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**AG reps  
speak of  
Sunshine**

'Golden Rule' should  
be guide, says educator

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Citizens, representatives from local law enforcement, government entities and the media were encouraged by members of the state Attorney General's Office Friday to resolve their issues regarding the Sunshine Law.

Tom Durkin, public education director from the AG's office, and Margaret Landwehr, assistant Attorney General, met with members of those groups and the public at the Laclede County Government Center for a workshop to discuss Missouri's Sunshine Law.



**'If we have nothing to hide, let's hide nothing.'**

The morning session dealt pri-

marily with custodians of public records for government entities. The afternoon session was focused on law enforcement.

— Tom Durkin  
AG's Office  
public education director

Durkin said his office handles 10 to 12 calls regarding the Sunshine Law each day.

"I see that we are called to mitigate circumstances that could be remedied without this book (Sunshine Law Handbook) at all if we all followed one simple rule — the golden rule," said Durkin. "I see people who have allowed a personality conflict to get in the way ... I invite you on both sides of the issue to check your egos at the door."

Durkin said he is aware of the recent problems in Lebanon that have concerned a new information release policy by Lebanon Police.

"I encourage you to take care of these differences as much as you can in your own community, but if you need our assistance, we're there," said Durkin.

He commended the city's Police Board for meeting with the media recently and called it a good first step in communication. Durkin said he had listened to a transcript from the meeting.

He explained that the Sunshine Law is per-

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missive. Government bodies aren't ever required to close meetings or records. The law simply provides exceptions that allow for closure.

As far as police reports are concerned, investigative reports can be closed records. Incident reports are open records under the law, he said.

Durkin has seen copies of press reports the police are releasing, and they contain all the information that is to be included in an incident report, according to the Sunshine Law: date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident.

"The problem, I guess, is it used to be done a different way," said Durkin.

Lebanon Daily Record Editor Julie Turner-Crawford, who has been vocal in her disagreement with the new police information policy, explained Saturday that her position remains that the police incident, arrest and accident reports are public records, so the press reports are unnecessary extra paperwork.

"The problem with the media releases is that they are not the official reports," she said. "It is impossible to know what information is being withheld without comparing the press report with the official incident report, which is a public record to which we are being denied access on a daily basis."

The press reports are generated from the official incident reports, but they are edited before being printed, Crawford pointed out. It amounts to spoon-feeding the media only what the city wants the media to know, she said.

Durkin suggested that this might be the time for law en-

forcement officials to create a new report form. The first page could be the incident report information. The next page could be investigative information. The first page

would be open. The second would not.

Portions of an incident report may be closed if the disclosure of that information could place someone in jeopardy, according to Durkin. Victim names are open records unless the release places the victim in danger. Suspect names are closed unless an arrest is made. Birthdates are closed, but age is an open record.

Investigative reports can be closed records, "but if you believe the public can be better served by opening it, then do that," he urged.

If they remain closed, they must be opened when the investigation is completed or when charges are filed and an arrest is made. Arrest reports are open records.

Durkin said he understands it is difficult for law enforcement personnel to comply with the Sunshine Law because some information needs to be kept confidential so that police can do their job. He encouraged them to find a way to serve the people but do their jobs at the same time.

Durkin said that he hopes a relationship can be built based on the philosophy: "Openness is good. We have nothing to hide, so we'll hide nothing."

In response to a question from Police Chief Joe Brauer, Durkin said that internal investigations are closed because they deal with personnel issues. They would only be open if the investigation results in an arrest.

Government bodies and law enforcement agencies

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have 72 hours to respond to a Sunshine Law request. However, that doesn't mean they must turn the requested documents over in 72 hours. The response can simply be that "you need more time," he said, adding that the custodian of the records can then pick

the time frame to release the information.

"And a little Human Relations 101; 'Please, thank you, you're welcome' goes a long way," said Durkin.

Government bodies are allowed to close meetings, but are not required to do so.

There are 21 provisions allowing a closed meeting. In a couple of months, Durkin said two more reasons regarding educational records will be added to the list.

When taking minutes of a closed session, Durkin suggested going beyond what the law suggests, which is time, date, location and roll call votes..

"This is a bare-bones law," said Durkin. "Those minutes are a guide for whoever succeeds you."

Durkin said once a mayor who just took office wanted to see minutes from a previous closed meeting. A judge ruled that he could not, but the Attorney Generals' office's said that he should be allowed see them.

"Those minutes belong to the (government) body, not the individual," said Durkin.

The specific provision that allows for closing the meeting must be stated. Durkin said a government body can go into closed session for more than one reason.

He said there are some cases where the information never has to be opened. In other cases, there is a time limit on how long the information can be closed, such as during litigation and cases that may be appealed, according to Durkin.

Fees can be charged for providing records because it can be time consuming to

locate, copy and send them out, according to Durkin.

"I would be misrepresenting the facts if I did not suggest to you there are

people who have a grievance towards a (government) body who will stir up the water just to aggravate the body," said Durkin. "It happens."

He suggested doing the right thing when responding to requests.

It's not required, but he suggested that requests for records be made in writing so there is a record of when the request was made.

E-mails sent to the quorum regarding public business are open record. Copies of e-mails must be made and given to the custodian.

When asked who ultimately pays the penalty for Sunshine Law violations, Durkin said that in a civil case, each individual and the body could pay \$1,000 each. The maximum fine is \$5,000 each. When a government body pays a fine, it ultimately comes out of the taxpayers' pockets.

Durkin reminded everyone that Watergate was first reported by two Washington Post reporters, Carl Bernstein and Bob Woodward. Watergate came to an end when President Richard Nixon resigned in 1974.

"He didn't resign because of the Watergate break-in. He resigned because he was part of a conspiracy to cover up information," said Durkin.

As a direct result of Watergate, Missouri passed the Sunshine Law in 1973 as Senate Bill 1.

"Our office struggles with it ... every day. Understand that the alternative of not struggling with it leads to what happened in Washington," said Durkin.

The Sunshine Law is based on the theory that "If we have nothing to hide, let's hide nothing,"

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