

# Should state decide who are journalists?

## *Bill would close photos of dead people*

About a year ago, the board of aldermen in the city of Ozark, just south of Springfield, debated adopting an ordinance banning photography of juveniles in any municipal facility, except photographs taken by family members. Many people, especially at the local newspaper, raised a complaint about the proposal, noting that the public cannot expect privacy while in public places.

Earlier this year, a woman in the Kansas City area began attempting to stir up support for a federal law banning offensive comments or pictures on memorial pages to deceased persons posted on the Internet. She acknowledged that there might be First Amendment issues in her effort, but said that she was shocked at the vicious comments she saw posted on a page of a person who died after an auto accident that also killed passengers in the car. This was before the U.S. Supreme Court ruled recently that the Fred Phelps clan is within its rights in protesting at the funerals of military victims.

Now the Missouri legislature is pondering getting into the act of limiting speech by closing records created by a state or local entity, or a suspect, at a crime scene. Photographs or video recordings that depict or describe a dead person "in a state of dismemberment, decapitation, or similar mutilation, including ... where the deceased person's genitalia are exposed," would be a closed record.

Opening this record to the public would require a judge ruling that the disclosure was in the public interest, and that this interest outweighed the privacy interest of the dead person's family. (See House Bill 883, introduced by Rep.

Scott Largent of Clinton.)

What is especially troubling about this bill is that the last section of the proposal provides that the director of the Department of Public Safety is to be in charge of creating rules and regulations that would allow "bona fide credentialed members of the press" to view the closed materials.

I am, of course, opposed to closing records that otherwise are open to the public, and these records would be closed initially, but eventually open to the public after the finality of the conviction of any party charged with a crime as a result of the matter.

But what is even more troubling to me is the idea that we are going to start "credentialing" members of the press. First, of course, I suspect the non-print, non-paper members of the media will object to the use of the word "press." Second, what this bill proposes is to allow the government to start regulating who is and who isn't an official member of the Fourth Estate.

Would you want the Department of Public Safety making decisions about

what standards to use to recognize you as a member of the media? Would they base it on the size of circulation of your publication? The time it had been in print? The size of your staff? Whether you were online or print (right now, it is clear that is part of the definition), how much education you have? (And during the next budget pinch, would they charge a fee for these credentials?)

You may dislike bloggers, special interest journalists and others who write about crime scenes or deaths. I would bet, though, that none of you would agree to gain rights to closed documents under a law that required us to meet state requirements and get licensed by state officials in the process.

What is especially troubling to me about this is that other states have already adopted similar laws. Georgia passed a similar bill in haste last year when "Hustler" magazine requested photos of a slain hiker. Florida passed a similar law restricting access to photographs of Dale Earnhardt after his death. But, one needs to realize that public discussions of the photographs of Earnhardt after that crash eventually resulted in development of a device to protect drivers in similar race accidents.

Photos taken at scenes like this are strong, graphic images. They do generate a strong response. But they also can generate a call for changes in the situation that led to the tragedy. They motivate the public. They educate those seeking to prevent the deaths of others. There is good that can come from such photographs.

But no good can come from the government determining who shall be considered an official member of the media.



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