

Government transparency, even in death

In the 150 years that Missouri Press Association has stood for journalists in the state, it has provided many services for its members. Many of these are “internal” services – help with advertising and marketing, training for your reporters, the Hotline (a personal favorite), and a multitude of other programs and materials to make your newspaper better.

But another important function of the association is that it stands for journalists and First Amendment principles in our state. Once again, Missouri Press has staked a position in regard to an issue that is already at the forefront of the national news in the last month and is going to come up again in this state in the coming month.

As you have read, the Arkansas governor recently scheduled eight executions in that state within an 11 day period. Immediately, litigation arose to block those actions and this issue continues to lead headlines as this column is going to press. One of the points being raised in the appeals relates to the lethal injection drug being used for those executions and the pharmacy which is its source, which allegedly was told “the drug would only be used in prison health clinics for its proper medicinal use, as opposed to putting prisoners to death,” according to a statement from McKesson Corp., quoted by National Public Radio.

In Missouri, a large group of plaintiffs, including the Reporters Committee for Freedom of the Press, the American Civil Liberties Union, a reporter for Buzz Feed and others from the Guardian News and Media, have been pursuing information on the source of the execution drugs used here for several years. The Department of Corrections has repeatedly refused to identify the source of those drugs, arguing that a state statute adopted 10 years ago prohibits disclosure of those who “provide direct support for the administration of lethal gas or lethal chemicals.”

Multiple cases have been filed against the Department of Corrections (the DOC), beginning in November

2013, seeking a court ruling on this issue, some in state court and at least one in federal court. Disparate rulings have been issued by judges on this issue, including one most recently by the Western District Court of Appeals, which allowed the DOC to protect the identify of its source of lethal chemicals. The plaintiffs in several of these cases, which eventually were consolidated at the Court of Appeals, have now filed a request for the Missouri Supreme Court to accept transfer of these matters and to rule on the language in the statute that is being used to close this information.

Your association is a strong believer in transparency in government, as you well know. There are good reasons to make the source of these drugs known. Legislators argued, back when this statute was created, that its intent was to keep confidential the identity of the actual “executioner,” given that many doctors who were being asked to serve this function were hesitant to do so if their identities were known to the public. Of course, the administration of justice to persons who have been convicted of the most heinous crimes is an unfortunate but necessary function of government. And the argument over the death penalty versus life in prison continues in our state. Unfortunately, human beings sometimes seem unable to disagree in principal about their beliefs without finding it necessary to take direct action to achieve their philosophical goals.

There is a point where government

accountability versus safety of an individual intersect. One important issue can be whether an individual is involved or a large corporate entity. Individual personal safety is easier to understand than protection of nationally-known drug companies.

And so, your Association has taken the step of joining these media entities in asking the Missouri Supreme Court to hear this case and decide the issue. A group of former Missouri legislators, including Rita Davis, Jeanne Kirkton, Margo McNeil, Jeanette Mott Oxford, Mike Schilling, Don Calloway and Wayne Goode, have similarly asked the Supreme Court to accept this appeal. Shortly we should begin to hear if this is an issue that body will address. We’ll keep our members informed about what is happening and welcome questions you might have about this issue.

The Association’s position stems from its belief that the best government is a government that operates within the perimeters of the Sunshine Law. “Sunlight is the best disinfectant,” said William O. Douglas. Certainly, he would stand with Missouri Press, the former legislators, and the other journalists on this issue, too.

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