

Why do public bodies violate the Sunshine Law?

On the tails of the election last month, the Missouri State Auditor's office released a survey it had conducted of 326 public governmental bodies relating to whether they would properly respond to a Sunshine Law request that appeared to come from a private citizen. The results, as you have read, were not encouraging.

Many of our papers have reported on the Auditor's results (a link to that report is on the Missouri Press Association's website). In summary, the office reported that fewer than 30

percent of the public bodies receiving letters fully complied with all aspects of the request. More troubling is that more than 15 percent did not respond at all to the request. A quarter of those who did respond did so after the three-day period that the law mandates. And four political subdivisions demanded that the requester identify why they wanted this information.

What can we learn from this report? Are the fines not enough to get the attention of public bodies? A few years ago, they were raised significantly, but that seems to make no difference. Should there be a requirement that if a requester sues a public body and wins, the requester's attorney fees get

paid by the public body? Public bodies fought long and hard to keep this from happening.

Should training be mandatory? The statewide associations – Missouri Association of Counties and Missouri Municipal League both say they offer Sunshine Law training to their

members. Other groups – ambulance districts, levee districts, fire districts – have associations that probably do some Sunshine Law training. I assume materials are distributed to members through their newsletters. And the Attorney General's office, which is a key organization charged with enforcing the law, offers training and publishes the small booklet on the law that is made available for free to the public.

And yet, the results speak for themselves. This is a law that many public

bodies fail to properly follow. This is true despite the fact that each public body in the state is charged with following certain laws in regard to its duties and probably almost 100 percent of those bodies understand and comply with every other law under which that body operates. What makes this law different?

The answer, I believe, is that public bodies do not operate from a center-point of believing they need to be transparent to the public. Officials are uncomfortable with citizens asking questions about what they do and are concerned that the public does not or cannot understand the problems these bodies deal with and the rea-

sons they make the decisions they make. Doing your job is much easier if you do not have another person that second-guesses the decisions you make. But being a public official means that you agree to conduct the public's business. In public.

Regardless, none of that changes

the fact that public bodies need to focus on understanding their requirements under the Sunshine Law and begin to abide by it. Training in the law needs to be mandatory. State organizations for public bodies should make a serious effort to see that members make compliance with the Sunshine Law a critical function. Attitudes need to change – persons who ask for access to records directly or indirectly pay for those records to be created and have a right to access them for any reason at all. Indeed, as I've noted in the past, a number of public governmental bodies have learned that public access to data can be beneficial as tools are created outside of government to make analysis of the data easier and more useful.

Yes, the Missouri legislature has a role in that – legislators should look to see what changes in the law need to be made. The Missouri Attorney General's office plays a big part in this – there needs to be an attitude in that office that encourages public bodies to comply and when they don't, counseling must be offered and, in cases where disregard for the law is found, litigation should follow to show the seriousness with which this law must be taken. (I've never understood how candidates for office run on a "law and order" platform but the law they talk about is criminal law, not Sunshine Law!)

We are looking at a change in administration statewide, and a new year. Time for a fresh start. Perhaps this is true with our government and the Sunshine Law, too. Your job is to remind public bodies in your county that they need to follow the law and do what you can to encourage them in that field – many look to you as the experts in this and you can help make compliance happen.

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