

Highway patrol begins redacting names from crash reports

Editor's note: *The following is a previous column penned by Hotline Attorney Dan Curry about Missouri State Highway Patrol's policy change regarding names in online crash reports. Curry's most recent opinion can be found on the preceding page.*

On November 1, 2024, the Missouri State Highway Patrol (MSHP) removed names from its online preliminary traffic crash reports. MSHP said the change was due to a scam in play using information from its online reports.

In MSHP's estimation, given developments in social media technology, the benefits of providing the information online no longer outweighed the risks to the people named.

Now, everyone must submit formal requests for the information. And wait.

I have heard from many of you, and I know the disruption this is causing to newsgathering. Your Press Association is working on the problem and is reaching out to MSHP, as are other organizations.

These names have been available online for as long as I can remember, more than a decade at least. The scam MSHP is concerned about – contacting crash victims, pretending to be a trooper, and demanding payment – is no doubt a problem. But it does not seem to be a “new” kind of scam or require any cutting-edge technology to pull off. It seems like the ordinary kind of scam that has been around forever.

The names and these incident/crash reports are open records under the Sunshine Law. There are two sections of the Sunshine Law, RSMo 610.100.2 (1) and 610.200, that touch on this. Even MSHP, in its press release, acknowledges that these preliminary accident reports are subject to the Sunshine Law.

A different part of the Sunshine Law, Section 610.029, states

“There may be a deeper concern lurking here. MSHP also pointed to the Drivers Privacy Protection Act (DPPA) as a reason why the names must not be published online.”

essentially that agencies should make information available online.

MSHP's previous practice satisfied all of these provisions – it made preliminary crash reports open and made them available online. As a result, the press had the ability to quickly report on life-and-death events, find patterns in the data, and even inform the public about the steady work of the agency.

Human beings want to know where the dangers lurk. If it's a particular bend in the road, we want to know that. If it's a particular person, we want to know that too.

However, while the Sunshine Law strongly encourages making information available online, it does not entirely mandate this. This may be why MSHP feels it can force a reporter to make a formal records request to get the names instead of putting the names out there.

I asked what the turnaround time on a formal request would likely be, but MSHP would not venture a guess. If it takes days for MSHP to respond (and so far, I have heard it is taking

longer), the public's right to know suffers.

While any instance of fraud is unfortunate, and MSHP's instinct to protect the public laudable, there has not been an indication it has been a widespread problem, nor one that would justify ending a longstanding practice that was in harmony with the Sunshine Law.

There may be a deeper concern lurking here. MSHP also pointed to the Drivers Privacy Protection Act (DPPA) as a reason why the names must not be published online. The DPPA, as you likely know, is a federal law that protects personal information collected by state DMV's.

However, the DPPA applies to DMV records, and not to law enforcement records. The DPPA has been in place a long time – and yet it has never been cause to hold back names on these preliminary reports before. Now MSHP is requiring reporters to indicate what permitted purpose under the DPPA the reporter needs the information.

So, regardless of the extent or duration of a scam, MSHP appears to be taking the position that the DPPA applies to its accident reports. The U.S. Court of Appeals Eighth Circuit has not yet addressed this particular issue, and whether an accident report can qualify as a DMV record under the DPPA is a developing area of the law.

MSHP concedes these records are open, and it is providing the public and press a way to access the information. But the problem is speed. We continue to explore every option available to get this information back in your hands.

