

Government Open Access Laws: Let's (Not) Be Blunt



By Eric Sinrod,

Federal and state open access laws allow the public to monitor the activities of government. Indeed, the federal Freedom of Information Act and its state counterpart "Sunshine Laws" are at the bedrock of our democracy. As has been held by the United States Supreme Court, an informed citizenry is essential to a fully functioning democracy and must keep track of "what the government is up to."

When the government operates in secret our democracy can be threatened. It is not surprising, then, that sharper teeth were added to the Freedom of Information Act in the wake of the Watergate Scandal in the 1970s.

Of course, there are limitations in terms of access to certain types of sensitive government information. For example, specific exemptions are built into the Freedom of Information Act to allow the withholding of materials that may compromise ongoing law enforcement investigations or that could jeopardize national security interests.

Still, the Freedom of Information Act and the state Sunshine Laws evoke a general philosophy embedded in law that the government works for the people and the people are entitled to see the work of government so as not to concentrate too much power into the hands of politicians.

There can be true concern when the letter and spirit of government access laws are thwarted by government officials.

According to the Associated Press, special court-appointed investigators currently are seeking fines from Missouri Governor Matt Blunt for allegedly "knowingly and purposely" violating Missouri's public records law by denying access to certain emails. The matter has escalated to the point that a lawsuit has been filed against Blunt and his former Chief of Staff.

According to the lawsuit, Blunt's Chief of Staff violated Missouri's Sunshine Law by denying that certain emails existed, when allegedly they could have been retrieved from backup tapes. Certain emails reportedly became of interest in that they supposedly would have shown communications between the Governor's office and anti-abortion groups.

Blunt's Chief of Staff reportedly has stated that the claims relating to the alleged emails lack merit and are politically motivated. It may take the full resolution of the lawsuit to ascertain whether that is the case.

At the end of the day, government open access laws are powerful tools designed to make government transparent and to safeguard our freedoms. Government withholding of information only should occur for proper purposes based on specific statutory disclosure exemptions.

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