Body Cameras – An FOI Battled Headed to Ohio" is now available for download. To access the paper, go to http://ohionews.org/aws/ONA/asset_manager/get_file/105972

For more about the discussion paper, see the article at the bottom of page 8.

Open Government Commentary

Otterbein decision opens police records across Ohio

By Dennis Hetzel, OCOG President

Memo to Ohio newsrooms: If you have a private college in your area that uses commissioned officers as its police force, start covering them. Put them on your rounds for reporters' regular stops and calls. You now have the same access to records as you would any other police department.

That's the result of an Ohio Supreme Court decision in May in favor of some persistent and courageous Otterbein University students, led by former student journalist Anna Schiffbauer, who fought efforts by the campus police to keep records secret.

This was a messy case in one respect because it involved records created by entities that aren't public bodies.

But the broader issue couldn't be clearer: Deciding in favor of Otterbein meant the Court would sanction secret arrests, detentions and investigations by officers empowered by government. I can't think of a more fundamental, basic civil liberty than that.

These officers and the Otterbein University police department have their law enforcement authority granted by the state. These were sworn and commissioned officers, not private security or "rent-a-cops." The university police also had specific authority to enforce laws off campus in the neighboring Columbus suburb of Westerville. Sworn officers

have the authority to arrest and detain anywhere, whether they're police officers for cities, public universities and, now, private universities.

While we applauded the ruling, I also said we were very disappointed that the court's vote was 4-3 instead of unanimous.

The reasoning of the minority on the court troubles me greatly. Some of it is simply incorrect. Justice Terrence O'Donnell, writing for the minority, blithely dismissed the concern because "these records are otherwise readily available from a public office that maintains public records, i.e. the Westerville Mayor's Court."

What if the department decides not to bring charges? Arrest logs and incident reports – all clearly open records under Ohio law – do not go to the mayor's court. More serious charges may go to other jurisdictions. Whether some of these records eventually become open in mayor's court misses the broader point completely.

O'Donnell seemed – at least to me – to find a way to decide in favor of secrecy. This is the trend we have seen in many Ohio Supreme Court decisions. What's encouraging is that this is the third good decision in a row from the Court on transparency, so maybe there is a majority now that is embracing the strong presumption built into the law that public records (and meetings) should be open, and the burden is on the government to demonstrate why access should be denied.

Until now, private schools had an

advantage over public universities by their ability to keep a lid on any reporting of campus crime. You can't help but wonder if concern about bad publicity didn't trump the public's right to know that might be taught in their political science classes. There was strong opposition by private colleges and private hospitals that also employ sworn officers to bills introduced last year to require such police forces to follow the open records laws. While some of the concerns were understandable, I didn't hear any issues that couldn't be resolved while still keeping records open when these departments are exercising their police powers.

There is less need now for legislation, although the decision only covers private colleges and doesn't apply to other entities employing sworn officers, so that's a dispute for another day that probably is more complicated.

Some credit where credit is due: The Ohio Coalition for Open Government donated \$1,500 to help defray legal costs in the case. The Society of Professional Journalists' Legal Defense Fund contributed \$5,000. Attorney Jack Greiner in Cincinnati did outstanding legal work representing the students. OCOG counsel Dave Marburger helped the students frame their initial records request to improve the odds of a courtroom victory. Attorney General Mike DeWine's office contributed an outstanding "friend-of-the-court" brief supporting the students' position.

ONA releases police body camera discussion paper

By Dennis Hetzel, OCOG President

This summer's shooting by University of Cincinnati police officer Ray Tensing of driver Samuel Dubose should crystallize debate over the public's access to body camera footage. Tensing's camera footage of the shooting shocked the public and lead Hamilton County Prosecutor Joe Deters to charge the officer with murder.

The shooting has also lead to increased calls for police to wear body cams, along with a need for reasonable public access to these videos.

As I told a reporter from Cincinnati several months ago, this isn't about playing "gotcha" with the police. I truly believe

that footage will show officers doing their jobs properly 98 percent of the time. It is, however, very much about accountability, transparency and the obligation of journalists to make use of the best-available source material for their coverage.

Now, let's fast forward to Columbus, where Rep. Kevin Boyce, D-Columbus, is working on a bill to regulate body cameras in Ohio, including how much or how little will be exempted under Ohio's public records laws.

To add in these discussions the Ohio Newspaper Association has prepared a nine-page discussion paper on the issue, which I urge the citizens of Ohio to read and share with legislators.

We aren't and shouldn't be absolutist. There certainly are going to be situations

with body cameras that create significant issues of privacy or will involve everything from confidential informants to investigative keys. We are offering concrete, helpful suggestions on the best ways to manage the issues these cameras create without doing severe damage to the ability of Ohio journalists to cover the news in their communities and hold public officials accountable.

To download the paper, go to http://ohionews.org/aws/ONA/asset_manager/get_file/105972

This issue isn't going away – in Ohio and across the country. That's why our paper has this title: "Police Body Cameras – An FOI Battle Headed to Ohio."

Actually, it's already here.

Ohio's public-records law is a real mess

By Dennis Hetzel, OCOG President

In 1963, the Ohio General Assembly fashioned the state's first open-records law. It took a broad approach to defining public records, with a strong presumption that almost all records kept by government would be open to citizens.

The law was exactly two paragraphs long. It contained only a few exceptions.

How times change. Ohio attorney Breanne Parcels noted in a 2012 article called "Bring Back the Bite" in the University of Dayton Law Review that today's statute "has ballooned to 10 standard 8 1/2 by 11 1/2 inch pages." Today, it's even longer. With the recent addition of new secrecy to the lethal-injection process, we now have 29 enumerated exceptions plus 100 or more peppered throughout the Ohio statutes.

The definition of what is a government record also has gotten narrower since 1963, and something can't be an open record if it isn't a public record. The same problem applies to our open-meetings laws, as the definition of "open to the public" keeps getting tighter.

In other words, a vast amount of government activity in Ohio is invisible to citizens.

How did this happen? That's a good question to ponder during Sunshine Week, an annual, national effort to promote open government.

Despite the stirring words in our statutes about the "presumption of openness," our officials frequently give greater weight to reasons to keep matters secret.

In recent years, the Ohio Supreme Court has made it nearly impossible to:

- Collect attorney fees in a public records case, even if you're right and the government broke the law.
- Challenge the government's claim that it won't give you records because your request is "overly broad."
- Go to a government meeting for "information gathering" or "fact finding" unless the body decides it's OK for you to be there.
- See criminal case files of closed cases unless the defendant is deceased, which doesn't help someone much if they have been wrongfully convicted.
- Get spending detail from quasi-public agencies or privatized services that handle vast amounts of public money.

To be fair, in some cases the courts have dealt with language that could be improved. That is where legislative will comes into play. The digital age also creates both problems and opportunities that couldn't be anticipated in 1963.

Kent State University recently provided an example of how officials exploit these trends to hide information.

The Akron Beacon-Journal reported on March 6 that KSU is paying marketing consultants \$101,750 for marketing and promotional services. According to the newspaper, Kent essentially ceded its responsibility for open records to a Philadelphia consulting firm by agreeing in a contract that the school would notify the company of any records request, and that the firm would be able to redact any "proprietary" information under a trade secrets exemption.

Irony alert: One of the blacked-out items was the amount of time for which the company has to review and redact items. Other "trade secrets" include travel costs.

Kent State's answer should have been this: "We take seriously our responsibilities under the law as a public university, so we will be seeking other bidders who are more concerned about public transparency."

Well, let's close on a positive note.

State Treasurer Josh Mandel has unveiled a website, OhioCheckbook.com,

which might be the best effort in America to help citizens track state government spending at a detailed level.

State Auditor Dave Yost just announced a program to help citizens dealing with denials of records requests. In many cases, his office will issue a ruling without a person having to hire a lawyer and go to court. This is a major development that levels the playing field for citizens and builds on a free mediation program for local disputes offered by Attorney General Mike DeWine. You can learn more at Yost's website, OhioAuditor.gov.

Those examples are good news, but they should be more than refreshing exceptions.

As fate would have it, legislators have a great opportunity right now by injecting real transparency into how Ohio's charter schools are spending nearly \$1 billion in public money. Please consider telling them that.



Receive Ohio open government legislative watch list with OCOG membership

Interested in open government issues in Ohio? Then you should know that joining the Ohio Coalition of Open Government as a member has a new benefit: The OCOG Legislative Watch List.

The OCOG Legislative Watch List tracks pending legislation in the Ohio General Assembly which may have an impact on state open government issues. The watchlist provides a synopsis on the current status of open government bills, including the pros and cons of the proposed legislation.

The watch list will not take specific positions on pending legislation but will alert OCOG members to legislation which could improve or harm Ohio's sunshine laws. The watchlist will be continually updated during the legislative year.

To join OCOG and receive the OCOG legislative watchlist, see the membership information on the back cover of this issue of the Open Government Report. You can also go to www.ohioopengov.com for more information and to apply.

And don't forget that OCOG's website at www.ohioopengov.com is continually updated with news and information about Ohio open government issues.



Analysis of Ohio Supreme Court open government rulings

To conduct this analysis, the Ohio Coalition for Open Government built a spreadsheet to track court rulings and the votes of individual justices in open government cases the Court has handled since 2010. Forty-four rulings were examined from July 2010 to July 2015. The final OCOG analysis excluded routine prisoner appeals and eight cases in which the opinions were too mixed to be fairly scored one way or the other. Of the remaining 32 cases, 12 were voted in favor of access to information or in favor of open government – including the five most recent decisions – and 20 were voted in favor of a government agency seeking to deny access. Many thanks to Courtney Stanley for her hard work in organizing this analysis. Thanks also to OCOG’s attorneys and members who reviewed the analysis and gave detailed feedback.

The complete OCOG analysis, including detailed synopsis and holdings for each examined case, can be downloaded at www.ohioopengov.com/news/supremecourt. The analysis included further information on the justice scorecards.

Scorecard by Justice (excluding 5 routine prison-inmate cases; excluding 8 mixed opinion cases)

Some cases were included in the database that are important Sunshine Law decisions but are not possible or fair to score as “pro” or “con” in favor of access. Cases with mixed results were not included in the scoring. Votes “in favor” or “not in favor” of open government could stem from numerous factors in often-complex cases. For example, a vote “not in favor” of open government could be perfectly consistent with the law as written. However, OCOG believes that differences among judges in how they read and interpret the statutes and the law may be illuminating over time. Readers are encouraged to examine the specifics of individual cases.

Justices	Votes in favor of open government	Votes not in favor of open government	Total cases voted	Percent of pro open government votes
O'Connor	12	20	32	38%
Pfeifer	12	20	32	38%
Lanzinger	10	22	32	31%
French	6	9	15	40%
O'Neill	6	11	17	35%
O'Donnell	7	23	30	23%
Kennedy	5	9	14	36%
Lundberg Stratton	4	11	15	27%
Cupp	5	10	15	33%
McGee Brown	4	7	11	36%
Brown	2	2	4	50%

Supreme Court of Ohio response to OCOG’s public records analysis

We appreciate the opportunity to exchange information and perspectives with the Ohio Coalition for Open Government on the topic of open government. Open government is critical to the effective operation of democracy.

The role of the Supreme Court of Ohio in open government cases is to interpret and apply the public records access laws passed by the General Assembly. The Supreme Court is not free to use cases to legislate its own views on open government.

The OCOG analysis characterizes the outcomes of some of the Court’s decisions on public records laws as favoring or not favoring open government. This characterization implies that the Court has the ability to change the laws passed by the General Assembly. If the General Assembly enacts a law that restricts public access to a certain class of records (for example, medical records), the Court simply cannot order the release of the records. The Court is bound by the basic principles of separation of powers to respect the enactments of the legislative branch of government on matters within its authority unless unconstitutional. As this

Court stated in a recent opinion: “... the authority to legislate is for the General Assembly alone ...”¹

It is also worth noting that the public records cases that come before this Court are often the most difficult ones. The cases where the law is clear are usually resolved before they reach the courthouse. The fact that the Court’s justices often do not agree on the outcome of these cases makes this point.

We applaud the OCOG in its efforts to champion the cause of open government. However, to the extent that the analysis is meant to portray the Court as opposing open government, it is not fair. As is evident in the judicial branch’s public access rules, this Court clearly has and continues to support open government and public access to the courts. That the Court may, on occasion, rule against a party seeking documents or access to meetings merely reflects that it is applying existing law adopted by the General Assembly to difficult cases. It does not reflect, as might be concluded, a philosophical opposition to the principle of open government. The Court is merely performing its duty to apply the existing law enacted by the General Assembly.

¹ *State v. Bodyke*, 126 Ohio St. 3d 266, 278 (2010)

List of analyzed Ohio Supreme Court cases

The charts below lists all Ohio Supreme Court cases analyzed by OCOG. For OCOG’s complete analysis, including detailed synopsis and holdings for each examined case, go to www.ohiopengov.com/news/supremecourt.

Case Type	Case Number	Case Name	Date Decided	Vote	Justices voting with majority	Justices voting with minority	Mixed vote	Did outcome favor open government?
Libel, public	2015-0127	Robert E. Murray et al. v. Chagrin	7/9/2015, motion for	4 to 3	O'Connor, Pfeifer, O'Neill, Lanzinger	French, Kennedy, O'Donnell	N/A	Yes
Prison	2014-0596	The State ex rel. Carr v. London Correctional Institution	6/18/2015	6 to 1	O'Connor, Pfeifer, O'Donnell, Kennedy, French, O'Neill	Lanzinger	N/A	Yes
Police, College/ University	2014-0244	The State ex rel. Schiffbauer v. Banaszak et al.	5/21/2015	4 to 3	O'Connor, Pfeifer, Lanzinger, French	Kennedy, O'Donnell, O'Neill	N/A	Yes
School Board, Personal Privacy	2013-1809	The State ex rel. Quolke v. Strongs-ville City School District Board of Education et al.	3/25/2015	5 to 2	O'Connor, Pfeifer, Kennedy, French, O'Neill	O'Donnell, Lanzinger	N/A	Yes
Police, Personal Privacy	2013-0945	The State ex rel. The Cincinnati Enquirer v. Sage, Judge, et al.	3/19/2015	6 to 1	O'Donnell, Kennedy, O'Neill, O'Connor, Lanzinger, French	Pfeifer	N/A	Yes
State Government	2013-0596	The State ex rel. Plunderbund Media, LLC, v. Born, Director of Public Safety	8/27/2014	7 to 0	O'Connor, Pfeifer, O'Donnell, Lanzinger, Powell, French, O'Neill	N/A	N/A	No
Court Records	2012-1924	The State ex rel. Cincinnati Enquirer v. Lyons, Judge	6/5/2014	5 to 2	O'Connor, French, O'Neill, Sadler, Lanzinger	O'Donnell, Pfeifer	N/A	Yes
County Government	2013-0300	The State ex rel. Cincinnati Enquirer v. Lyons, Judge	6/5/2014	7 to 0	O'Connor, French, O'Neill, O'Donnell, Pfeifer, Sadler, Lanzinger	N/A	N/A	No
Personal Privacy	2013-0881	The State ex rel. Davis v. Metzger	6/4/2014	7 to 0	N/A	N/A	O'Connor, Pfeifer, O'Donnell, Lanzinger, Kennedy, French, O'Neill	Mixed
City Government	2012-1704	The State ex rel. DiFranco v. The City of South Euclid	2/19/2014	6 to 1	O'Connor, Pfeifer, O'Donnell, Lanzinger, French, O'Neill	Kennedy	N/A	No
Court Records	2013-0530	The State ex rel. Village of Richfield v. Laria, Clerk	1/24/2014	7 to 0	O'Connor, Pfeifer, O'Donnell, Lanzinger, Kennedy, French, O'Neill	N/A	N/A	No
State Government	2013-1268	Ullmann v. JobsOhio	12/3/2013	6 to 0	O'Connor, Pfeifer, Lanzinger, Kennedy, French, O'Neill	N/A	N/A	No
Police	2012-2132	The State ex rel. Miller v. Ohio State Highway Patrol	9/3/2013	7 to 0	O'Connor, Pfeifer, O'Donnell, Lanzinger, Kennedy, French, O'Neill	N/A	N/A	Yes
Private corporation	2012-0992	The State ex rel. Luken v. Corporation for Findlay Market of Cincinnati	4/24/2013	7 to 0	O'Connor, Pfeifer, O'Donnell, Lanzinger, Kennedy, French, O'Neill	N/A	N/A	No
State Government	2012-1264	The State ex rel. Motor Carrier Service, Inc. v. Rankin, Registrar	4/18/2013	6 to 0	O'Connor, Pfeifer, O'Donnell, Lanzinger, Kennedy, O'Neill	N/A	N/A	No
State Government	2012-1394	The State ex rel. Motor Carrier Service, Inc. v. Rankin, Registrar	4/18/2013	6 to 0	O'Connor, Pfeifer, O'Donnell, Lanzinger, Kennedy, O'Neill	N/A	N/A	No

Case Type	Case Number	Case Name	Date Decided	Vote	Justices voting with majority	Justices voting with minority	Mixed vote	Did outcome favor open government?
County Government	2012-1296	The State ex rel. Gambill v. Opperman, Engineer	3/7/2013	6 to 1	O'Connor, O'Donnell, Lanzinger, Kennedy, French, O'Neill	Pfeifer	N/A	No
Attorney General	2012-0203	The State ex rel. Lanham v. DeWine, Attorney General	1/29/2013	7 to 0	O'Connor, Lanzinger, Kennedy, French, O'Neill, Pfeifer, Sadler	N/A	N/A	No
City Government	2012-0943	The State ex rel. Anderson v. The City of Vermilion	11/21/2012	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	Yes
Prison	2012-0105	Fernbach v. Brush	9/20/2012	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	No
Note: Green rows indicate routine prison-inmate case								
County Government	2010-1642	The State ex rel. McCaffrey v. Mahoning County Prosecutor's Office	9/20/2012	7 to 0	N/A	N/A	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	Mixed
College/University	2012-0202	The State ex rel. Zidonis v. Columbus State Community College	9/19/2012	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	No
Court Records	2011-0132	The State ex rel. Vindicator Printing Co. v. Wolff, Judge	7/25/2012	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	Yes
College/University	2011-1177	The State ex rel. ESPN, Inc. v. Ohio State University	6/19/2012	7 to 0	N/A	N/A	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	Mixed
Police, Personal Privacy	2011-1798	The State ex rel. Cincinnati Enquirer v. Craig, Chief	5/10/2012	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	No
State Government	2011-1873	The State ex rel. Watson v. Mohr	3/15/2012	7 to 0	N/A	N/A	O'Connor, Pfeifer, Lundberg Stratton,	Mixed (records were released, damages not upheld)
City Government	2011-1483	Strothers v. Norton, Mayor	3/15/2012	7 to 0	N/A	N/A	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	Mixed (records were released but damages not upheld)
Private corporation	2010-2029	The State ex rel. Data Trace Information Services L.L.C v. Cuyahoga County Fiscal	2/29/2012	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	Yes
County Government	2010-1536	The State ex rel. O'Shea & Associates Company, L.P.A. v. Cuyahoga Metropolitan	1/19/2012	5 to 2	O'Connor, Lanzinger, Cupp, McGee Brown, Pfeifer, O'Donnell, Lundberg Stratton	N/A	N/A	Yes
School District	2011-0145	The State ex rel. Dawson v. Bloom-Carroll Local School District	11/29/2011	7 to 0	O'Connor, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown, Pfeifer	N/A	N/A	No

Case Type	Case Number	Case Name	Date Decided	Vote	Justices voting with majority	Justices voting with minority	Mixed vote	Did outcome favor open government?
Private corporation	2010-1836	The State ex rel. Bell v. Brooks	9/28/2011	7 to 0	N/A	N/A	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	Mixed
Court Records	2011-0570	The State ex rel. Striker v. Fray	9/21/2011	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	No
City Government	2010-0963	Rhodes v. City of New Philadelphia	7/7/2011	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	No
Court Records	2010-0433	The State ex rel. Striker v. Smith	6/21/2011	7 to 0	N/A	N/A	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	Mixed (records were released, damages not upheld)
Prison	2011-0051	The State ex rel. Barb v. Cuyahoga County Jury Commissioner	4/26/2011	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	No
Note: Green rows indicate routine prison-inmate case								
Prison	2010-2020	The State ex rel. Dehler v. Mohr, Director	3/9/2011	7 to 0	O'Connor, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown, Pfeifer	N/A	N/A	No
County Government	2010-0728	The State ex rel. American Civil Liberties Union of Ohio, Inc. v. Cuyahoga County Board of Commissioners	2/16/2011	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	No
City Government	2010-1285	The State ex rel. DeGroot v. Tilsley, Director	1/26/2011	7 to 0	O'Connor, Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, McGee Brown	N/A	N/A	No
Medical Records	2009-2293	The State ex rel. Mahajan v. State Medical Board of Ohio	12/15/2010	7 to 0	N/A	N/A	Brown, Pfeifer, Lundberg Stratton, O'Connor, O'Donnell,	Mixed (some records were released)
Prison	2010-1240	The State ex rel. Dehler v. Spatny, Deputy Warden	12/1/2010	6 to 1	Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, Cupp	Brown	N/A	No
Note: Green rows indicate routine prison-inmate case								
School District	2010-0217	The State ex rel. The Cincinnati Enquirer v. Ronan	11/24/2010	7 to 0	Brown, Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, Cupp	N/A	N/A	No
County Government	2009-2140	The State ex rel. Bardwell v. Cuyahoga County Board of Commissioners		5 to 2	Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, Cupp	Brown, Pfeifer	N/A	No
Sheriff's Office	2010-0057	The State ex rel. Rucker v. Guernsey County Sheriff's Office	7/20/2010	5 to 2	Brown, Pfeifer, O'Connor, Lanzinger, Cupp	Lundberg Stratton, O'Donnell	N/A	Yes
City Government	2009-2192	The State ex rel. Bardwell v. City of Cleveland	7/15/2010	7 to 0	Pfeifer, Lundberg Stratton, O'Connor, Lanzinger, Brown, O'Donnell, Cupp	N/A	N/A	No

Open Government Editorials from Ohio Newspapers

Charter-school operators should account for their use

**Editorial from
The Columbus Dispatch**

Charter schools use tax dollars to provide public education, thus their spending should be transparent to the public. That's true whether they're doing a good job or a lousy one.

This principle has been ignored for the dozen years or so of Ohio's charter-school history. Weak laws imposed few quality controls or guardrails against financial abuse and conflicts of interest. But the General Assembly at last is on the verge of significant reform of charter-school law, and members who support it should not allow it to be hijacked by the same old self-interested players.

Each of three separate charter-school-reform proposals in the Statehouse calls for sponsors — those who authorize and oversee charter schools — and school-operating companies to disclose at least a modicum of detail about how they spend the tax dollars turned over to them.

Sponsors are entitled to keep up to 3 percent of a charter school's state grant. Ethically, that money should be spent only on things related to overseeing and helping the sponsor's schools, but current state

law doesn't restrict its use and doesn't even require sponsors to report how they spend it. Some have been criticized for using charter-school money for purposes unrelated to their schools.

Proposed legislation would restrict the use of sponsors' fees and require disclosure. Both requirements are long overdue, but Peggy Young, president of the Ohio Association of Charter School Authorizers, argued before lawmakers Wednesday that the reporting requirement shouldn't apply to higher-rated sponsors.

Young also argued in testimony before a Senate subcommittee that sponsors shouldn't have to restrict their use of tax dollars to school-related spending, declaring, "It's not how a sponsor spends its funds, but the outcomes they get."

But if a school is performing at a high level, it should be happy to show how it is achieving such results. And more fundamentally, any program funded by taxpayers must be open to scrutiny by taxpayers. The concept behind charter schools is to free them from the educational mandates that restrict conventional public schools so that charters can employ innovative approaches to teaching. But this concept does not include shielding

charter-school operators from financial accountability.

That's why charter-reform legislation should require companies paid to operate charter schools to disclose how they spend the tax dollars they're given. To date, some large companies have been paid millions of tax dollars and made no accounting to the public or, in some cases, even to the charter-school boards that hired them.

Three proposals for reform are in the works: Gov. John Kasich's budget and separate bills in the House and Senate. The House passed House Bill 2 earlier; it and Senate Bill 148 likely will be merged after discussion in the Senate.

S.B. 148 is the stronger of the two bills, requiring both operators and sponsors to spell out their spending. The Senate bill also would prohibit "sponsor-hopping," closing a loophole that many badly run schools have used to evade Ohio's tough school-closure rule.

Lawmakers should end the era of charter-school mediocrity in Ohio by keeping the strongest elements among the three proposals and allowing real school choice to blossom.

Ohio Treasurer Josh Mandel's meritorious call for greater transparency in JobsOhio

**Editorial from
The Plain Dealer**

As part of his laudable efforts to open up "Ohio's checkbook" to taxpayers, Ohio Treasurer Josh Mandel (in February) called for JobsOhio, the state's quasi-private economic development arm, to reveal how it spends its money.

"I believe the benefit of empowering Ohio taxpayers to see how the money is being spent there outweighs the cost of other states seeing how the money is being spent," Mandel said during a gathering last month arranged by the Associated Press.

That's a welcome embrace of transparency by Mandel, whose office recently debuted Ohiocheckbook.com, which Mandel said lists every expenditure the state makes in an easily accessible database.

Mandel said for this editorial that he

wants to discuss with JobsOhio having its expenses publicly itemized like those of the state's other agencies.

JobsOhio spokesman Matt Englehart said JobsOhio welcomes such a meeting but insisted that certain details about JobsOhio dealings must remain hidden, lest the state lose its competitive advantage attracting jobs. Englehart argued that JobsOhio already is audited privately and that its financials are posted on its website.

"We're probably the most transparent private company Ohio has ever seen and that's mandated by law," Englehart stated in an email.

And yet JobsOhio should no more be considered a "private company" than the Ohio Department of Transportation.

As Ohio Auditor Dave Yost repeatedly noted when he tried unsuccessfully to audit JobsOhio's books — before state lawmakers barred Yost from doing so with a special law

shielding how JobsOhio spends its funds — JobsOhio should be publicly audited since part of its money is, in essence, the public's money, income derived from profits of the state's liquor monopoly.

Yost — and Mandel — are right. JobsOhio is wrong.

As Mandel notes, JobsOhio can show how its money is being spent without divulging the content of sensitive discussions, but, regardless, the state should always err on the side of full disclosure.

We agree. Gov. John Kasich claims JobsOhio, his signature economic development program, is better equipped to attract jobs to the state because it is run by business people. Maybe so. But those business people are spending what amounts to the public's dime. They should be held accountable to the Ohio taxpayer for the decisions they make.

Don't hide Ohio's public records

Editorial from The Toledo Blade

Public officials routinely skirt freedom of information laws by claiming that requests for public records are “overly broad.” The Ohio Department of Health used that excuse to try to deflect a request from NARAL Pro-Choice Ohio to gain access to records of department communications with Ohio Right to Life, the state’s most powerful anti-abortion lobby.

The request wasn’t broad at all: It sought records of calls from two phone numbers associated with Right to Life and emails exchanged with the group. NARAL sued the department this year; department officials have agreed — grudgingly — to turn over the records.

The Health Department, and Gov. John Kasich’s administration in general, promote the agenda of anti-abortion groups such as Right to Life. Records of the department’s communications reveal that Right to Life regularly corresponds with department officials about state regulation of clinics that perform abortions.

The Health Department has shut down nearly half of Ohio’s abortion clinics since

2013, when the governor signed a medically unnecessary law that requires abortion providers to secure transfer agreements with local hospitals. Right to Life played an active role in promoting the law’s passage. The Health Department is working to shut down Capital Care Network, Toledo’s only remaining abortion clinic.

Health professionals tend to oppose medically unsupported restrictions on reproductive rights. Last year, Mr. Kasich appointed a health director who does not hold a medical degree or have any expertise in public health — ostensibly a requirement for the job under Ohio law.

But medical truth doesn’t seem to have much salience for state policy makers. The Health Department grants funding to so-called pregnancy crisis centers — anti-abortion groups that dole out medically inaccurate information to pregnant women, such as unfounded claims that link abortion to breast cancer.

Dispensing false information in the guise of medical expertise should be illegal. In Ohio, though, the state sponsors such activities.

In response to NARAL’s records requests, Health Department officials and

Ohio Right to Life insist that the group does not get special treatment from the department. Yet the department’s compliance with an anti-choice agenda, and its refusal to cooperate with reasonable public records requests, don’t inspire confidence in its independence.

Of all the problems this episode reveals about the state of Ohio politics, public records law should be the easiest to fix. Abortion controversies aren’t going away, but lawmakers at least must be willing to address loopholes in state law that allow officials to dodge any request they find inconvenient by deeming it too broad.

If NARAL did not have the resources to sue the Health Department — as many citizens don’t — the records it sought would never have seen the light of day. That’s clearly out of step with the intent of Ohio public records law, and ought to be swiftly rectified.

Republicans shouldn't question Yost's role in sunshine law disputes

Editorial from The Canton Repository

State Auditor Dave Yost launched a program (in March) that helps resolve public records disputes so citizens and government agencies don’t wind up in lengthy and costly court battles.

Fellow Republicans in the Ohio House tried to dissolve Yost’s “Sunshine Audit” program through an amendment in the \$71.5 billion two-year state budget. They question whether Yost, as auditor, has the authority to oversee such a program. Though they pulled this misguided amendment from the budget bill after a groundswell of criticism, they indicated they may revisit the question in coming months.

There’s no need to. Yost’s program helps rectify a major problem with Ohio’s Sunshine Laws — a problem created a few years ago when state lawmakers placed unnecessary caps on the amount of damages and attorneys fees agencies would pay out for violating the law. Those

changes in the law may discourage people with valid complaints from pursuing legal action against government agencies or public employees all while incentivizing those agencies to violate Ohio’s Sunshine Laws.

Lawmakers should — but won’t — restore the financial sanctions that were once the teeth of these laws. Regardless, Ohioans and government agencies still need a free program to resolve these disputes and head off prolonged litigation. As auditor, Yost clearly has the right to step in.

The Ohio Attorney General’s Office already offers a mediation program for citizens with complaints against local governments. Yost’s program applies to state agencies. His office will also step in if mediation involving local agencies fails or one party refuses to participate. After reviewing the complaint, giving each side a chance to respond and determining that a violation has occurred, the auditor’s

office issues a non-compliance finding. The decisions aren’t binding, but they are an honest attempt to resolve issues outside of a courtroom.

What’s the harm in that?

As he did in calling for a financial audit of JobsOhio in 2013, Yost again appears to be standing up for Ohioans and open government. Instead of questioning Yost’s authority, state lawmakers should be supporting his efforts.





OHIO ROUNDUP

Unless indicated, all articles excerpted from state and national news sources. For continually updated open government news, go to www.ohioopengov.com.

Data-rigging for Ohio charter-school evaluations involved several employees

From The Columbus Dispatch

Records reveal a coordinated effort among Ohio Department of Education staff to falsely inflate evaluations of some charter-school sponsors, possibly in violation of state law, according to an initial review of the documents that were released (Sept. 3).

While emails indicate that multiple agency employees appeared to know of former state Department of Education Director of School Choice David Hansen's grade-fixing scheme, there was no documentation of their reporting it to higher-ups including state Superintendent Richard A. Ross.

The department released nearly 100,000 pages of documents (Sept. 3) in response to a public-records request. The documents did not appear to include any communications to or from Ross regarding the matter.

Ohio Supreme Court: Parent cannot view records of alleged child abuse investigation

From Court News Ohio

The records related to a child abuse investigation by a children's services agency are confidential, and the mother requesting the documents did not show good cause to override that confidentiality, the Ohio Supreme Court decided (August 27) in a case from Franklin County.

The per curiam decision denies the writ of mandamus requested by Stephanie Y. Clough to force Franklin County Children's Services (FCCS) to give her access to agency files about the investigation of suspected abuse of Clough's minor daughter.

State owes jailhouse lawyer \$1,000 over record denial

From The Columbus Dispatch

His background of drug-manufacturing and violence aside, James Carr Sr. might have made for a decent lawyer.

The jailhouse lawyer hit the law books after prison officials illegally denied his requests for a copy of a single memorandum, winning \$1,000 in damages from the Ohio Supreme Court on June 18.

Carr's well-researched legal briefs, complete with propositions of law and citations of prior court rulings, helped prompt the justices to award him victory in the public-records case by a 6-1 vote.

Carr's court fight began in 2012 when he asked an official at the London Correctional Institution, west of Columbus, for a copy of a chaplain's memo about acceptable religious materials mailed by outside ministries.

Carr's three requests for the memorandum — despite identifying its topic, author and approximate time frame — were repeatedly denied by a prison official as "ambiguous, overbroad and unduly burdensome."

He then appealed to the 12th District Court of Appeals, where the memo finally surfaced in legal filings, and the judges upheld the denial of Carr's records requests as proper.

The Ohio Supreme Court, in its unsigned opinion, said Carr's requests for the memo were not improper, the arguments of the state aside that he had not "fairly described" what he was seeking.

Newspaper sues for trooper's dash-cam video

From The Columbus Dispatch

In a case involving the State Highway Patrol, The Cincinnati Enquirer is asking the Ohio Supreme Court to declare that police dash-cam videos are public records.

The newspaper claims that the Ohio Department of Public Safety and Director John Born illegally failed to release video

captured by a trooper's dash camera during a Jan. 22 pursuit of a fleeing suspect on I-71 in Warren and Hamilton counties.

The patrol claimed that a prosecutor asked that the video be withheld and then denied its release on grounds it was exempt as a confidential law enforcement investigation record, the Enquirer states in its lawsuit filed March 9.

The patrol failed to prove that the dash-cam video squarely meets the standards that allow investigatory records to be withheld as specific law-enforcement work product, says the lawsuit filed by Enquirer lawyer John C. Greiner.

The Enquirer argues that dash-cam videos differ little from 911 calls, in that they are automatically recorded in advance of any criminal investigation, and should be immediately released.

A patrol spokesman said that the video was properly withheld as part of a criminal investigation and that it promptly released the incident report and audio of radio traffic as requested by the newspaper. The patrol does release videos once criminal cases conclude, said Lt. Craig Cvetan.

Prosecutor can't shield 911 call from Ohio newspaper

Editor's Note: The Ohio Coalition for Open Government filed an amicus brief in support of the Enquirer's lawsuit.

From The Columbus Dispatch

Recording of a 911 dispatcher's outgoing call is a public record, the Ohio Supreme Court said March 19 in a ruling that criticized a prosecutor for trying to keep a newspaper from hearing it. The court's 6-1 decision came in the case of a southwestern Ohio dispatcher's return call in 2012 to a man who then confessed to fatally stabbing his stepfather. The ruling was a victory for The Cincinnati Enquirer, which sued Butler County Prosecutor Michael Gmoser over his contention that the call was a confidential investigatory record. Gmoser also argued the recording's release could affect defendant Michael

Ray's right to a fair trial.

Justice Judith L. French, writing for the majority, said Gmoser failed to show that releasing the record would violate the U.S. Constitution or state law.

French said there's no evidence the dispatcher returned the call and asked questions to prepare for a criminal proceeding. As a result, the recording could not become evidence just because it moved from the dispatcher's office "to the prosecutor's file," French said.

French also said The Enquirer should be awarded attorneys' fees and ordered a lower-court hearing to determine the amount.

Citizen lawsuit alleges Cincinnati mayor, city manager withholding records

From the Cincinnati Enquirer

A man billing himself as a community advocate is suing Cincinnati Mayor John Cranley and City Manager Harry Black, accusing the city officials of withholding public records and intimidation.

The records Derrick Blassingame seeks in the case filed in Hamilton County Common Pleas Court June 8 include financial records of the mayor and his staff as well as information related to development projects in Avondale.

He also alleges he was placed on a City Hall security-risk list without justification.

"As always, we are prepared to vigorously defend the City against what we view as a meritless lawsuit," said City Solicitor Paula Boggs Muething. "Because Mr. Blassingame has consistently threatened litigation over the course of our dealings with him over the last several months, we are well prepared for this engagement.

"Also, just as we would with any member of the public, we will continue to respond to his numerous public records requests in a timely, thorough fashion," Boggs Muething added.

In recent months, Blassingame has repeatedly participated in public-speaking sessions before Cincinnati City Council, making his case in that forum. A check of Hamilton County Court records show a pending criminal damaging/endangering charge. Blassingame is accused of throwing a rock through a person's window.

Ohio's online checkbook gains more than 100 additions

From The Columbus Dispatch

More than 100 local governments and school districts have agreed to put all their financial information online for Ohio taxpayers to see.

That information, along with sweeping fiscal data from the state, can be found at OhioCheckbook.com, which was launched by state Treasurer Josh Mandel last year.

The website allows users to search entities — including counties, cities, villages and school districts — and view their financial information, which can then be shared on social media or saved as a file.

The initiative has seen support from both sides of the aisle, including former state Treasurer Kevin Boyce, a Democratic lawmaker who Republican Mandel defeated in 2010.

"It's not common that people who ran against each other, who were former campaign rivals, would then stand shoulder to shoulder at a press conference," Mandel said (Sept. 24).

The creation of the website landed Ohio the No. 1 spot as the most transparent state in the U.S. for providing online access to government spending, according to the U.S. Public Interest Research Group. Ohio was previously ranked 46th on the same list.

Since its launch in December, the website has seen more than 325,000 searches. It now includes information totaling more than \$473 billion in spending during the past eight years..

Rocky River Police Dept. puts reports online

From The Plain Dealer

You can now access Rocky River Police Department reports online anytime.

Incident and traffic reports are now posted on the city's website within 24 hours, cutting down the previous several-day wait time to get copies of reports at the police department.

"It's all public records, so it just makes sense," police Chief Kelly Stillman said. "As far as efficiency goes, most people have home computers and instead of traipsing down to the police department

to get a report, they can just get it with the click of a mouse."

The city paid a one-time \$1,200 fee for the Records Online software. There is no maintenance charge, the chief said.

The department announced the reports were online Monday, May 25. Reports dating back to April 1 are posted, and records clerks are still working to get more reports online.

Ohio ranked No. 1 in nation for transparency in government spending

From The Columbus Dispatch

After trailing other states, Ohio is now at the top of the list for transparency in government spending.

The U.S. Public Interest Research Group announced (March 18) that Ohio jumped to No. 1 after being ranked 46th last year.

Ohio received a perfect score of 100 — the highest score the group has ever awarded. Ohio's jump to the top was the largest single improvement since the group started the ranking six years ago.

The top ranking comes after Treasurer Josh Mandel's office unveiled OhioCheckbook.com, which tracks spending by all government agencies in the state, in December.

Mandel said the reason his office launched the site was so Ohio could "be leader, not a basement dweller."

"My ultimate goal here is to help set off a national race for transparency," Mandel said.

The website has about 112 million transactions going back to fiscal year 2008 through fiscal year 2014. The treasurer's office plans to eventually update the site monthly, but isn't ready to do that yet.



OHIO ROUNDUP

Unless indicated, all articles excerpted from state and national news sources. For continually updated open government news, go to www.ohioopengov.com.

Justices to decide if Olentangy board met illegally via email

From The Columbus Dispatch

The Ohio Supreme Court will determine if the Olentangy school board illegally circumvented open-meetings laws when school board members exchanged emails ahead of an eventual decision.

The court (on April 8) accepted the appeal of Adam White, a school board member who accuses his colleagues of illegally “deliberating” via email in making a decision out of public view.

White is appealing an appeals court decision upholding a trial court decision that the Delaware County school board did not meet illegally.

Allowing the prior rulings to stand “sets a dangerous precedent which allows all public agencies in the state to avoid the Sunshine Law simply by deliberating electronically, rather than in person,” White argued in his filing.

When strike ends, identities of replacement teachers are public records

Editor’s Note: This is a very good open government decision. It should also be noted that OCOG contributed an amicus brief, crafted by Dave Marburger, to this case.

From Court News Ohio

Five months after a contentious school strike ended, little evidence showed that the replacement teachers faced any serious threats of harm and their names could be released to the teacher’s union requesting their identities, the Ohio Supreme Court ruled Wednesday.

The 5-2 ruling affirms the decision of

the Eighth District Court of Appeals, which ordered the Strongsville City School District Board of Education to release the names of the teachers to David Quolke, president of the Cleveland Teacher’s Union. The per curiam decision also upheld the order to pay Quolke \$7,973 for court costs and attorney fees.

Kent State to pay marketing consultants at least \$101,750; portions of contract kept secret

From The Akron Beacon Journal

Kent State University will pay a Philadelphia consulting company at least \$101,750 to help the school develop its new strategic vision.

But the firm, 160over90, will likely earn much more than that because travel, production and other costs aren’t covered by the overall fee, according to the contract released March 6 by the university.

University spokesman Eric Mansfield said the contract “includes redactions of information deemed proprietary by 160over90, which earned the contract by winning a competitive bid process. Kent State University is confident the company has a proven track record of success and will provide strong guidance and leadership in helping the university develop a solid strategic vision for future success.”

Kent State President Beverly Warren announced the hiring of 160over90 to the campus on March 3, but the school would not immediately say how much it was paying the company or release the contract. The Beacon Journal asked for the document the same day of the announcement. It was released at 4:58 p.m. March 6.

The 10-page contract notes that 160over90 had to be notified if a public records request was made for the contract and the firm would redact any proprietary information.

Enquirer sues SORTA over streetcar information

From The Cincinnati Enquirer

The Enquirer filed a lawsuit May 6 asking the Ohio Supreme Court to force the Southwest Ohio Regional Transit Authority to provide the public with access to documents regarding the operation of Cincinnati’s streetcar.

The suit accuses SORTA, a transportation entity in charge of deciding which company will operate the controversial streetcar project, of violating Ohio’s Open Records laws by refusing to provide Enquirer reporter Jason Williams with the documents when asked in a March 30 letter.

The Southwest Ohio Regional Transit Authority (SORTA) is following its established Procurement Policies and Procedures Manual which it believes to be in compliance with state and federal law regarding Requests for Proposals.

“(T)here is no way that (SORTA) could have believed that their conduct did not violate Ohio’s Public Record Acts or supporting case law,” the suit alleges.

New law closes concealed carry permit records

From The Sandusky Register

A new state law will make concealed carry permit records in Ohio completely secret.

The 2015-2017 budget bill that Gov. John Kasich signed ends the remaining provision in state law that had allowed journalists to inspect the records kept by county sheriffs of local residents who hold permits to carry handguns concealed on their persons.

Dennis Hetzel, executive director of the Ohio Newspaper Association, said the law will make it harder for journalists to serve a watchdog role and make sure officials are administering the concealed carry program properly.

Ohio House ducks voting on rules to shore up state's ridiculed charter schools

From The Plain Dealer

The Ohio House headed off on summer break without voting on the new accountability and financial reporting rules for Ohio's \$1 billion charter school industry that have been in the works for months.

House leaders skipped a vote on the package late (the week before break) and have left it off the schedule for the last session before leaving for recess.

Republican leaders say the delay is to clear up some issues with the just-revised bill. Others call it an attempt to buy time to water down the bill to please charter school operators who donate to Republican candidates.

The bill is complicated and nuanced, with each provision targeting a small issue. Combined, they tighten rules around the public schools that are funded with your tax dollars but are privately run, often by for-profit companies.

State health dept. turns over records to abortion rights group

From The Columbus Dispatch

The Ohio Department of Health has turned over public records it previously refused to release to an abortion-rights group regarding health officials' contact with Ohio Right to Life.

NARAL Pro-Choice Ohio Foundation moved to dismiss a lawsuit it had filed against the health department for illegally withholding records, leading the Ohio Supreme Court to dismiss the case April 27.

Court-ordered mediation between NARAL and state health officials led to the release of the records, NARAL lawyer Subodh Chandra wrote in his motion to dismiss the case.

The health department previously rejected the organization's request for records of calls to telephone numbers associated with Ohio Right to Life and its leaders' emails to the health officials, saying the request was "overly broad."

Kellie Copeland, executive director of NARAL-Ohio, said previously that the group sought the records in a bid to determine if Ohio Right to Life wielded undue influence at the health department.

Mason meeting raises many questions about secrecy

From The Cincinnati Enquirer

Should local governments be allowed to meet in secret to discuss economic incentives granted to private corporations?

That's the question some are asking after Mason's city council met March 17 in a closed-door session to discuss a \$34 million incentives package for consumer product giant Procter & Gamble.

Legal experts say that when it comes to public tax breaks, deliberations of those matters should be subject to public scrutiny.

"When you don't take money from your businesses, you have to make up the funds elsewhere. That clearly is a matter of public debate and is certainly a matter of public interest," said Christo Lassiter, a law professor at the University of Cincinnati.

Some legal experts say the issue could be among the first to call into question the scope of a provision passed in the 2014-2015 state budget that created an exception to the state's Open Meetings Act.

In First Amendment victory, Blade gets \$18,000 from government for detaining journalists, deleting photos

From The Toledo Blade

In what was seen as a victory for First Amendment rights, the U.S. government agreed (March 5) to pay The Blade \$18,000 for seizing the cameras of a photographer and deleting photographs taken outside the Lima tank plant last year.

In turn, The Blade agreed to dismiss the lawsuit it filed April 4 in U.S. District Court on behalf of photographer Jetta Fraser and reporter Tyrel Linkhorn against Charles T. Hagel, then the U.S. Secretary of Defense; Lt. Col. Matthew Hodge, commandant of the Joint Systems Manufacturing Center, and the military police officers involved in the March 28, 2014, incident.

Fritz Byers, attorney for The Blade, said the settlement was made under the First Amendment Privacy Protection Act, which prohibits the government, in connection with the investigation of a criminal offense, from searching or seizing any work product materials possessed by a journalist.

Public records request reveals 'flawed' changes made before fatal bridge collapse

From The Cincinnati Enquirer

Engineers had to make late changes to the demolition plan of the old Hopple Street Interstate 75 overpass after workers ran into problems tearing down the bridge the night before it collapsed – and those changes may have been flawed and caused the fatal accident.

That is according to an analysis of the demolition plan by an independent bridge expert after the Ohio Department of Transportation and Kokosing Construction released the documents to The Enquirer on (Feb. 5).

The documents were released to the public a day after The Enquirer threatened to sue the state for withholding the demolition plan.

The documents show Kokosing engineers had to make changes to the demolition plan just hours before the bridge collapsed and killed 35-year-old construction worker Brandon Carl on the night of Jan. 19.

The Blade files to keep sexting case open to public

From The Toledo Blade

Adenied a request on June 3 from two attorneys who sought to close court proceedings involving two juveniles who are charged in a sexting case.

The Blade filed an opposition to the attorneys' motion.

Two attorneys, each representing a different 17-year-old defendant, both students at Archbold High School, filed separately in May to close the hearings, stating that an open trial would harm the juveniles' reputations.

The teens are charged with disseminating matter harmful to juveniles; one of the youths is also charged with voyeurism, a misdemeanor.

"This argument, of course, is nothing more than the basic contention that the Supreme Court of Ohio has consistently rejected: juvenile proceedings should be closed because publicizing those proceedings will harm the parties," attorney Fritz Byers said in The Blade's filing.



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Ohio auditor says city of Beachwood improperly destroyed pool pass records

From The Plain Dealer

Beachwood officials improperly destroyed records showing which municipal workers and City Council members received free pool passes, according to Ohio Auditor Dave Yost's office.

In a (Aug. 5) letter to the city and a resident who had complained about Beachwood's records retention policy, Melissa Crocker, Yost's assistant legal counsel, said the office will examine the city's records retention schedule and the disposal of pool pass logs as part of its next audit.

Beachwood Law Director Brian Reali said the auditor's ruling simply states the city should review its retention schedule and perhaps clarify some definitions. He said the city already routinely reviews the schedule.

"We respect the opinion of the auditor's office and will study closely his recommendations," Reali told Northeast Ohio Media Group in an email. "As you know, this opinion is just that – an opinion. There is no judgment, award or penalty here."

In July, Reali said council members had been allowed free pool passes as a fringe benefit under a 2000 ordinance, and Mayor Merle Gorden said he occasionally handed out free pool passes to council members who asked for them.

Yet six council members told Northeast Ohio Media Group (NEOMG) they've never asked for or accepted a free pass to the Beachwood Aquatic Center, at least not for themselves, family members or friends. Some said they gave free pool passes to families facing hardships, businesses or prospective residents. The seventh councilman, Mark Mintz, refused comment.

When NEOMG asked for copies of pool pass logs last month, the city said the records were "transient" and "no longer available."

Attorneys try to bar media from Fairfield pool hearings

From The Cincinnati Enquirer

Attorneys for two juveniles arrested during a chaotic altercation with police at a Fairfield pool in June have filed motions to keep the news media from attending subsequent court hearings.

The Enquirer previously reported the juveniles' parents objected to media presence at a pre-trial hearing, but the recently filed motions make those objections official – and it means there will be a hearing to determine whether media members are able to cover the proceedings.

That hearing is scheduled for Oct. 20, according to Rob Clevenger, director of Butler County's Juvenile Justice Center.

After Rove dustup, U of Toledo issues free speech rules

From The Toledo Blade

A new semester arrived with a fresh policy that addresses University of Toledo students' free speech rights.

An "expression on campus" policy now guides campus protests and assemblies.

It codifies UT's commitment "to promote the free exchange of ideas and the safe and efficient operation of the university," according to the document, which emphasizes the fostering of free speech and right to assemble but prohibits activities that disrupt teaching, business operations, or providing client services.

The policy was approved in June by then-interim UT president Nagi Naganathan after complaints about how university police handled a protest of Republican strategist Karl Rove's September, 2014, speech at the main campus' Doermann Theatre.

Eman Abu Alhana, a pharmacy student, was among protesters last year who held signs condemning the speaker outside the event. She said some students tried to enter the room, but they were stopped by police.

"It was pretty obvious that it was because we had signs," she said.

She said protesters asked officers repeatedly to produce a policy that backed up their refusal to admit them.

The new policy doesn't prohibit students from protesting but is still vague, she said.

"[It's] a step in the right direction, but I think [it] definitely needs to be addressed more clearly," she said.

State will re-issue birth certificates to adoptees who got redacted versions

From The Columbus Dispatch

Responding to charges that it was violating the state's new adoption-records law, the Ohio Department of Health will re-issue original birth certificates to about three dozen adoptees who received documents with too much information redacted.

State Sen. Bill Beagle said on (Sept. 22) that the department's director, Richard Hodges, called to say that officials had "clarified the legislators' intent" under the law, which unsealed the birth records of some 400,000 adoptees whose adoptions were finalized in Ohio between 1964 and 1996.

"The idea of a birth name is very important to people, and can give adoptees some peace of mind and closure that those of us who aren't adopted can't understand," said Beagle, a Republican from Tipp City and a sponsor of the legislation that took effect in March.

"Hopefully, this will restore people's faith. Advocacy works."

Beagle and others say the law permits the state to redact only the names of birth parents who filed for anonymity. But the health department went beyond that, sometimes blacking out the names of the adoptees, addresses, hospitals or other information that officials thought could identify birth parents.



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National News

U.S. top court throws out man’s conviction for Facebook threats

From Reuters

The U.S. Supreme Court on June 1 threw out the conviction of a Pennsylvania man who made threatening Facebook statements toward his estranged wife and others in a ruling that makes it tougher to prosecute people for using menacing language on social media.

The court ruled 8-1 in favor of Anthony Elonis in a case that explored the boundaries of free speech online.

The justices decided Elonis could not be convicted merely on the basis that a reasonable person might consider his comments threatening. The court instead said prosecution would be allowed under the federal law that he was accused of breaking only if Elonis himself intended his words as threats.

Elonis wrote the Facebook posts in 2010, when he was 27, after his wife left him. Written in the form of rap lyrics, he fantasized about killing her, knifing a female FBI agent and shooting schoolchildren. After a court granted his wife a protective order against him, Elonis posted: “Is it thick enough to stop a bullet?”

Access denied: Reporters say federal officials, data increasingly off limits

From The Washington Post

Stacey Singer, a health reporter for the Palm Beach Post in Florida, was perusing a medical journal in 2012 when she came across something startling: a federal epidemiologist’s report about a tuberculosis outbreak in the Jacksonville area. Singer promptly began pursuing the story.

But when she started seeking official comment about the little-reported outbreak, the doors began closing. County health officials referred her to the state health department. State officials referred her to the federal Centers for Disease Control and Prevention. Even though the CDC’s own expert had written the investigative report, the agency’s press office declined to let Singer speak with him. A spokesman told her it was a local matter and sent her back to the state office in Tallahassee.

Through public records requests, Singer eventually was able to piece together the story of a contagion that had caused 13 deaths and 99 illnesses — the worst the CDC had found in 20 years.

“It’s really expensive to fight this hard” for public information, said Singer, now an editorial writer at the newspaper. She suspects that officials were slow to respond because news of the TB outbreak might have harmed Florida’s tourism industry. “They know that to delay is to deny. ...They know we have to move on to other stories.”

Federal agencies announce limited trial of “release for one, release to all” FOIA policy

From the Reporters Committee for Freedom of the Press

With little public fanfare, seven federal agencies have announced a controversial trial program of publishing documents responsive to most Freedom of Information Act requests online July 9.

Under the program, known as a “Release-to-One is Release-to-All” policy, any member of the public will presumably have access to the result of almost any FOIA request.

Agencies participating in the six-month pilot include the Environmental Protection Agency, the Office of the Director of National Intelligence, the Millennium Challenge Corporation, and certain components of the Department of Defense, the Department of Homeland Security, the Department of Justice, and the National Archives and Records Administration.

The Office of Information Policy at the Department of Justice is soliciting feedback from the public during the pilot program to determine the feasibility of implementing such a policy across the federal government. The announcement says that the results of the trial program will be made available to the public.

Sherrod Brown bill would force charters to follow sunshine laws

From The Akron Beacon Journal

A U.S. Senator has introduced a bill to curb “fraud, abuse, waste, mismanagement and misconduct” in charter schools, especially those in his home state of Ohio where lawmakers have stalled on similar reforms.

U.S. Sen. Sherrod Brown, an Ohio Democrat and former public school teacher, introduced the “Charter School Accountability Act of 2015” in early July. The bill doesn’t increase or decrease the \$253.1 million in federal dollars spent last year to expand high-quality charter schools or help new ones open.

But should the bill pass and states accept the federal dollars next year, there would be stipulations requiring added transparency and accountability.

In Ohio, more than 121,000 students and more than \$1 billion in state and federal dollar go to charter schools. As a group, they perform below national standards while accounting for the majority of misspent tax dollars.



Ohio Coalition for Open Government

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The Ohio Coalition for Open Government (OCOG) is a tax-exempt 501 (c)(3) corporation established by the Ohio Newspapers Foundation in June 1992. The Coalition is operated for charitable and educational purposes by conducting and supporting activities to benefit those who seek compliance with public access laws. It is also affiliated with a national network of similar state coalitions.

The Coalition serves as a clearinghouse for media and citizen grievances that involve open meetings and open records, and offers guidance to reporters in local government situations. The activities of the Coalition include monitoring

government officials for compliance, filing “amicus” briefs in lawsuits, litigation and public education.

The annual memberships to OCOG, as approved by the board, entitle a group or individual the use of the FOI telephone hotline, handled directly by attorneys at Baker & Hostetler in Cleveland, and subscription to the newsletter.

OCOG is funded by contributions from The Ohio Newspapers Foundation and other outside sources. Its seven-member board includes public trustees from organizations with an interest in freedom of information. For board members, please see the masthead on page 2.

Please consider a donation to OCOG

OCOG represents a broad coalition of not only media people but also everyday citizens who support the cause of open government in Ohio through various means, including regular newsletters. OCOG sometimes is asked to do more. In 2011, for example, OCOG underwrote a “friend-of-the-court brief” to support an appeal in an Ohio case in which a government office

was charging thousands of dollars to provide a CD with public records. OCOG has also supported a number of other open government cases in the last two years.

Donations to OCOG can be mailed to the address above. You can also submit donations online at www.ohioopengov.com.

Open Government Report and new OCOG website

The OCOG Open Government Report newsletter is emailed twice yearly. To be placed on the distribution list, send your email address to Jason Sanford, Manager of Communications and Content at the Ohio Newspaper Association, at jsanford@ohionews.org.

You can also access continually updated OCOG information on the organization’s new website at www.ohioopengov.com.

If you have news or information relevant to OCOG, please email it to Jason Sanford at jsanford@ohionews.org.



Join OCOG

Any non-Ohio Newspapers Foundation member may submit an application for OCOG membership to the OCOG trustees for approval. Membership includes use of the OCOG hotline through the OCOG retainer to Baker & Hostetler and two issues of the OCOG newsletter. The cost of OCOG dues varies with the membership category the applicant falls under. The categories and dues prices are as follows:

Attorneys and Corporate Members	\$70
Non-Profit Organizations	\$50
Individual Membership.....	\$35
College & University Students	\$25
High School Students	\$10

To download the OCOG application form, please go to www.ohioopengov.com.