Your Right to Know / Amanda St. Hilaire

Don’t charge records requesters for redactions

You’ve already paid for them. They’re yours. But if you want to see the public records that show what your government is doing, some state lawmakers want you to pay again — this time, for redactions.

That’s right. They want you to pay more to get less.

Currently, the state’s Open Records Law allows public officials to charge only for the “actual, necessary, and direct cost” of copying, mailing and in some cases locating public records. [Senate Bill 789](https://docs.legis.wisconsin.gov/2023/proposals/sb789), which the Wisconsin Senate recently passed, barely more than a month after it was introduced, would allow law enforcement and corrections agencies to add another fee, for the cost of redacting audio and video.

At a Jan. 3 hearing, proponents of the bill [complained](https://docs.legis.wisconsin.gov/misc/lc/hearing_testimony_and_materials/2023/sb789/sb0789_2024_01_03.pdf) about the increasing number of requests and the complex and time-consuming process of redacting body camera and dash camera recordings. State Sen. Jesse James, R-Altoona, the bill’s lead Senate sponsor, [testified](https://docs.legis.wisconsin.gov/misc/lc/hearing_testimony_and_materials/2023/sb789/sb0789_2024_01_03.pdf) it takes an average of an hour and a half to review and redact each hour of video. This, he said, can take up “valuable agency time, especially for departments that are already understaffed.”

James, a former cop and chief of police, said he knows “firsthand how our law enforcement departments and agencies can be scrutinized, especially in the last few years. They face open records requests constantly, and while they are happy to fulfill them to keep our government open and transparent, they would appreciate an opportunity to be properly compensated” for the time it takes.

Others also argued the bill, now awaiting action in the state Assembly, is a way to help law enforcement “recoup” their time and resources.

But such reasoning runs counter to the spirit and letter of the Open Records Law, which [holds](https://docs.legis.wisconsin.gov/statutes/statutes/19/ii/31) that providing people with public records is “an integral part of the routine duties of officers and employees whose responsibility it is to provide such information.”

Get that? “Routine.”

Fulfilling records requests is already supposed to be part of what these public officials are paid to do, not something extra for which they should be paid again. Imagine police sending a crime victim a bill for the time detectives spend ruling out suspects. After all, these investigations are time-consuming and complex. And why should everyone else have to foot the bill for an investigation into a crime that only affected one person?

It is disingenuous to claim this fee is recuperation of resources because your tax dollars are already supposed to have purchased the work of making public records public. Allowing charges for redactions might even incentivize some records custodians to take more time processing requests.

Worse, imposing what can easily run to hundreds and even thousands of dollars of redaction costs will make obtaining certain records unaffordable to some requesters, including media outlets that obtain videos as a vital check on law enforcement and corrections workers.

The bill has [drawn](https://docs.legis.wisconsin.gov/misc/lc/hearing_testimony_and_materials/2023/sb789/sb0789_2024_01_03.pdf) opposition from the American Civil Liberties Union of Wisconsin, which has this to say: “Lack of transparency and police accountability creates further distrust in law enforcement, making community engagement with law enforcement more fraught and less effective. Ultimately, proposals like SB-789 could allow law enforcement to shirk their obligation to be publicly accountable, and further erode the belief that police protect communities rather than only their own.”

Transparency serves a public good. And the law says there is a presumption these records are public, regardless of who requests them or why they’re making the request.

Charging individual requesters instead of reallocating resources and taking a closer look at budget priorities sends a dangerous message. The public deserves a system that treats an essential function of government as, well, part of the job.

*Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council (*[*wisfoic.org*](https://wisfoic.org/)*), a nonprofit, nonpartisan group dedicated to open government.* Amanda St. Hilaire *is the news content manager at FOX6 in Milwaukee.*