



St. Louis Post
Dispatch
St. Louis, MO
Circ. 278471
From Page:
3
3/13/2011
11269



800-92

Missouri parole board works under shroud of secrecy

Exemption from Sunshine Law means records, proceedings are often closed.

BY DAVID A. LIEB • Associated Press

JEFFERSON CITY • About 18,000 convicted criminals are on parole in Missouri, granted release from prison by a state board for reasons that remain secret. Parole board hearings, votes and records all are closed to the public.

The secrecy of the state Board of Probation and Parole was highlighted this year when Gov. Jay Nixon granted clemency to a man just days before he was to be executed for a murder conviction. The closed nature of the board prevented the public release of any information it provided the governor. It even barred the release of the most basic facts, such as whether the board's clemency recommendation to the governor was a "yes" or "no."

The Board of Probation and Parole stands as a stark exception to Missouri's Sunshine Law, which declares that meetings, records, votes, actions and deliberations of governmental entities generally shall be open to the public. The law states that its requirements should be liberally construed in favor of open government.

That's why the Missouri parole board has received a failing mark from some who monitor open-government policies.

"There's no other agency that I know of in the whole world that claims such a sweeping exemption as the parole and clemency board here in the state of Missouri," said Ken Bunting, executive director of the National Freedom of Information Coalition headquartered at the University of Missouri-Columbia.

The parole board consists of seven people appointed by the governor — though it currently has one vacancy — who determine whether to release people from prison and, if so, whether they should be subject to electronic monitoring or other special forms of supervision. Last year, the board held 9,795 parole hearings, an average of 816 per month. The board also investigates applications for pardons and commutations and makes recommendations to the governor.

Missouri's parole board comes by its secrecy legally. A 1984 state law says any meeting, record or vote involving probation, parole or pardons may be a closed. The use of the word "may" is important. It means the board is not required to close its records and proceedings, but it can do so if it chooses. The board has opted to do so under a state regulation that implements the law.

That regulation, last updated in 2008, says all meetings of the Board of Probation and Parole are closed unless posted as open, and all votes of the board also are closed.

The board refers media questions to the Department of Corrections, the agency under which it is located. Department spokesman Chris Cline confirmed that nearly all parole board proceedings and records are closed. The agency can say if someone has been granted parole, for example, but cannot release the vote by which that decision was made nor the specific reasons for the decision.





Neither the Association of Parole Authorities International nor the American Probation and Parole Association track the number of states with open or closed parole board procedures.

But Missouri's approach of keeping almost everything secret is unusual, said Todd Clear, dean of the School of Criminal Justice at Rutgers University in New Jersey and a consultant for parole systems in more than a dozen states during the past several decades. Parole board votes generally are public records, he said. Clemency recommendations to governors also typically are public information and, in some states, so is the rationale behind that decision, Clear said.

Yet many states do not allow the general public to attend parole hearings, he said.

Missouri law requires the parole board to conduct a personal interview with offenders before they are released, unless the inmate doesn't want to appear before the board. State law also allows the victim or a representative to be present for the hearing, as well as the judge, prosecutor or member of the law enforcement agency that investigated the crime.

Clear said parole decisions often are made according to systematic criteria, such as the amount of time an inmate has served, his or her disciplinary record in prison and whether there is an approved work plan upon release. That diminishes the need for public testimony, he said.

"You don't want to ask the prisoner, 'Did you find Jesus Christ?' You want very specific things to be taken into account in specific ways," Clear said. "I tend to see the parole decision as being one which increasingly doesn't need the ceremony of an open-courtroom-style moment in which people speak their minds."

Yet, Clear acknowledges, parole boards make decisions that affect the public and thus could merit some amount of transparency.

That is precisely the reason why Bunting, the open-government advocate, believes Missouri's parole board should not be so secretive.

"They deal directly with public safety, and the public has an interest in their own safety," Bunting said.

St. Louis Post
Dispatch
St. Louis, MO
Circ. 278471
From Page:
3
3/13/2011
11269