

# Audit reports may get law enforcement help

## *A lawbreaker is a lawbreaker*

If you weren't at Day at the Capitol with Missouri Press in February, you missed some good speakers. I was especially interested in what State Auditor Thomas Schweich had to tell us.

Since the administration of Claire McCaskill as state auditor, the public has seen that office include compliance with the sunshine law in the audits it does of governmental bodies. But my special interest arose from an article I completed in the Missouri Bar's Journal last month suggesting that an enforcement component is needed to follow the release of audit reports.

It seems to me that once a state investigation determines a law has been violated, some kind of legal action should result. If this investigation discovered theft of money from the county revenue stream, I imagine there would be charges or a civil action filed. But no such action follows a finding of violation of the sunshine law.

I raised the question to State Auditor Schweich, and he responded that sunshine was going to continue to be a priority for his office. He also said he has hired Darrell Moore, former Greene County prosecuting attorney, for enforcement purposes. I've known Mr. Moore for years. He has a good working knowledge of the sunshine law, and I am curious to see how this develops.

One of the points made in a story with a reporter from Missouri News Horizon was that the auditor hopes his follow-up program evaluating implementation of audit recommendations, which he is terming his AFTER initiative, will help ensure compliance with mismanagement found in audits. The AFTER program may involve the

auditor's office remaining on a case, continuing to monitor activities as part of the audit, which would be left in an "open" status.

Moore will be heading this program. I hope this means the state auditor's office will continue its record of showing strong support for the state's open records law, even after the audit is done.

And while I'm focusing on open records, I want to mention an article I came across recently that really excited me. In my legal work, I've seen the huge difficulties that exist in obtaining usable data from state and local government databases.

Your local government is spending your tax dollars on software programs to run county offices that use special formatting

codes for data storage. When your local government wants to switch to another software program, migrating the data from one program to another is complicated and, more importantly, expensive.

Software programmers have no incentive to write codes for databases that make this migration process easy. Using a proprietary code for a database creates an incentive to remain with your program.

Requests for a useable copy of the database will be expensive, thus making it difficult and expensive for any private business to use the data collected by this state agency in a for-profit manner. This cuts down on open records requests for the entire database.

But there are businesses that need this data. Insurance companies use it to rate premiums for drivers or values of real estate for insurance purposes. Banks use the information, for another

example. You use this data – logging online to pay your county taxes (if you live in metropolitan areas), or to renew your state vehicle registration.

If the data can be converted into an easily manipulated format, the uses for this data can grow phenomenally, suggested a recent article in the magazine *Government Technology*. Companies can develop programs to comb that data and deliver it to citizens in ways that are useful, which it termed a "machine-readable format."

What if, the magazine suggested, when you drive by your motor vehicle bureau office, you got a message reminding you to renew your license plates?

A former Minnesota state official quoted in the story spoke about a day when all public information is posted in this format, allowing applications to gather and consolidate for you all the data that applies to you in terms of your interaction with government.

It is possible! The article said both Utah and Rhode Island are beginning to convert some of their data into a format that can be used in this fashion. In fact, the article noted that Utah.gov has an application that allows journalists to, through GPS data, identify police reports of interest near their location. Amazing!

"We can present real-time information in terms of where those things are going on, along with photo imagery and videos where we have it, which get it to the media a lot faster," a Utah official said.

No, you are not dreaming! There are states that take this attitude in terms of providing access to public records!

It's a mind-set issue. This same article noted that many times governmental officials feared greater access to data would simply give the media more ammunition to criticize public agencies. I think that's a self-serving statement and demonstrates the focus of some governmental officials is on self-preservation rather than public service.

When the focus is placed on public service first, including making public information public, public officials will find themselves less likely to be subject to unjustified criticism for the way they do their jobs.

Happy Sunshine Week, everyone!



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