

Sunshine Law key to keeping government accountable

With the start of 2016 past us, the Freedom of Information Act will reach its 50th birthday on July 4 of this year. Arising from the ashes of Watergate and the late former President Richard M. Nixon's administration gone awry, it opened the door to transparency in federal government operations, and ultimately, to the similar state Sunshine Laws that help reporters today.

"FOIA, to me, is a fundamental, bedrock way that people who believe in democracy think about transparency and its role in government," says John Wonderlich, interim executive director of the Sunlight Foundation, in an article on the anniversary that ran in Nieman Reports this winter.

And its use has grown over the years as not just journalists, but citizens, researchers and private citizens have found uses for government information. In the past two years, 919 FOIA cases were filed, a 54 percent increase since President Barack Obama became president, despite his promise for more transparency in his administration. Nearly 500 cases were filed in fiscal year 2015, and, ironically, the most frequent defendant in cases over the last 15 years has been the U.S. Department of Justice.

Missouri's law came into existence in 1973, so we are several years behind the federal law. And there are no statistics available as to how many Sunshine lawsuits are filed every year in this state, but as an interested observer, I'd speculate that over the years it's unlikely there have been more than a few cases filed each year. Certainly there have been only a few appellate decisions each year, making this branch of the law one that is very easy to study in depth and grasp fully.

Over the years, newspapers have filed suit and citizens have filed suit. But I especially want to give credit to one organization that has, particularly in the last year, made significant inroads in terms of Sunshine Law litigation. I've been surprised how many

times lately I've seen news that the American Civil Liberties Union of Missouri has filed a new lawsuit or received a court decision over Sunshine Law concerns.

For example, last February, the ACLU filed suit against the City of Wellston, Mo., alleging that its request for a large number of city records was initially ignored upon receipt and that similarly, a subsequent request was ignored. No response at all was received by the city. To make matters worse, after the lawsuit was filed and served on the city, it failed to file an answer or other response to the lawsuit, so the ACLU filed a motion for a default judgment. The city didn't respond to that, so the judge entered a default judgment against the city and ordered it to pay

\$5,000 in penalties for a purposeful violation and additional attorney fees.

The ACLU sent that judgment off to the city for payment, and the court order was similarly ignored by the city, so ACLU went back to court seeking an order of contempt against the city. The city did not even appear at the hearing on that motion so the court entered an order of contempt, taxing the city with an additional \$100.00 penalty per day if it failed to purge itself of the contempt order. That did not happen. Finally, on July 30 of last year, the city did pay in full what it owed to the ACLU and both parties stipulated to the settlement.

And in 2014, the ACLU was a party in five lawsuits filed in Missouri courts against various city and state entities alleging Sunshine Law violations, ac-

ording to Missouri Case.net. Decisions are being reached in several of those cases which are strengthening the law in this state.

It is unfortunate that an entity (or even a citizen, who doesn't have the financial resources of an organization) must resort to litigation to enforce rights that are guaranteed under Missouri law. It is a travesty when a state agency or a city simply ignores its obligation under the law to the point where a lawsuit must be filed against it for contempt and a daily penalty imposed to get its attention that it needs to do what the law commands.

Sunshine Week is coming up next month. I hope newspapers across the state join to recognize not just

Missouri's law but the birthday of the federal law. I applaud those who have the financial means to not just let governmental bodies get away with ignoring their duties. And I note that there are several bills pending in the Missouri legislative session this month that include Sunshine Law proposals. Missouri Press regularly provides its members with information about those bills. Join the association in calling for strengthening this basic tenant of good government.

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