

Probes of law officers must be open records



Public servants paid with public dollars

To whom much power is given, much accountability is demanded.

By JEAN MANEKE
MPA Legal Consultant



(Jean Maneke, MPA's Legal Hotline attorney, can be reached at (816) 753-9000; jmaneke@manekelaw.com.)

The legislative session continues in Jefferson City, and representatives of Missouri Press Association are being ever attentive to bills that are being proposed that would impact your news-gathering ability or the public's rights under the Sunshine Law.

One proposal that has garnered some media attention in the last month is a movement by the Missouri Police Chiefs Association to close internal police records that are generated as a result of an investigation of officers.

Such records were considered closed until a court of appeals decision in 2005 in which the court held that such records are "investigative reports" and are open to the public, just like any other investigative report of law enforcement, once the investigation is complete and a decision is made to pursue the matter no further.

Law enforcement administrators have been unhappy with that decision and have announced a concerted effort to hide such investigations from the public.

"Internal affairs records were never intended to be open records," according to a statement by Jacob Frank, assistant city attorney for Springfield, who has spoken in support of the measure.

And perhaps the most outrageous statement was made by Sheldon Lineback, executive director of the Police Chiefs Association, when he commented, "We're not asking for special treatment. Wal-Mart employee records aren't open to the public."

If Wal-Mart employees were being paid by tax dollars, I imagine more citizens would be demanding a right to see their employment records.

The reasons why law enforcement internal investigations should be open to the public are so voluminous that this column could go on forever. Let us look at just a few.

In early 2006, a Kansas City television station decided to survey the response of law enforcement to a citizen arriving at local police headquarters and requesting the paperwork necessary to document a complaint against an officer. In several cases, the office was cooperative. But in others, the response was negative and definitely not helpful to the citizen.

In fact, in one station in Independence, the complainant was taken into custody by officers, and it appears in a videotape of the incident that his head was knocked against a counter while he was being restrained. Clearly, this was not a positive example of law enforcement looking into its own.

Unfortunately, this is not the only incident in the western side of the state where officers have come before the

public eye for an investigation of their activities. Many of you have seen the video shot in February 2006 from a police car while officers restrained a Sudanese woman in Kansas City for minor traffic offenses and outstanding warrants, despite her repeated requests for medical attention due to the fact that she was pregnant and believed she was miscarrying.

For once, this investigation was not to be done behind closed doors. One must credit Kansas City police chief Jim Corwin for taking the position that this investigation would be “transparent.” By the time this column sees print, the final action by law enforcement should be completed, and it is believed that the chief intends all information on this matter to be made public. He could hardly do otherwise, as the Kansas City community has been extremely vocal in expressing its displeasure to law enforcement over what is seen in this videotape.

These examples are not isolated, but perhaps one-sided because your hotline attorney is based on the western side of the state. The truth is that the public holds law enforcement to a higher standard than the average citizen. To whom much power is given, much accountability is demanded.

Although it hasn't been raised at this time, in the past some law enforcement groups have argued that such records must be closed in order to protect the identity of undercover officers. But the current law allows for law enforcement to protect the names of undercover officers by redacting them in records that otherwise are open to the public under the Sunshine Law.

For law enforcement to believe that it is ever in their best interest to hide investigations about the actions of their officers is not just naive, but also unforgivable. Not only are they paid with tax dollars, but they hold their authority on the basis of the trust of the public. When that trust and support are taken from them, anarchy results, such as what we saw in New Orleans in the days after Hurricane Katrina.

It is always in their best interest to be open and honest with the public. The support of the public is their strongest armor in their efforts to protect all of us. They depend on the public to support their actions. Any efforts to hide their dirty laundry can only hurt them in the long run, and in the process, end up hurting all of us.

As they have taught us, this is one occasion where the only appropriate response is “Just Say No.”