Your Right to Know / Larry Gallup

Don’t block anonymous requests

You can walk into City Hall asking to see records without ever having to give your name.

You can mail or email an open records request to any public entity without giving any indication of who you are.

You don’t even need to submit a written request. You can make the request orally and still remain anonymous.

That’s because, while there are a few exceptions, [Wisconsin’s open records law](http://wisfoic.org/text-of-open-records-law/) states: “No request … may be refused because the person making the request is unwilling to be identified or to state the purpose of the request.”

The law’s chief author, Lynn Adelman, a former state legislator who’s now a federal judge, [has said](http://wisfoic.org/june-dont-chip-away-at-records-access/) that provision was so important to him that he would have scrapped the legislation entirely if an amendment to remove it had passed.

Yet, in at least two recent cases, that right has been challenged.

An anonymous requester [sued](https://www.jsonline.com/story/news/politics/2019/11/15/madison-schools-sued-not-releasing-records-anonymous-requester/4201799002/) the Madison Metropolitan School District in November for refusing to release records unless the requester revealed his or her identity. The person, according to the suit, made 26 requests between July and October. The school district ignored some of them. It responded to others by saying it needed to know the requester’s name to ensure he or she posed no threat.

That’s one of the exceptions to the anonymity provision of the law — if there’s a safety concern that outweighs the presumption of disclosure. Another is that if student or health records are requested, the custodian should confirm the requester is authorized to receive them.

The requests in the Madison case are for routine documents, such as school board updates and a school improvement plan. As the requester’s attorney, Tom Kamenick, [notes in the suit](https://www.wpr.org/sites/default/files/2_2019-11-14_petition.pdf), the records are “not focused on any individual, and they contain no information that would put any person’s safety in danger if revealed.”

There are circumstances in which the exemption can be legitimately applied — for example, a request by a domestic abuser for records about the abuser’s victim. This isn’t one of them.

In a second case, the village of Ashwaubenon refused an anonymous request in March. The requester had asked for the billing records of an outside law firm the village had hired to conduct personnel investigations.

The requester used the pseudonyms Mr. M or Richard Marven, a Navy officer who [was a whistleblower](https://www.theatlantic.com/ideas/archive/2019/09/what-first-whistle-blowers-taught-america/598738/) in the Revolutionary War.

The village’s attorney responded in April by asking the requester to make an appointment at city hall to access a copy of the records.

After several email exchanges didn’t lead to a resolution, the requester [filed suit](https://gopresstimes.com/2019/07/12/open-records-complaint-filed-seeking-access-to-records/) in June, contending the village and its attorney refused to provide copies of the records by mail or email and required the requester to appear in person to inspect them.

In October, the case [was settled](https://gopresstimes.com/2019/10/09/hearing-oct-11-in-ashwaubenon-open-records-case/) and the requester, who was not required to reveal his or her name, said the records were made available.

The presumption of openness in Wisconsin government means there should be as few obstacles to openness as possible. Requiring records requesters to identify themselves is an obstacle.

Citizens would be less likely to make requests without the right to anonymity. That’s why the law was clearly written to prevent governments from denying public information to people for whom this is important.

The anonymity provision is crucial to the state open records law. Our governments [need to understand that](https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/PRL-GUIDE.pdf) — and obey the law.

*Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council (*[*wisfoic.org*](http://www.wisfoic.org/)*), a group dedicated to open government. Council member Larry Gallup is the digital news director for USA TODAY NETWORK-Wisconsin.*