

Protect yourself when reporting on leaks

This is a time when more governmental information than ever is gathered on computers and should be publicly available. And, at the same time, it's a time when access to government information is more at risk than ever before.

On the state level, we are beginning to see what is described as "dark money," or money not being reported to the state ethics commission, flowing into non-profit organizations and being used to pay for expenses of politicians or political events that formerly were paid for by candidates and their campaigns, who formerly properly reported it to officials under state law. Now, information about the source of those "dark money" funds is left to speculation. Similar activity is occurring on the national level.

While responses from public bodies to Sunshine Law requests may be received in a timely fashion, the actual production of the records by the body often is delayed indefinitely simply because the statute (Section 610.023.3) has no time limit on the actual date the record must be made available, so long as the delay is due to "reasonable cause." And returning to court to litigate a contempt cause of action, after a requester has paid substantial sums for a court to order the record to be produced, is unlikely, a public body probably realizes. Delay and Denial become the moral equivalent of each other.

The frustration that public bodies cause by these actions and the lack of transparency in government overall has led, in part, to the increased num-

ber of leaks by public body employees. For some government employees who become aware of situations within their departments that need to be made public, or public officials' actions that need to be exposed, turning to a reporter and talking can seem like the only solution.

And legislative bodies, both state and national, have understood the importance of this backdoor pressure valve by creating the "whistleblower statutes" that exist to protect those who are caught in job terminations or prosecutions related to their disclosure of confidential governmental information. Therefore, they may be protected.

But the truth is that YOU may not be protected. If you are dealing with situations like this, adopt some basic protections for both you and your source.

First, if you are given documents, be aware that they may be digitally encoded in some fashion that if you make them public, you may disclose the source of your leak. Protect those documents. And if you are recording conversations or taking photographs

on your cell phone, know how to back up your data to a remote location and also how to quickly erase your phone if it is confiscated from you.

If you are going to an event where you fear you may be caught up in a police roundup, make plans in advance to hand-off important items like phones to a colleague. Know how to reach your editor/publisher at home or by cell phone.

And be sure, if you are dealing with a confidential source, that you have a full and complete understanding with that

person about what your obligations to them are in case of a subpoena being issued to compel your testimony. Are you promising absolute confidentiality, or just confidentiality until and unless a court issues an order compelling you to testify or you will be held in contempt of court (and facing jail time)?

These are just the minimum basics. There could probably be an entire seminar or column on such matters but that's for another day.

In the meantime, the National Press Club Journalism Institute and the Media Law Resource Center have just launched a joint effort to track the impediments journalists face in their efforts on a daily basis to cover federal, state and local government. An online survey/data-gathering tool is now available to all reporters so you can provide information regarding 1) a taxpayer-paid expert who is not permitted to speak to the press; 2) a database of publicly-paid-for information that is not being made available to the public; 3) a refusal by a public official to respond to inquiries; or 3) a closed door in a courthouse or government office.

The organizations strongly urge all journalists to use this reporting tool to make this database an accurate picture of the situation facing reporters covering government. You can find it online at <https://tinyurl.com/y8y967fy> and I urge you to share this link with everyone in your operation.

In a day when you hear "Fake News" thrown at you regularly, know that Missouri Press Association takes great pride in the work done by all of you! We look forward to seeing you at the convention at the end of the month, as well as the opportunity it gives the association to show off your prize-winning work and recognize you with the awards you so richly deserve.

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