



241-800. Editorial

THE TRIBUNE'S VIEW

Systematic openness

The spirit of the Sunshine Law

Missouri's Open Meetings and Records Law, usually called the Sunshine Law, explicitly says public officials and courts should interpret the law with a bias toward openness. Unless the law provides very specific and narrow exemptions, it requires official disclosure.

This is a perfectly good rule for officials to follow in their daily conduct of public business, but this sort of voluntary compliance requires no law enforcement, and to correct noncompliance a less assumptive process is required. Somebody has to complain, often in court.

Thus, merely by failing to disclose, a public official might have broken the law, but so what?

Such a situation involved the state Department of Natural Resources this spring when it failed to disclose excessive levels of E. coli in the Lake of the Ozarks in a timely manner.

Nobody complained, and the agency did disclose results of a subsequent test a month later. Because no complaint was lodged during the first month, Attorney General Chris Koster found no violation of the Sunshine Law. I assume he is right according to legal processes, but what about willful violation regardless of actions or inactions of outside plaintiffs?

If after the fact a public official or body is found to have clearly violated the law, should punishment be escaped just because no earlier complaint was filed?

In the E. coli case at the lake, no harm was done. As much as anything, the circumstances call into question the method of testing the bacterium in that location. During May, E. coli levels apparently were 19 times more than prescribed maximum levels. By June, levels were back to normal. This sort of wild swing poses an impossible problem for regulators. From the mere numbers, you would think dead bodies would have been floating all over the lake in May. Given the violent change in water quality, one assumes a large turnover occurred during May, a flushing that obviously cleaned the lake by natural causes in a short span of time.

I'm not saying elevated levels of E. coli are nothing, but I do wonder about the testing criteria and what they really tell us.

DNR officials said the first test might have come from excessive runoff from larger-than-average rainfall just before the May tests. June tests show just as hasty a retreat. If E. coli levels are to change that much that fast, what are lake dwellers to do? To act accordingly, they'd have to get a reading every morning. Their lives at the lake deny any such need.

DNR should reveal the results of every test it is required to make, but apparently the E. coli results at the lake sometimes will offer more confusion than determination. The way to understand the situation is through more disclosure, not less. What we will come to

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understand is not so clear at this moment.

Meanwhile, just because a bank robber got away with it for a time, should we not punish him when we catch him?

HJW III

I have often thought the best way to define a man's character would be to seek out the particular mental or moral attitude in which, when it came upon him, he felt himself most deeply and intensely active and alive. At such moments there is a voice inside which speaks and says, "This is the real me!"

— **WILLIAM JAMES**

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