Restricting prisoners' freedom of information

Balancing inmate protection rights and public privacy concerns in the United States

Introduction

During the 1990s eight American states amended their freedom of information (FoI) statutes specifically to restrict prison inmates' access to public records for security, privacy, and efficiency purposes. The states have approached the same issue — inmate access to public information under their FoI laws — in different ways, but each has labeled inmates as a separate class exempt from rights reserved for practically everyone else. This new policy changes 30 years of statutory and common law doctrine in the United States that considered irrelevant the status of the requester and the purpose of the FoI request.

State courts have generally followed the new statutory policy. In schematic form, the statutes and their provisions look like this:

State (year) Citation	Statutory Provision	As modified by courts
Michigan (1994) Mich. Comp. Laws Ann. §15.231	Definition of 'person' with rights to information under new statute specifically excludes inmate serving sentence	Procedural right to information relating to own case protected; otherwise courts affirm statute
Louisiana (1995) La. Rev. Stat. Ann. §44:31	Definition of 'person' specifically excludes incarcerated individual who has exhausted appellate remedy if request does not relate to post-conviction relief	After a comprehensive review, state appellate court affirmed the statute
Texas (1995) Tex. Govt. Code Ann. §552.028	Government not required to comply with any request from an 'imprisoned or confined' person	Appellate court expanded statute by eliminating right to administrative appeal on FoI denials and right to documents relating to individual
Wisconsin (1995) Wis. Stat. Ann. §19.31-.37	Definition of 'requester' with rights under WORL specifically excludes 'incarcerated person'	Confused series of cases have no or unclear precedential value
Virginia (1997) Va. Code Ann. §2.1-341	Statute denies FoI rights to any incarcerated person, but makes provisions for constitutionally-protected rights'	No case law
New Jersey (1998) N.J. Rev. Stat. Ann. §47:1A-1	Denies information relating to inmate's victims	No case law
Connecticut (1999) Conn. Gen. Stat. Ann. §1-210	Constructs bureaucratic process to review materials requested by inmates to determine impact on public safety	No case law
Ohio (1999) Ohio Rev. Code Ann. §149.43	Restricts FoI requests for documents on any criminal proceedings except for cause on judiciable claim	New Jersey courts have previously restricted inmate FoI rights post-appeal.

While there are no affirmative rights to public information beyond the various FoI statutes, I argue that courts must throw out broad, overly strict statutes that restrict prisoners' rights to their own defense or appeal. Any new statute must balance the expectations of security, privacy and efficiency with prisoners' rights. Unfortunately, state courts have accepted the new statutes and in some cases have tightened them.

Here I seek primarily to examine and compare the state statutes in the context of evolving US FoI laws, to point out their deficiencies in protecting inmates' rights, recommend action by courts, and to propose a model statute that successfully balances inmates' rights with the public's privacy and security concerns.

General FoI history

United States (US) federal and state FoI statutes have evolved to balance (1) maximum access to public information by anyone with (2) burden, privacy and security interests of the government, its employees, and the public. Here I examine the history of the federal Freedom of Information Act (FoIA) as an example of the evolution of state statutes like it.[1]

The US Congress created the modern FoIA in 1966.[2] The legislation created a broad right of public access to federal documents with only nine exemptions designed to protect privacy, public safety, and national security.[3] Federal agencies, however, used the exemptions and various tricks to avoid releasing requested documents.[4] In the wake of the Watergate scandal in 1974 Congress followed up with a series of amendments to rectify the situation. 'The amendments significantly reduced the agencies' discretion over whether to release information and eliminated inefficiencies in the processing of requests ...'[5] As a result, the number of requests and processing costs increased dramatically.[6]

In 1981, Congress attempted further FoIA amendments which failed. This was Congress' first attempt to limit access by prison inmates. Sen. Orrin Hatch (R-Pa.) introduced a bill as part of an amendment package initiative in 1984.[7] In this Bill, parts of which later constituted the 1986 reforms, he directed the Office of Management and Budget (the White House office directing administrative budget priorities) to promulgate rules limiting or restricting inmates' FoIA access as '(a) appropriate in the interests of law enforcement, of foreign relations and a national defense, or of the efficient administration of this section, and (b) not in substantial derogation of the public information purposes of this section.'[8] Sen. Hatch's provisions were not implemented.

In its 1986 amendments, the Congress showed great concern with cost and burden by authorising charges for searches, copies, and review.[9] Congress was concerned with privacy exemptions as they related to law enforcement security, and created document exemptions to that end.[10] The 1986 amendments tightened privacy protections under the law enforcement exemption, though personnel, medical and similar files were already exempt.[11]

New state statutes and cases

Each state has a public records statute. However, eight states have amended their public record statutes specifically in order to limit access to public records by incarcerated individuals.[12] They use varying methods to limit access to public records.[13] In general, the statutes have been amended (1) to eliminate 'frivolous' and burdensome requests, (2) to stop the harassment of victims and innocents through use of public records requests and (3) to maintain security over incarcerated individuals. In no state or federal court case has the law been interpreted to allow more access to public documents, and none has been struck down as violating state or federal constitutional law.

Michigan

In 1977, Michigan legislature followed the federal government's example and created its state *Freedom of Information Act.*[14] In 1994, the legislature amended the statute to change, inter alia, the definition of a 'person' for purposes of the legislation, which henceforth 'does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.'[15] The 'person' refers to the original purpose clause of the Michigan Act, which states that '[i]t is the public policy of this state that all persons are entitled to full and complete information regarding government decision-making, consistent with the act. The people shall be informed so that they may fully participate in the democratic process.'[16]

In short, anyone serving a sentence anywhere in the United States is not a 'person' with rights to public information. As a result, any Michigan state agency receiving a public records request from an inmate serving a prison sentence is not obligated to fulfill the request.

Legislative intent: The legislature justified the change based on concerns of cost and abuse of requests processed by the Department of Corrections (DOC). The DOC required 20 employees at a cost of $900,000 (presumably per year) to process requests. Moreover, the DOC argued that inmates abuse the system by making 'irrelevant' or 'harassing' requests that then subject the agency to a lawsuit if refused.[17]

Cases: The Wisconsin Court of Appeals has upheld the current statute in one case, *Seaton v Wayne County Prosecutor,* but affirmed the inmate's right to information relating to his own criminal case under a separate administrative statute.[18]

To conclude, Michigan holds a blanket restriction against inmates serving a prison sentence, but that exemption does not restrict the inmate's procedural rights to request information relating to his own case.

Louisiana

Louisiana amended its public records statute in 1995.[19] The relevant provision states that a 'person does not include an individual in custody after sentence following a felony conviction who has exhausted his appellate remedies when the request for public records is not limited to grounds upon which the individual could file for post conviction relief.' Moreover, the custodian may inquire about the requester to make sure he is not in custody.[20]

Put simply, the statute eliminates a post-appellate felon's right to use Louisiana's public records law for anything but his own case, and it empowers the document holder to discover the identity of its requester.

Legislative intent: There is practically no legislative history beyond the statutory wording. None of the court cases cited below refer to the statute's origins.[21] The Louisiana Constitution does provide a fundamental right for public access to information, and the burden is placed on the recipient of a request to justify withholding on a request.[22] Nevertheless, the constitutional right may be abridged 'when the law specifically and unequivocally denies access.'[23]

Cases: Despite its narrow construction, this statute thankfully produces the greatest depth of court cases examining the issues behind denying an inmate's rights to information.[24] In one case in particular, *Revere v Canulette,*[25] the appellate court explores several rights of inmates, including the constitutional right to effective access to the courts,[26] due process[27] and equal protection.[28] While inquiring about these rights, the court does not strike down or modify the statute and holds that the statute violates neither the due process nor the equal protection clauses of the US Constitution.[29] As we will see in the following discussion, the remaining appellate ruling touches on a number of very important issues relating to inmates and the balancing of their rights with those of society.

Texas

Texas has arguably the most stringent restrictions to its right of access to public information. Texas' government code §552.028 states that no governmental body is required to respond to a request by anyone 'imprisoned or confined in a correctional facility'. In addition, it does not *prohibit* an agency from releasing information pertaining to that person.[30] The statute effectively eliminates any affirmative right of the prisoner and obligation of the possessor, in effect granting sole discretion to release information — even if it pertains to the prisoner — to the possessor of the information.

An interpretive reading of the statute indicates that even someone jailed as an arrested criminal suspect (on 'probable cause') falls under this exemption.[31] In addition, the Texas legislature recently amended the statute to extend the prohibition to 'an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.'[32]

Legislative intent: The legislative intent behind the initial restriction on public records included concerns about 'time-consuming,' 'frivolous' and 'abus[ive]' requests[33] in addition to prison security and worker safety.[34]

Cases: The first case challenging the new law, *Moore v Henry*[35] was also the strongest. The court expanded the statute's restrictions in two significant ways, making the Texas prohibition the strongest of the five states. First, it effectively eliminated any right to appeal administrative decisions denying public records requests by inmates. Second, it eliminated the right of an inmate to request documents that relate to himself. The result is the most stringent restrictions on inmate access to FoI in the US.

Wisconsin

Wisconsin has had an Open Records Law (WORL) since 1917, when the legislature codified a common law duty by government officers to maintain adequate records.[36] In 1983, the legislature substantially amended the WORL to

conform better to state open records laws that followed the federal *Freedom of Information Act.*[37]

Long-standing debate over the statute and inmate policies preceded the 1995 amendments.[38] The debate led to the 1995 amendments, when the Wisconsin legislature amended its public records statute[39] to define a 'requester'[40] under the statute as 'any person who requests inspection or copies of a record, except ... a[n] incarcerated person.'[41] The statute makes exceptions for 'inspection or copies of a record that contains specific references to that person or his or her minor children from whom he or she has not been denied physical placement ... and [when] the record is otherwise accessible to the person by law.'[42] In 1997, likely as a result of a court case,[43] the legislature again amended the WORL to include 'committed [insane] person' in the definition of 'requester.'[44]

Legislative intent: In a vigorous debate over the rights of the public and those of inmates, legislators justified restricting inmates' access to WORL based on factors of 'nuisance,'[45] and 'harass[ment of] local officials.'[46] Prison officials argued for the changes based on prison security.[47]

Cases: The Wisconsin case law is confused because of rapid changes in statute and the refusal of the courts to apply the changes retroactively. The state courts decided several cases that were without precedential value. Only one case, *State ex rel. Bergman v Faust,*[48] has a firm if confused holding. It affirmed an inmate's right to request his own parole file under an administrative code, but unaccountably failed to dismiss his FoI request out-of-hand based on the statute.

Virginia

Virginia amended its *Freedom of Information Act*[49] in 1997 to limit inmate use of requests under the Act. The amendment states that '[n]o provision in this chapter shall be construed to afford any rights to any person incarcerated in a state, local or federal correctional facility ... However, this subsection shall not be construed to prevent an incarcerated person from exercising his constitutionally protected rights, including, but not limited to, his rights to call for evidence in his favour in a criminal prosecution.'[50]

Legislative intent: The intent of the legislature again was to avoid the burden and cost government agencies[51] face coping with inmates' 'frivolous requests' and 'laundry lists' for 'unnecessary and intrusive information'.[52] The Bill created some debate. Opponents noted the Bill would block imprisoned misdemeanants in addition to incarcerated felons.[53] One legislator noted the concern over time and cost and suggested a practical solution: 'charge them for it'.[54] It is interesting to note the sponsors expressed little concern about prison safety and officials' privacy.

Cases: Despite the statute's deliberately deferential wording ('including, but not limited to ... rights for evidence in his favor ...'), the statute has engendered no court cases challenging just what constitutional rights the inmate may still retain.

New Jersey

In 1998 New Jersey amended its public records 'Right-to-Know Law'[55] as part of a large legislation package. Using traditionally opaque language, the New Jersey statute restricts FoI requests for information relating to victims of a crime committed by the person convicted for the crime. It is the only statute to extend its prohibition beyond incarceration and into probation and parole. However, the statute does allow a prisoner to make a request for information relating to his own defense.[56]

Legislative intent: The narrow construction was intended by the New Jersey legislature to combat domestic violence, stalking and harassment as part of a 'victim's protections' Bill.[57] In addition to restricting the gathering of information, the statute revokes 'good time' credits toward release or commutation of a penalty if the convict continues to stalk or harass his victim.[58]

Cases: This law is too new to have been challenged in the courts.

Connecticut

I discuss this statute in some detail because it forms the basis of my model statute, included below. Connecticut amended its Freedom of Information Act (CFoIA)[59] in early 1999 in response to pressure from the Department of Correction, heightened by a newspaper article that detailed how an inmate nearly received a topographical map of his prison area from a CFoIA request.[60] Within six months of the first story, the legislature created a system to better monitor requests made by inmates.[61]

The Act amends the CFoIA in four ways. First, it exempts from disclosure any material 'the Commissioner of Correction has reasonable grounds to believe may result in a safety risk'.[62] Second, it inclusively names eight types of records to be exempt.[63] Third, it requires 'a public agency' to notify the Commissioner of Correction when receiving a request from an inmate, and it gives the Commissioner exemption withholding powers when the record is delivered to the prison.[64] Fourth, it requests rules by the Freedom of Information Commission and the Commissioner of Correction to 'propose a fee structure for copies of public records provided to an inmate'.[65]

Legislative history: As mentioned above, the amendments followed pressure from the Department of Correction heightened by a high-profile newspaper article citing recent abuses of the CFoIA involving possibly grave security breaches.[66] Here, the great concern expressed was that of prison security and employee safety and privacy. The newspaper cited a correction department internal memo noting that a dangerous prisoner set for release in three months had sought tax records and home addresses of female staff members, another request for information that would identify rival gang members, and several requests for '"security sensitive" documents such as a staffing roster and log books that detail how often guards make their rounds'. A CFoIA administrator also noted it was quite possible to make a request of a prison blueprint. Prison officials also argued the 'frivolous or malicious' nature of requests by inmates.[67] In committee hearings on the subject, the corrections department commissioner largely repeated what had been reported in the newspapers, and complained about the penalty cost of one job — $925 — requiring the state to pay due to an inmate's indigence.[68]

One opponent of the amendments expressed concern that legitimate requests for information that relate to inmates' criminal convictions or would substantiate allegations of abuse could be withheld from inmates.[69]

Instead of restricting or outright eliminating inmates' rights under its public records Acts, as some of the other states have done, the new Connecticut statute in effect created a second, redundant layer of bureaucracy to thwart inmate requests. While this is probably a better solution than the outright ban in other states, the new

provisions may in fact be redundant. The Act, while allowing for the right of appeal, already grants enormous power and discretion to the department and commissioner of corrections. As the newspaper that broke the original story noted, the correction department also screens the mail of inmates.[70] The correction department knew of the security-threatening documents because they seized them before delivery to the incarcerated requester.[71] In addition, the original Connecticut statute already exempted personnel and tax records from release to anyone.[72]

Cases: Because the Connecticut amendments are so new, there have been no challenges to the law.

Ohio

Ohio amended its public records law in 1999. The relevant section states that a public office is not required to release information to an individual on a criminal conviction or juvenile adjudication unless they can show cause for a justiciable claim to the judge that presided over their trial.[73] By contrast to the other states, this is a very liberal construction of information rights for inmates, and when compared with the case history below, seems to imply an opening by the legislature for what was once closed by the courts.

Legislative history: There is very little legislative history behind this particular passage. This is not surprising given the size of the amendment, and the issue pegged to it, namely, the protection of police officers' personal information.[74] It will be up to the courts to determine the breadth of this statute passage, which appears to be very narrowly drawn.[75]

Cases: Only one case, *State ex rel. Sevayega v Reis*,[76] has been decided by the Ohio Supreme Court on this statute. Unfortunately, it quoted but did not clearly apply the amended statute to decide the case.[77]

New Jersey courts had in earlier years restricted access to publicly available information by inmates. In one omnibus case, *State ex rel. Steckman v. Jackson*,[78] the Ohio Supreme Court ruled, inter alia, that 'a defendant in a criminal case who has exhausted the direct appeals of her or his conviction may not avail herself or himself of [the statute] to support a petition for post-conviction relief'.[79] The same case held that even absent the regular rules of discovery, a defendant could not use the public records statute to force disclosure of a prosecutor's files.[80] With the statutory modification, the state legislature seems to have in fact opened more space for a convicted, post-appellate applicant to obtain records to support a claim, but this has yet to be interpreted.

Discussion

Burden and cost

Out of the eight states, the most-cited rationale for the statutory changes is not security or privacy but cost and burden. Cost and burden were cited or inferred by five states (Michigan, Louisiana, Texas, Wisconsin, Virginia). Four states cited public protection or privacy (Wisconsin, Virginia, New Jersey, Connecticut). Four states cited prison security or protection of public employees (Texas, Wisconsin, Connecticut, Ohio).

This is indeed a delicate issue. Prisoners are easily quantified as a class, and the numbers indicate that as a class prisoners are very liberal with their FoI requests and promiscuously litigious.[81] Waste and abuse strike a political sour note with the public almost as much as the fear of what inmates might actually do with the information.[82]

Nonetheless, the burden and cost argument targeting inmates does not carry too far because the states have encountered such concerns before. Worries over cost and burden on federal agencies arose from the explosion of FoIA requests following the extension of the 1974 FoIA amendments.[83] The skyrocketing number of FoIA requests did not come exclusively from inmates, although as a class prisoners vastly outnumber other requesters to the federal law enforcement agencies.[84] Nevertheless, the states could do what the Congress did in 1986 by imposing or creating greater leverage to collect search and copy fees[85] or by allocating the money required to expedite the requests.

Prisoners' interests and rights

There are few advocates to articulate prisoners' interests in having access to government information. In the US the issue is a dead loser for those willing to champion the cause of inmates. By contrast, increased restrictions are a great political boon to supporters of victims' rights and protections. Nonetheless, two reasons supporting the inmate's interest are sound. One is the tool that records access provides access to the courts. The other reason is the same for newspapers and citizens: exposing government waste, fraud and abuse.[86]

In addition, the statutory changes essentially create an inferior class or status of person that never existed before in FoI law. For 30 years, the law held that the standing, status, or purpose of a requester were irrelevant to the documents requested. In terms of security and privacy, it was always the *information* and not the *requester* to be restricted. It did not matter who had the information; if it violated privacy rights or security, the government restricted access. The case law is voluminous and definitive on this point.[87] Unfortunately, the new statutes have paved a new road toward restricting information based on class of requesters.

On this point, I would like to highlight existing mechanisms to monitor inmate mail and correspondence. As noted above, Connecticut prison officials knew about the traffic in sensitive public documents because they intercepted them on their way to the inmates. Such intercept practice is acceptable in the US under *Procunier v Martinez* which allows prison officials to monitor correspondence among inmates and between inmates and the outside world.[88]

The basically unrestricted power of the state to monitor prison correspondence suggests that the Connecticut model suits best of all regarding security: it preserves the inmate's rights to secure information relevant to him and his case, and it allows state agencies selectively to monitor that correspondence for contraband information.[89]

Model statute

Discussion

There is a legitimate state interest in protecting both the rights of inmates and the safety and security of public officials and innocents on the outside. These interests are politically charged, but they are not mutually exclusive. We can balance an inmate's access to information benefiting him and the safety and security of his wardens and the public.

Connecticut provides the closest template for a model statute. It maintains a tough law protecting security and privacy rights and places a bureaucratic overlay to filter inmate requests more carefully. The impetus for the Connecticut statute was the possibility of the wrong information falling into the wrong hands though none had actually done so. In response, the state merely tightened its rules more.

The basic principle behind the model statute is this: allow the inmate request but include another level of review by a state agency. In addition, the statute must include an affirmative right to information related to a requester's case, appeal, and personal information. Lastly, the statute must include a mechanism for appeal of decision by a state agency. This provision may increase the burden on the department of corrections that the government must account for.

The model statute

§1-1 Purpose: to balance the interests of people serving a term in any correctional or mental health facility as a result of a felony conviction or a civil commitment with the safety, security and privacy interests of those facilities, its employees, and the public.

§2-1 Any state agency receiving a document request from a ward of a correctional or mental health facility must notify the Bureau of Corrections of the request. The request should proceed according to the restrictions and exemptions of the state public records law.

§2-2 The state agency, having received and prepared the request, must submit the documents to the Bureau of Corrections.

§2-3 The Bureau of Corrections will then review the file for security, safety, and privacy concerns, make note of the material held for those reasons and return the remaining material and a list of withheld documents to the inmate.

§3-1 The inmate will have the right to appeal the withholding first to the Bureau of Corrections. The inmate will have the right to appeal to the state district court upon second refusal from the Bureau of Corrections.

§4-1 Nothing in this statute shall be construed to deny the incarcerated person from exercising his constitutionally-protected rights.

Conclusion

For most of the 30 years that FoI laws have evolved, states have balanced privacy concerns with the need to maintain a transparent and accountable government for all people. The FoI laws have operated with marked success, balancing these two great societal expectations against each other.

During the 1990s, however, eight states decided to limit not just certain documents, but a whole class of people from the sunshine laws. Focusing on prisoners, inmates, and felons, these states deemed this class of people too dangerous and too abusive of the system to allow unfettered access to otherwise publicly available records and information.

Access to public documents, however, is intrinsically linked to an inmate's fundamental right to access the court system and air his grievances, much as journalists and average citizens do. The toughest restrictions, such as those in Texas and Wisconsin, verge on the unconstitutional as they cut off a vital link to documentation that may provide enough evidence to make a prima facie case in order to reach the courts. The more lenient restrictions allow inmates to access information that is vital and relevant to them or to their cases, and the government established a more vigilant watchdog to make sure such information is not used for the wrong reasons.

Recognising the inevitable political pressure that will build to limit inmate FoI requests, the soundest solution is of the lenient variety, creating a system that provides for the maximum use of rights with a minimum of abuse. The goal, in other words, is to create a statute that gets back to the original purpose of the FoI laws, once again balancing the privacy and safety needs of the community at large with the vital interests of those within it.

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60 Ohlemacher, Stephen, 'FOI: Freedom of Information or Freedom of Inmates? Prisoners Exploiting Law', *The Hartford Courant*, Jan. 22, 1999, at A1.
61 1999 Conn. Acts 156 (Reg. Sess.)
62 Conn. Gen. Stat. Ann. §1-210(b)(18).
63 Conn. Gen. Stat. Ann. §1-210(b)(18)(A)-(H).
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66 See, e.g., Norman-Eady, Sandra, Questions for Freedom of Information Commission Nominee, Conn. General Assembly, Feb. 4, 1999.
67 Ohlemacher, *supra* note 60, at A1. See also Daly, Matthew and Ohlemacher, Stephen, 'Victims' Rights Bills Approved', *The Hartford Courant*, May 26, 1999, at A5 (citing correction department complaints as reason for the amendments).
68 FoI Exemption: Hearings on H.B. 7016 Before the House Committee on Government Administration and Elections, 1999 Conn. House of Reps. (March 15, 1999) (statement of Commissioner John Armstrong, Department of Corrections). *See also* Acceptance and Passage of H.B.7016, an Act Exempting Certain Department of Correction Records from Disclosure, Conn. Gen. Assembly, House of Representatives, May 25, 1999.
69 Daly and Ohlemacher, *supra* note 67, at A5 (quoting Rep. Richard D. Tulisano). The state House passed the bill unanimously.
70 Editorial, 'Inmates Need Some Information', *The Hartford Courant*, Feb. 1, 1999 at A8.
71 Ohlemacher, *supra* note 60, at A1.
72 Conn. Gen. Stat. Ann. § 1-210(a)(3), (10) (West 1989 & Supp. 1999).
73 1999 Ohio Laws 99, amending Ohio Rev. Code Ann. § 149.43(B)(4) (West 1999).
74 See, e.g., 1999 Ohio Laws 99, Ohio Rev. Code Ann. § 149.43(A)(1)(p).
75 The statute becomes effective on Dec. 16, 1999.
76 727 N.E.2d 910 (Ohio May 17, 2000).
77 *Id.* at 911.
78 639 N.E.2d 83 (Ohio 1992), overruling *State ex rel. Clark v. Toledo*, 560 N.E.2d 1313 (Ohio 1990).
79 639 N.E.2d. at 85. Accord *State ex rel. Larson v. Cleveland Pub. Safety Dir.*, 659 N.E.2d 1260 (Ohio 1996).
80 639 N.E.2d at 85.
81 See, e.g., *Roang*, *supra* note 36 at 719; *Pommer*, *supra* note 46, at 6a (noting inmate 'cottage industry' in filing WORL lawsuits for $100 judgments).
82 Opinion, 'Insensitive Cartoon Warrants Apology', *Wisconsin State Journal*, Nov. 17, 1995, at 13A (noting State Representative's remark that 'no ordinary citizen has ever abused the open records law to the wholesale extent inmates have').
83 *Wichmann*, *supra* note 4, at 1220-1221 (citing costs alone to the FBI at $160,000 in 1974, $2.6 million by FY 1976, and one single request to the CIA cost $400,000; all in spite of projects of no more than $500,000 for 1976-1980).
84 Inmates constitute approximately 90% of 6,000 outstanding request at the federal Bureau of Prisons, with similar numbers for other federal law enforcement agencies. Informal survey by the author, Senate Judiciary Subcommittee on Technology, Terrorism and Government Information, June-Aug. 1999.
85 *Wichmann*, *supra* note 4, at 1222; *Freedom of Information Reform Act* of 1986, 90 Stat. 1241 (1976) (codified at 5 U.S.C. §552(b)(3) (1996)).
86 Comments by Conn. St. Representative Richard Tulisano, Daly and Ohlemacher, *supra* note 67, at A5. Lomax, *supra* note 47, at 13A.
87 See, e.g., *Meriden Record Co. v. Browning*, 294 A.2d 646 (Conn. Cir. Ct. 1971) (granting every resident of the state right to inspect or copy public records provided the inspection purpose is not improper); *Webb v. City of Shreveport*, 371 So.2d 316 (La. Ct. App. 2 Cir. 1979) (holding the purpose for which a person requests examination of a pub lic record is immaterial where no balancing of interests is required); *Keddie v. Rutgers*, State University, 689 A.2d 702 (N.J. 1997) (holding Right-to-know law has no standing requirement other than state citizenship); *Associated Tax Service, Inc. v. Fitzpatrick*, 372 S.E.2d 625 (Va. 1988) (holding public policy does not require identity of requester when seeking information for commercial use). See also *Williams v. Klincar*, 604 N.E.2d 986 (Ill. App. Ct. [3d Dist.] 1992) (holding administrative restrictions on inmate access to information relates to the information per se, not the status of requester, and places burden on public agency to justify denial). But see *Cavey v. Walrath*, 598 N.W.2d 240 (Wis. Ct. App. 1999) (holding any person, other than those specifically excepted from Public Records Laws' definition of 'requester,' has a right to inspect any record).
88 416 U.S. 396 (1974).
89 See, e.g., Editorial, 'Inmates Need Some Information', *supra* note 70, at A8.