

Attribution required on all campaign ads

MPA files brief over execution protocol

The next four weeks will be prime time for campaign advertising in Missouri. I am hoping that is good news for Missouri's newspapers and that all of you will see lots of political advertising in the coming four weeks.

Let me remind you that you need to ensure that each ad has the required attribution line somewhere in it. At least one newspaper in the state is embroiled in litigation over a dropped attribution line in an ad. **At present, state law imposes a fine on a newspaper for failing to include that line.** All of your advertising departments need to be extra cautious during this time to make sure you don't let that happen to you.

The elections this fall will bring a number of changes to our state government that will potentially impact each of us in terms of media issues. With Jay Nixon being term-limited out as attorney general, we will have a new player in our state's highest law-enforcement office. This is going to be a significant change, because those of us dealing with sunshine issues have worked with some of his staff for at least 12 years.

We have no idea to what extent those players will change. Perhaps that will be good, perhaps that will be bad. Certainly it will mean there will be new personalities and possibly new agendas. It will be interesting to see what that means in terms of sunshine law enforcement and support in the coming new year. Let us hope for good things!

On another front, the Press Association last month filed an amicus brief at the state Supreme Court in the case called *Middleton v. State of Missouri*.

The case was filed by a number of public interest law firms seeking to invalidate the execution protocol created by the state Department of Corrections.

Those plaintiffs argue that the protocol – the formal process – was designed by the department through an internal process and not through the formal process of rule-making, a process that is required by state law for all policies of state agencies, with a few exceptions.

The formal rule-making requirement means that the public is given notice of the proposed plan to create a rule and has the opportunity to give input into the process. This is one of the requirements of open government, and it is there to ensure that the wishes and needs of the public are fully considered when rules that impact them



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are created.

Instead of going through this formal process, the department chose to create the rule through a private, closed internal process. The result of this process is the creation of the current process – the protocol – that is going to be used to execute prisoners.

Obviously, interests that oppose execution by lethal injection are opposed to all components of the protocol in general. While Missouri Press has no position in terms of whether lethal injections are permitted and how they are carried out, it is important to always stand on the side of government processes being done in a public fashion and not in smoky, back rooms.

This case will be argued before the court in early October, and I expect the court to rule shortly thereafter.

Finally, one last item of note: Missouri is one of the last two states that does not have a coalition for interested groups and citizens to support the sunshine law. This is a little embarrassing since the national Freedom of Information Center is based in Columbia.

So a small group of us who are wanting to change that met in September in Columbia. It will be several months before we know exactly how this will come together, but it is an exciting start.

I urge you to keep watch for more news about this effort and to become a part of it when the time comes!

Judge rules for St. Peters in suit involving litigation exception

The Greater Rivers Environmental Law Center lost a suit it filed against the city of St. Peters claiming the city “knowingly and purposely” violated the Sunshine Law.

St. Charles County Circuit Judge Ted House ruled in August that the evidence did not show a “knowing violation” and that the records sought could be closed. He also ruled the Law Center should pay court costs.

According to records, the Law Center had sued the city regarding development in St. Charles County and a river levee. The city argued that because it

anticipated future litigation from the plaintiff over the levee, the city council could hold a closed meeting using the litigation exception to the Sunshine Law and keep a Federal Emergency Management Agency Letter of Map Revision a closed record.

The Law Center argued that the city could not close the record because the National Flood Insurance Act grants property owners or leasers the right to view the records and request an administrative and judicial review. (*St. Charles County Business Record*)