

## Public accountability needed after mass shootings

By Eric P. Robinson, USC School of Journalism and Mass Communications

Less than a week after the horrific shooting spree at Marjory Stoneman Douglas High School in Parkland, Florida, that killed 17 students and staff members, a coalition of 16 news outlets and organizations filed a motion with the criminal court overseeing the prosecution of the shooter, arguing that hearings and records in the case should be open to the public.

The same day as the shooting, the *Las Vegas Review-Journal* and the Associated Press filed a motion with the Nevada Supreme Court to overturn a court order that they return the autopsy report of an off-duty police officer killed in the Las Vegas mass shooting last October. (The court ruled in favor of the media two weeks later.) And just over two weeks after the Florida incident, the Connecticut Supreme Court heard arguments in an effort by the news media to access papers including drawings and writings seized from the home of the shooter at Sandy Hook Elementary School in 2012.

Why would the media go to court to make these requests? Don't these massacres and the madmen who perpetuate them get enough attention already? Who would want to exacerbate the suffering and grief of their victims, their families, and their friends by revealing and rehashing their suffering?

The media's requests for information about these recent tragedies may be extreme examples, but there are several important reasons why this information should be publicly available. For the shootings specifically, exploring the circumstances of these events can help uncover how they occurred, and perhaps how they can be prevented in the future. Once the government steps in to investigate incidents such as these, it's important that the information revealed be available to the public, so that the government can be held accountable for what it did and should have done to prevent the incident, and also for the way its investigation is conducted.

Public accountability of government entities and officials, from the President to an individual police officer, is a fundamental concept of American government. After all, one of the fundamental rationales for American independence was that the British government was not accountable to the colonists. This sentiment was reflected in the maxims of the revolutionaries, such as "No taxation without representation," "Don't tread on me," and "Give me liberty, or give me death!"

These days, we express our desire to hold government accountable in various ways, including regular elections, challenging improper government decisions and actions in court, and petitioning and protesting for or against policies we believe in.

But an essential part of holding government accountable is knowing what it is doing. This requires government to operate in the open, with public access to and participation in government proceedings and processes, and public access to government records. This is why we have open meetings and open records laws that require public access to the operations of government.

Each year a week in mid-March is designated as "[Sunshine Week](#)," which celebrates and highlights the American commitment to open and accountable government. But it is important

for citizens—and their surrogates, including watchdog groups and the media—to remain vigilant observers of what government is doing. Openness in government, and the open government laws and court rulings that implement it, are essential to this effort.

Government prevention and handling of mass shootings is an extreme example of the importance of oversight of government. But, as the unraveling of the secrecy surrounding the abandonment of the V.C. Summer Nuclear Station and its consequences show, it's also important to keep an eye on more mundane government activities. So last year South Carolina's Freedom of Information Act [was updated](#) to require more openness in state and local government.

We in South Carolina can mark Sunshine Week by celebrating the expansion of public accountability of government that will come from the revised law. But more changes are needed. The state Supreme Court [is set to decide](#) whether a chamber of commerce that receives and spends government money to promote tourism must account for its operations and how that money is spent. Another court [will decide](#) whether caucuses within the Legislature are required to disclose materials under the state FOIA law. And Governor McMaster has proposed that the state's Freedom of Information Act [should be expanded to cover legislators' individual office records](#), and also [require public filings](#) by lobbyists at all levels of state and local government. The state and federal freedom of information acts are not only checks on government, they are essential components of our system of government. Making government records and information available to the public gives us the means to watch government at work, and helps ensure that it operates in the public's interest. As the founders of this nation realized 242 years ago, it is an essential component of American freedom.

*Eric P. Robinson is an assistant professor at the USC School of Journalism and Mass Communication, where he focuses on media law and ethics. He has worked in media law for more than 17 years, and is admitted to legal practice in New York and New Jersey and before the U.S. Supreme Court. This column is for educational purposes only; it does not constitute legal advice.*