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Our opinion

RULING RAISES RED FLAG

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Advocates for open records raise a pertinent question: What does a person have to do to be found in violation of Missouri's Sunshine Law?

At the Department of Natural Resources, a former deputy director reportedly decided earlier this summer to break with longstanding practice and not promptly release water quality data collected at the Lake of the Ozarks.

At least one reporter and a member of the public noticed the delay and started asking questions, focusing directly on when the data would be released. But even though it was clear what they wanted, DNR and its employees stonewalled for four weeks. And now they have been exonerated of any transgression of the Sunshine Law.

The requests for the data could not be "reasonably interpreted" as Sunshine Law requests, in that they failed to make clear they were based on the state's open records law, according to Attorney General Chris Koster.

Apparently a request to see public records in our state does not count unless you know to cite the legal statute, or think to use the words "Sunshine Law," when making your pitch. That's a red flag for any state that desires to be known for transparent and open government.

We're only slightly comforted by the idea that DNR now is considering placing instructions for making records requests prominently on its Web site. It's at this





point we are prone to remind elected and appointed officials of a few relevant facts: The Sunshine Law exists for the benefit of the public, it begins and ends with a presumption that records are open, and it provides only limited instances under which records can be kept closed.

A key understanding should be that “can be kept closed” is not a requirement to close a record. Also, we must do better than denying records simply because a citizen doesn’t know the secret password.

In the instance involving the Lake of the Ozarks, the data eventually released four weeks late showed E. coli bacteria was present at unsafe levels. This fact apparently was not lost on the DNR official who decided to sit on the data rather than release it and possibly deter lake tourism at the height of the summer season.

Now we know the rest of the story ... but well after the health concern should have been made public.)

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