

We have allies in fight for open government

Some schools reluctant to provide records

Day in and day out, members of Missouri Press Association call to discuss sunshine law requests they have filed. Reporters in the state are voracious users of the Open Meetings/Open Records Law. But we are not the only ones using this law.

All of you are well aware of the Governor's Office and the offices of numerous politicians this session who seem for the first time to have discovered the sunshine law. Stories appear constantly about requests being made for e-mails.

But there are others using this law on a regular basis who deserve some recognition for their ongoing efforts to remind public officials that the records they hold are public property, not proprietary documents of local government, and that their actions need to be taken in public meetings rather than behind closed doors.

Take Jay Purcell, for example. Purcell is a county commissioner in Cape Girardeau County. He sued other county commissioners this summer for violating the sunshine law, claiming they did not issue proper notice for a closed meeting that involved the misuse of the county's computer by the county auditor and also the proper handling of a road easement possibly notarized in an improper manner.

This lawsuit has created a tremendous amount of controversy in southeast Missouri. Allegations have been raised that Purcell may himself have violated the sunshine law by audio taping a closed meeting, although there are questions whether proper procedures were taken to close the meeting, which might render the claim of illegality on Purcell's part

moot.

Interestingly enough, Purcell's attorney is J.P. Clubb, a former assistant attorney general under Jay Nixon (and, I probably should point out, a former counsel to the Missouri School Boards

Association, a position he apparently was not as comfortable with as he is being on this side of the litigation).

Meanwhile, in the central part of the state, the Show-Me Institute, a research and educational organization dedicated to improving the quality of life for Missouri's citizens, is undertaking a study relating to school district election results, using the sunshine law to request voting records. The results of those requests have been quite

interesting.

According to the organization's blog, showmedaily.org, one county refused to produce results, stating "they'd just use it for political reasons." Do you see *that* in your list of exceptions in Section 610.021? Me neither.

And the fees requested for the search have been quite interesting, ranging from a county asking for a \$100 deposit to begin work on the request to another county that was charging \$41.37 per hour for search time. Others, however, have provided the records requested at no charge to the organization.

Interestingly enough, in a number of cases, the data sought by the organization has been missing "because of a new computer system," its blog reported. Some cited that they were only required to keep such data for 22 months, apparently the state records retention standard for such matters. That is somewhat

surprising, because one would think that voting tallies would be kept longer than 22 months after an election.

Finally, before leaving this endeavor, it is important to note one conclusion this blog has reached about its efforts. Finding recently that it was difficult to obtain information it sought, the researchers have questioned clerks as to the delay, and the response has been that there are lots of requests under the sunshine law for information.

Who is making these requests? Clerks apparently are reticent to provide that information. But the blog concludes, "The high fees some counties have requested may be their way of discouraging those who aren't serious about their information requests. ... This is problematic for someone on a budget but it is what we should expect, maybe."

Well, I beg to disagree. Everyone in the public has paid for these records to be created. When public bodies use high fees to limit access to public information, they are creating a roadblock that takes away public rights from those who have already paid the bill.

Charging a minimal fee to cover access to copies of records is understandable. But pricing access out of the reach of ordinary citizens is not justice. It is highway robbery!

Finally, Laura Bryant and Tom Sullivan, both in St. Louis, deserve some recognition, too. Sullivan, according to *Post-Dispatch* reporter Tony Messenger, is a "relentless government watchdog." He is a constant advocate of openness in local government in that community and a frequent e-mailer of sunshine law stories. Bryant is a Creve Coeur city council member who is constantly seeking to use the sunshine law to ensure public officials in that area are being accountable to the public.

These folks remind us that we are not talking about the media's law here. We are talking about the public's law. Perhaps you and I use it more than most of the public, but when it doesn't work, it is the public that is harmed, not just the media. These folks serve as our constant reminder of that fact.



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