



SPECIAL TO SUNSHINE WEEK 2010

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A new weapon in Sunshine battles: The Knight FOI Fund

FOI requesters can turn to state FOI coalitions for help with the upfront costs of litigation, thanks to new Knight FOI Fund.

COLUMBIA, Mo. -- A few weeks ago, [Columbia Daily Tribune](#) reporter T.J. Greaney was looking at court records to see who was suing whom and for what—a staple of the city reporter—when a case file jumped out at him.

It seems a Columbia man, Rodman Marine, had filed a federal lawsuit against the city, alleging excessive force by the police. (Links to *Tribune* articles about the incident can be found at <http://www.nfoic.org/knight-foi-fund-a-new-weapon-in-sunshine-battles>.)

So Greaney, good reporter that he is, filed a freedom of information request for any documents concerning the incident. A police spokesperson contacted him days later and told him that 97 pages of documents and eight CDs containing filmed interviews about the incident were ready for pickup.

But when Greaney came for the records, he was in for quite a surprise: The Columbia Police Officers Association, alerted to the FOI request, had filed a temporary restraining order preventing their release.

The law was fairly clear on the matter, and then again, not. The city had adopted an open records ordinance in July when it created the Citizens Police Review Board. The ordinance says that “all records pertaining to complaints filed against police officers alleging misconduct of the police officer shall be open records,” with exceptions for those closed by federal or state law or that disclose the identity of an undercover officer.

What’s more, a 2001 Missouri Supreme Court opinion found that reports concerning an internal investigation into a complaint alleging criminal misconduct by a police officer are “investigative reports and therefore public records that cannot be closed on the grounds that they are personnel records.” The Columbia city ordinance differs from the Supreme Court precedent largely in the fact that it does not use the word “criminal.”

So the Daily Tribune and its counsel, Missouri Press Association attorney Jean Maneke, had a choice to make: Enter the fray as an intermediary, or let the city and the police officers association debate the merits of the city ordinance and its application to state FOI law.

The Daily Tribune is holding its own in these tough economic times, but still, the prospect of a lengthy, costly battle for the files was a daunting one, said Managing Editor Jim Robertson.

“Unfortunately, we always have to weigh the potential cost in dollars against principal and the potential harm an adverse ruling could create on a larger scale. These days, we have to choose our battles very carefully,” Robertson said.

So the Daily Tribune turned to the National Freedom of Information Coalition and its newly created Knight FOI Fund, which provides grants to cover the upfront costs of FOI litigation. For more on the Fund, see <http://www.nfoic.org/knight-foi-fund>.

The NFOIC’s Litigation Committee agreed to cover up to \$10,000 in legal costs, making the decision to pursue the records a much easier one to make, Robertson said.

“Knowing the coalition grant would cover the hard costs, which can be substantial, and partnering with the Missouri Press Association on other expenses raised our comfort level significantly. We felt we needed to have a voice at the table, and NFOIC was a great help getting us there.”

Days later, in a 45-minute hearing, a Boone County judge made quick work of the police officers association’s arguments, finding that the city ordinance and state FOI law mandate release of the documents. Greaney had the documents and videos, which documented the incident through the statements of dozens of witnesses to the incident.

The cost? \$145.61. (The total cost, including hourly fees not supported by the Fund, was \$2,065.61.)

That’s right. Provided there is no appeal, it took a whopping \$145.61 in upfront costs to bring to light all of the details of a tragic night in Columbia, to kindle a much-needed examination of police conduct, and to inform the citizenry about the investigation.

“It’s a reminder of the importance of the Knight FOI Fund, which can make it easier for FOI litigants to make the choice to fight the good fight for openness,” said Charles N. Davis, executive director of the National Freedom of Information Coalition and an associate professor at the University of Missouri School of Journalism. “Funding the upfront costs of FOI litigation makes it an easier call.”

Perhaps Columbia City Attorney Cavanaugh Noce said it best at the hearing.

“One of the purposes of doing all this is to install openness so people can have faith in their police department and so police officers can actually be vindicated,” he said.

The **John S. and James L. Knight Foundation** advances journalism in the digital age and invests in the vitality of communities where the Knight brothers owned newspapers. Since 1950, the Foundation has granted more than \$400 million to advance quality journalism and freedom of expression. Knight Foundation focuses on projects that promote community engagement and lead to transformational change. For more, visit <http://www.knightfdn.org/>.

The **National Freedom of Information Coalition** is a national network of state freedom of information advocates, citizen-driven nonprofit freedom of information organizations, academic and First Amendment centers, journalistic societies and attorneys. A unit of the [Missouri School of Journalism](#), the NFOIC is an affiliate of the [Donald W. Reynolds Journalism Institute](#). Its mission is to foster government transparency at the state and local level. NFOIC is based at the [University of Missouri](#), home to the nation’s oldest [Freedom of Information Center](#). For more, visit <http://www.nfoic.org/>.