

What's in your wallet should not limit access to records

Unfortunately, commercialization of public records is becoming a profit stream

My email in box recently held an announcement that the Kansas City police department now offers online access to accident reports. Now, Kansas City residents involved in a crash need not travel to the police station to get a copy. That is a convenience, but it comes with a price.

First, remember that these are public records – subject to Missouri's Sunshine Law. Getting a copy should only cost for the search time to locate the record, and the cost of photocopying it at 10 cents per page. If you have the report number, it should only take a moment or two for authorities to find it. At two or three pages per report, that's 20 or 30 cents. Based on an employee earning \$15 an hour spending 15 minutes locating your file, the cost should be \$3.75 for search time and 30 cents for the record, or \$4.05.

Well, that's not what some police have charged for this service. Based on what I've heard over the years, most law enforcement agencies charge \$5 a page for a copy. A two-page report, therefore, sets you back \$10. Although there has been some discussion during the years among Sunshine Law advocates about the audacity of this charge, nobody has ever filed a sunshine lawsuit to bring this point home.

In fact, some members of the public felt the charge was "reasonable." One observer, writing recently about this cost in an online neighborhood chat room, observed, "The Police Department still has to pay personnel to collect and process a report. It must be correct and reflect accurate information. It doesn't get done by magic. I feel it is a reasonable cost." Most citizens don't understand the Sunshine Law.

Those who want many copies of such reports have benefitted because they have been able to access that data electronically. I know for a fact that one "bulk user" of this data went to court to ensure that this user had a right to "review" records electronically at no charge at the police department rather than have to pay for a paper copy of each record in order to obtain information they sought from the records.

Now, this police department announces those records are available



Jean Maneke,
is MPA's Legal Hotline attorney.
Contact her at (816) 753-9000;
jmaneke@manekelaw.com.

online. On its website is a link that clicks through to a new website operated by "Appriss," a company based in Louisville, Ky. (Clearly, the Kansas City department has decided to send this business out of state! Were there NO Missouri companies bidding for this project?)

"Appriss provides state-of-the-art technology and data-driven solutions that help thousands of local, state and federal agencies, insurance companies, health-care providers, pharmacies and retailers – 24x7x365," the company's website reads. In short, they are buying a copy of the local police department's database and then re-selling those records for a profit.

That makes me wonder – what would happen if a local business went into the police department and asked to purchase a copy of that database? What would they charge you and me? Remember, that this is an electronic public record.

How much physical labor is involved in telling a computer to copy one electronic file to a medium? You know the answer to that. It is minimal work. It may take time for the computer to make the copy, but very little actual production work is required by the person asking the computer to make the copy.

What does Appriss charge for this copy of the record? Well, first, before you can even get a copy of this public record, you must have the report number to request it. So, Appriss will not be abiding by the public record laws that say accident reports are open records.

Of course, they are not a "public governmental body," and therefore not subject to the Sunshine Law, and you can still get these reports from the police department. But if you proceed with Appriss to get a copy, it will set you back \$17 per report.

Neighborhood members commenting on that public website noted that they thought this charge was unreasonable. They thought public records

were supposed to be available at a minimal charge, and they thought the charge was ridiculous, given how many public records today are available free online. All good thoughts.

However, what troubles me most of all is that public bodies are finding that their own commercialization of public records is a profit stream for them.

You will hear public bodies howl about the travesty of businesses buying their records electronically and then "making a profit off of them." There is one statute that even forbids release of one particular kind of public record if the custodian believes that they are to be used commercially.

The custodian gets to choose who gets the record and who doesn't. (I suspect if you want those records, it helps to be friends with this person.)

I'll add one more thought: It's clear to me this unnamed electronic record is probably the most commercially-used public record in the state. So if you get this record, because you have a good relationship with the custodian, you've got a pipeline in place.

See why the argument about public officials being incensed over the "sale" of commercial records makes no sense at all?

The truth is that they are public records. You and I should be freely able to see them, use the data and not be charged an arm and a leg to get that access.

When we paid our taxes, we paid already.

"The truth is they are public records. You and I should be freely able to see them, use the data and not be charged an arm and a leg to get that access."