

# Closed coroner's reports only make people think the worst

It started with a suicide. A young man, 17 years old, who was bullied in high school couldn't escape the atmosphere when he went to his job at Dairy Queen, where the bullying continued. And so, in December 2016, he took a way out that should never happen.

But the story of Kenneth Suttner didn't end there. The Howard County coroner decided to convene a coroner's jury to determine whether the facts surrounding the death constituted a crime.

Those who search online can find dozens of stories covering this tragedy, from local coverage to the nation's largest publications. But to make a long story short, ultimately the coroner's jury held that the school district was negligent in preventing bullying from occurring on school grounds. And the jury recommended charges be brought against a young woman who was Suttner's supervisor at the fast food job, because she had engaged in a number of actions meant to humiliate him, despite her assertion that it was done in fun. Charges in her case will play out in coming months.

But this is where the story becomes especially interesting for those of us in the journalism industry. How many times have we been told that coroner's reports

are "investigative reports," and are closed to the public until the criminal investigation and prosecution are "inactive" and that we cannot have them?

Well, the school district wanted access to those records. And the prosecutor, not surprisingly, said no. So the district

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went to court. Tom Mickes, who generally stands with school district officials denying voraciously any request from us for access to closed school district records, found himself trying to convince a judge that the district could not defend itself without getting access to those records. For the district, admittedly, it was not really a Sunshine Law argument as much as a legal discovery argument. And a judge held that the district had a right to those records, so he ordered they be released to the district, but at the same time, the judge placed a protective order on them, limiting the district's ability to further distribute those records.

Meanwhile, the *Columbia Missourian* made a request for those records from the coroner's office. And it got the same response most of us get – they are investigative records and would not

be released. However, it's interesting to note that when the coroner issued a press release about the coroner's in-

quest, he noted that the inquest process was open to the public and the records would be open to the public. A crowd attended the hearings. A transcript was kept of the proceedings, as required by state law.

And so, the *Missourian* has filed a lawsuit against the Howard County Coroner's office, seeking the court to declare that the records sought are public records, focusing in part on the fact that the public records law (Chapter 109 in the Revised Statutes of Missouri) mandates those records be kept and that they therefore are public records, subject to the Sunshine Law.

There is a history of courts recognizing the existing case law that holds coroner's records are subject to closure while the investigation continues. But Sandy Davidson, who is representing the *Missourian*, has made an interesting argument. And, beyond that, this case makes it very clear that when a community is faced with a situation where there appears to be strong injustice on the table, public officials holding their "cards" close to their "chests" simply encourages citizens to think the worst. Rumors grow. "Fake news" develops. Suspicions fester.

It's an interesting case. Add to it all that's happening in the state in other forums involving the Sunshine Law – legislative activity generated by Attorney General Josh Hawley hoping to create an Office of Transparency, and a number of Sunshine Law suits pending in other circuits in the state that focus more closely on political efforts by one group or another to discredit a state elected official, and it's quite a time to be following developments involving our favorite group of statutes.

Stay tuned – there's more to come!

