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**Boards may  
not operate  
in Sunshine**

**SKYE COBB**  
Star-Journal Staff Writer

Johnson County - Local government leaders from throughout Johnson County attended a free Sunshine Law workshop at the Johnson County Fairgrounds yesterday afternoon.

The public education director for the Missouri Attorney General's Office, **Tom Durkin**, spoke philosophically, saying the law is sometimes hard to understand.

"This law comes far closer to being art than science," Durkin said. "I work with many of the finest legal minds in this state, maybe even on this planet, and we struggle daily with interpretation of various exceptions in this law."

Durkin's office receives 12 to 15 Sunshine Law questions daily by e-mail or phone.

"I have yet to come across a Sunshine Law question that can be answered in a single sentence," Durkin said.

Taking public office shows people are willing to work to better their communities, but that includes the need to follow the law.

"There has been a lot of popularity given to this law of late and there has been a significant amount of noncompliance with the law," Durkin said. "The noncompliance is not out of malice. It's out of not really comprehending it."

The Missouri General Assembly passed the law in 1973.

"There was a direct correlation between what was taking place in our nation and the introduction and the enactment of this

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# Boards may not operate in concert with state law

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legislation," he said.

President **Richard Nixon** resigned in 1974. Durkin said, not because of the Watergate break-in but because of the conspiracy to cover-up the break-in.

"It's terribly important that we keep in mind the genesis of this legislation so that we can grasp the totality of what it means to open up government, and how important it is to do that and what the consequences are even locally, especially locally, when we don't do that," Durkin told the crowd of about 50.

Going through basics of open and closed meetings, and giving personal anecdotes, Durkin explained some of the more interpretable parts of the Sunshine Law.

In the question-and-answer session, Western Missouri Medical Center Chief Operating Officer **John Smolen** asked whether a discussion by board members in a closed session can be kept from the public.

Durkin said a dialog is not a record. Dialog is words and a person could go out of the meeting and tell others about the discussion without violating the Sunshine Law.

"It would be a violation of personal ethics," Durkin said. "But it's not a

violation of the law. Closed session is permissive. It's not statutory. You should probably have an agreement among your peers that what is said in here stays in here."

Another question referenced county commissioners who meet all day long while not posting an agenda with specific items and times.

Durkin said they probably meet that way because they have handled their open meetings this way for a long time.

"The county commissioners of which you talk about have been doing things the old-fashioned way for a while I suspect and they are having a hard time reinventing themselves," Durkin said. "Technically speaking if there are two of them in there and they are discussing public policy and it is not noted on the agenda, they are in violation of the law. If that came to our office we would write them. ... If we had to do that on numerous occasions we would go to court."

Durkin answered several one-on-one questions as people left the meeting. He told the audience his office takes each Sunshine Law question seriously, but with so many questions, response times may be slow.

