

Sunshine Law Audit ⁸⁰⁰

State Auditor Susan Montee released a summary of state and local audit findings pertaining to the Missouri Sunshine Law this past week. Like most things Sunshine Law related, it didn't generate much buzz.

Missouri's Sunshine Law was introduced seven years after the Freedom of Information Act was passed in Congress in response to the Watergate scandal. In 1973 the measure was signed into law, making our state one of the earliest advocates of the open records act.

The law expressly states that the public policy of our state is that meetings, records, votes, actions, and deliberations of public governmental bodies are to be open to the public. While there are exceptions, the law holds they are to be strictly interpreted to promote the public policy of openness.

Some 36 years after it was passed, Montee's audit demonstrates that Missouri's pioneering Sunshine Law is needed as much today as it was when it was first passed. As our colleagues at the *St. Joseph's New Press* pointed out, the audit shows there are plenty of Sunshine Law violations still occurring and more work needs to be done in terms of compliance. Consider this:

- Poor handling of minutes and agendas for public meetings — cited during 47 local government and state agency audits over the past two years.
- Problems with minutes required for closed meetings — cited 30 times.
- Failure to document a legal justification for closed meetings — cited 18 times.
- Inadequate policies and procedures for granting public access to open records — cited 24 times.

The audit's findings are just the tip of the iceberg in terms of violations, according to Sun-

shine Law experts. The Missouri attorney general's office fields thousands of calls each month concerning alleged violations. The equivalent of 2 1/2 attorneys are assigned to handle the complaints. To say they are overwhelmed is an understatement.

Montee's audit doesn't document any Sunshine Law violations in Franklin County but that doesn't mean that none occurred. We have reported on numerous alleged violations in this area. Some of those violations were blatant.

But while the law's intent doesn't equivocate, there are plenty of shades of gray in the statute that have led to abuses. Worse, the law doesn't have the teeth in it to make it a true deterrent. The most any one can be fined for "purposely" violating the law is \$5,000. That level of fine is rarely, if ever, imposed. Most open record law challenges are never undertaken because of the legal costs involved.

There have been numerous attempts to strengthen the Sunshine Law over the years. The last major revision occurred in 2004. Each year since then, including this past session, a bill has been introduced to make substantive changes to the statute. They have all failed.

But that could change as the political climate changes. It's clear the political landscape is becoming more volatile. Americans are more cynical of government than ever. Citizens are demanding more accountability from their elected officials. They are rebelling from what some argue is a dramatic growth of government influence, power and complexity. Some would argue that a full scale revolt is brewing.

The best way to keep government in check is through transparency. Sunshine is the best disinfectant for government abuse.

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