Wisconsin's Open Records Law, passed in 1981, is clear and unequivocal. It says the public is entitled to "the greatest possible information regarding the affairs of government" and the actions of officials and employees, and that "only in an exceptional case may access be denied."

But the Wisconsin Supreme Court seems bent on making these exceptional cases the rule. Time and again, it has rendered rulings that craft new burdens to access and give government officials new excuses for conducting the public's business in secret.

The most recent example, handed down in June, is Hempel v. Baraboo. It concerns an area of intense and justifiable public interest -- alleged misconduct committed by public officials -- but its repercussions could extend even further.

Hal Hempel was a veteran Baraboo police office seeking records regarding a sexual harassment claim that had been filed against him. A 4-3 court majority ruled that he was not entitled to these records. But what's really troubling is the reasoning it concocted in support of this decision.

First, the court essentially affirmed that Hempel's bosses - and, by extension, all records custodians in Wisconsin - are free to assert even speculative reasons for which they offer no evidence in making records denials.

Hempel's department claimed that releasing the requested records might erode morale or make quality applicants unwilling to apply for highly coveted, well-paying police jobs. The court's conservative activist majority - Justices David Prosser, Jon Wilcox, Pat Roggensack and Patrick Crooks - noted that the department presented no facts or evidence in support of these claims, but deemed them valid anyway.

Chief Justice Shirley Abrahamson, in a stinging dissent joined by Justices Ann Walsh Bradley and Louis Butler, argued that such "stock" reasons for denial should not outweigh the records statute's presumption of openness. She noted that each of the general reasons cited by the Baraboo police and affirmed by the majority "applies to almost every file involving some sort of

investigation at every governmental entity."

Expect these reasons now to be trotted out for every such file by every government entity that is seeking some excuse for shutting off access to public records.

The other major problem in the court's ruling is its shockingly wrongheaded analysis regarding what constitutes an ongoing investigation.

Generally speaking, public agencies may withhold records of open inquiries.

In Hempel's case, the allegations against him were fully investigated, and a decision was reached to take no further action. But the court's majority nonetheless declared it an active investigation, because Hempel was told that, if a similar complaint were subsequently received, the closed complaint could be reexamined.

That pretty much means no investigation will ever be complete, if all that's needed to consider it ongoing is the possibility, however remote, that it might someday be looked at again. This interpretation ignores precedent and defies common sense. But it is now available for secrecy-seeking officials to seize on, to keep the public from learning about cases in which misconduct has been uncovered, or been covered up.

And what if it doesn't stop there? Say a city engineer has received numerous complaints about a malfunctioning traffic light and decided, after investigating, to do nothing about it. That official could now refuse to release the record of this investigation, arguing that there is always the chance it could be reopened based on additional complaints and is thus, in the logic anointed by the state Supreme Court, ongoing.

Already there are signs that records custodians throughout the state intend to use the Hempel ruling to prevent the public from learning about official misconduct. In one recent case, the state Department of Natural Resources, having been ordered by a judge to release records regarding conduct that led to discipline against a state game warden, has filed a motion for reconsideration, citing the fresh justifications for secrecy created by the Hempel decision.

Expect more of the same. And remember who's to blame: Justices Prosser, Wilcox, Roggensack and Crooks.

Your Right to Know is a monthly column produced by the Wisconsin Freedom of Information Council, devoted to protecting public access to meetings and records. Bill Lueders, the group's president, is news editor of Isthmus in Madison.