

IN THE CIRCUIT COURT FOR THE CITY OF ST. LOUIS
TWENTY-SECOND JUDICIAL CIRCUIT
STATE OF MISSOURI

American Civil Liberties Union of)
Eastern Missouri Fund, Inc., and)

Michael K. Hill,)

Plaintiffs,)

v.)

City of St. Louis, Missouri,)

SERVE: Mayor Francis Slay)
1200 Market Street)
St. Louis, Missouri 63103;)

Department of Public Safety,)
City of St. Louis,)

SERVE: Mayor Francis Slay)
1200 Market Street)
St. Louis, Missouri 63103;)

Division of Corrections, City of St. Louis,)

SERVE: Mayor Francis Slay)
1200 Market Street)
St. Louis, Missouri 63103;)

Defendants.)

NO.:

DIVISION:

1222 CC 00423
31

FILED
22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE
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PETITION

1. This action is brought pursuant to Missouri's Sunshine Law, Chapter 610 of the Revised Statutes of Missouri, to require public disclosure of certain documents maintained by the City of St. Louis.

2. This Court has jurisdiction over this action pursuant to MO. REV. STAT. § 610.100, *et seq.*

3. Venue for this action is proper in this Court because the principal place of business of the City of St. Louis is in the City of St. Louis.

PARTIES

4. Plaintiff American Civil Liberties Union of Eastern Missouri Fund, Inc., is a not-for-profit organization created and operating under the laws of the State of Missouri. Amongst its activities is advocacy to protect and further civil liberties within Eastern Missouri.

5. Plaintiff Michael K. Hill is a citizen and taxpayer of Missouri, who, at all times relevant herein, has resided in and currently resides in St. Louis County, Missouri.

6. Defendant City of St. Louis, Missouri, is a governmental entity created by the constitution or statutes of the State of Missouri and a political subdivision of the State of Missouri.

7. Defendant Department of Public Safety, City of St. Louis, is a department of a political subdivision of the State of Missouri.

8. Defendant Division of Corrections, City of St. Louis, is a division of a political subdivision of the State of Missouri.

FACTUAL ALLEGATIONS

9. On or about September 27, 2011, Plaintiff Hill, acting on behalf of Plaintiff ACLU, made a written request to the custodian of records for the Division of Corrections for the City of St. Louis. A copy of the request is attached hereto as Exhibit A and incorporated herein by reference.

10. On September 27, 2011, and continuously through and including the date of the filing of this Petition, Defendant of City of St. Louis identified Lorenzo Chancellor

as the custodian of records for the Division of Corrections and identified his location as 200 South Tucker Boulevard. *See* MO. REV. STAT. § 610.023.1.

11. The September 27, 2011, request was directed to the custodian of records identified by Defendants at the location specified by Defendants.

12. The September 27, 2011, request was explicitly made pursuant to the Missouri Sunshine Law, MO. REV. STAT. § 610.010, *et seq.*

13. The September 27, 2011, request sought a copy “of any and all records relating to the inmate grievance procedure” but specified that it “should not be construed to include filed grievances.”

14. The records requested are “public records” within the meaning of MO. REV. STAT. § 610.010(6).

15. As of October 31, 2011, there had been no response to the September 27, 2011, request.

16. On or about October 31, 2011, an attorney for Plaintiffs wrote to the custodian of records identified by Defendants at the location identified by Defendants. A copy of the October 31, 2011, letter is attached hereto as Exhibit B and incorporated herein by reference.

17. The October 31, 2011, letter enclosed a copy of the September 27, 2011, request and indicated that no response had been received. It indicated that if no response was received by November 4, 2011, then Plaintiffs would assume that the failure to respond was purposeful.

18. On November 4, 2011, Charles Bryson, who identified himself as Director of Public Safety for the City of St. Louis, sent an email to a staff member of the ACLU. A copy of the email is attached hereto as Exhibit C and incorporated herein by reference.

19. In his email of November 4, 2011, Bryson indicated that Chancellor no longer works for the Division of Corrections and that he would “send [Plaintiffs’ attorney] the information requested no later than Monday afternoon.”

20. As of November 14, 2011, there had been no further communication from Defendants.

21. On November 14, 2011, the staff member of the ACLU who had been contacted by Bryson replied to Bryson’s email. A copy of the reply email is attached hereto as Exhibit D and incorporated herein by reference.

22. In the November 14, 2011, reply to Bryson’s email, the ACLU staff member wrote that Plaintiffs had not yet received the requested documents.

23. As of November 28, 2011, there still had been no further communication from Defendants.

24. On November 28, 2011, Plaintiffs’ counsel wrote to Bryson. A copy of the letter is attached hereto as Exhibit E and incorporated herein by reference.

25. In the November 28, 2011, correspondence, Plaintiffs’ attorney set forth the history of the request for records described, *supra.*, and indicated: “If there is some reason why the City is not complying with this request, then please let me know. As it stands, all we know is that we have made a request, which you personally received, and the City has not produced any of the public records requested. Under the circumstances, we will have no choice but to seek recourse in the courts under the Missouri Sunshine

Law if we do not receive a meaningful response (and, preferably, the documents) by December 7, 2011.”

26. As of the filing of this petition, there has been no response.

VIOLATION OF MISSOURI'S SUNSHINE LAW

27. As a government entity, the City of St. Louis is subject to the provisions of MO. REV. STAT. § 610.100 *et seq.*

28. As a department of a political subdivision of the State of Missouri, the Department of Public Safety for the City of St. Louis is subject to the provisions of MO. REV. STAT. § 610.100 *et seq.*

29. As a division of a political subdivision of the State of Missouri, the Division of Corrections for the City of St. Louis is subject to the provisions of MO. REV. STAT. § 610.100 *et seq.*

30. The records requested by Plaintiffs are public records under the meaning of the Sunshine Law.

31. No other provision of the Sunshine Law requires that the requested records be closed to the public.

32. Defendants' failure to disclose the records and respond to Plaintiffs' request for records is a purposeful, or in the alternate knowing, violation of the Sunshine Law and without lawful reason or excuse causes irreparably injury to Plaintiffs and the public by depriving them of public information to which they are entitled.

33. As a result of Defendants' actions, Plaintiffs have incurred and will continue to incur expenses for attorney fees and costs.

WHEREFORE, Plaintiffs pray that this Court find in their favor and against

Defendants and:

- A. Entering an injunction prohibiting Defendants from withholding the records referred to and described above, requiring Defendants to produce the records, and requiring Defendants to identify a custodian of records for the Division of Corrections and his or her location;
- B. Find that Defendants' violations of the Sunshine Law described herein are purposeful or, in the alternate, knowing;
- C. Impose a civil penalty against Defendants pursuant to the Sunshine Law;
- D. Award Plaintiffs' attorneys' fees and costs of litigation; and
- E. Grant to such other and further relief as is just and proper.

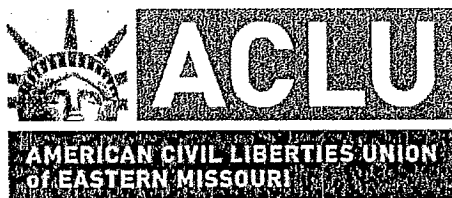
Respectfully submitted,



ANTHONY E. ROTHERT, #44827
GRANT R. DOTY, #60788
AMERICAN CIVIL LIBERTIES UNION OF
EASTERN MISSOURI
454 Whittier Street
St. Louis, Missouri 63108
PHONE: (314) 652-3114
FAX: (314) 652-3112
tony@aclu-em.org
grant@aclu-em.org

ACLU of Eastern Missouri
454 Whittier Street
St. Louis, Missouri 63108
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Tuesday, September 27, 2011

Lorenzo Chancelor
Custodian of Records
City of St. Louis Division of Corrections
200 South Tucker Blvd.
St. Louis, MO 63101

Dear Mr. Chancelor,

STAFF

Brenda Jones
Executive Director

Anthony E. Rothert
Legal Director

Grant R. Doty
Staff Attorney

John Chasnoff
Program Director

Debbie Read
Executive Assistant

Scott Emanuel
Development Associate

Redditt Hudson
Program Associate

Deborah Read
Executive Assistant

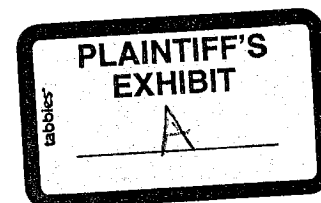
Pursuant to the Missouri Sunshine Law (RSMo. Chapter 610), this letter is a request for copies of any and all records relating to the inmate grievance procedure. This request should not be construed to include filed grievances.

As used in this request, the term "records" includes but is not limited to all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, information stored or maintained electronically or other material, regardless of physical form or characteristics or any copy thereof. Please note that the term "record" refers to those items in your possession, custody, or control, or those items which were, but are no longer, in your possession, custody or control.

If you claim that any document or portion thereof is exempt from inspection, as to each document or portion you claim to be exempt, please state the basis for the exemption, and identify the document or portion by date; by sender, recipient, or author; and by a description of the contents sufficiently detailed to enable an independent evaluation of the exemption.

If any record is otherwise withheld for any reason, please indicate the type of record withheld, the title or style of the record, the length or size of the record, the author of the record, a description of the subject matter of the record, the file(s) where the record (or copies thereof) may be located, and the reason(s) the record is being withheld.

Because this records request is being submitted in the public interest and "is likely to contribute significantly to public understanding of the operations or activities" of your division, I ask that you waive any fees or charge a substantially reduced fee pursuant to Mo. Rev. Stat. § 610.026.1(1). However, should you decline to waive or reduce fees, proceed without further approval if the cost of producing the copies does not exceed \$15.00 and send an invoice with the records. If the cost

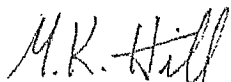


will exceed \$15.00, please contact my office to inform me of the cost prior to making copies.

This request must "be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received." Mo. Rev. Stat. § 610.023.3.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "M.K. Hill". The signature is written in a cursive, flowing style.

Michael K. Hill
Assistant to the Legal Director

ACLU of Eastern Missouri
454 Whittier Street
St. Louis, Missouri 63108
314.652.3114
314.652.3112 (fax)

www.aclu-em.org



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Grant R. Doty
Staff Attorney

John Chasnoff
Program Director

Debbie Read
Executive Assistant

Scott Emanuel
Development Associate

Redditt Hudson
Program Associate

Deborah Read
Executive Assistant

October 31, 2011

Lorenzo Chancelor
Custodian of Records
City of St. Louis Division of Corrections
200 South Tucker Boulevard
St. Louis, Missouri 63101

copy

Re: Sunshine Request of September 27, 2011

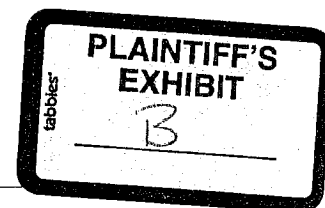
On September 27, 2011, we sent a request for open records under the Missouri Sunshine Law. A copy of the letter is attached. We have received no response.

As you know, a request under the Sunshine Law must be acted upon promptly and no later than the third business day after its receipt. Please give this matter your immediate attention.

If we do not hear from you by the close of business on Friday, November 4, 2011, then we will assume that the failure to respond is purposeful and proceed accordingly.

Sincerely,

Anthony E. Rothert



John Chasnoff

From: Charles Bryson [brysonc@stlouiscity.com]
Sent: Friday, November 04, 2011 11:30 AM
To: John Chasnoff
Subject: Request for Grievance procedure in Corrections

John,

Please notify other staff members that Lorenzo Chancelor no longer works for Corrections. Two sunshine letters were sent to his attention. I will send Anthony Rothert the information requested no later than Monday afternoon.

Thanks.

Charles Bryson
Director of Public Safety
City of St.Louis

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2012.0.1869 / Virus Database: 2092/4595 - Release Date: 11/04/11



John Chasnoff

From: John Chasnoff
Sent: Monday, November 14, 2011 11:08 AM
To: 'Charles Bryson'
Subject: RE: Request for Grievance procedure in Corrections

Tony tells me he has not yet received the requested information. Will you look into the matter and see that it is rectified? Thanks so much.

John Chasnoff
Program Director
ACLU of Eastern Missouri
454 Whittier Street
St. Louis, Mo. 63108
314-652-3114
314-652-3112 fax
john@aclu-em.org

From: Charles Bryson [<mailto:brysonc@stlouis.city.com>]
Sent: Friday, November 04, 2011 11:30 AM
To: John Chasnoff
Subject: Request for Grievance procedure in Corrections

John,

Please notify other staff members that Lorenzo Chancelor no longer works for Corrections. Two sunshine letters were sent to his attention. I will send Anthony Rothert the information requested no later than Monday afternoon.

Thanks.

Charles Bryson
Director of Public Safety
City of St. Louis

No virus found in this message.
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Executive Assistant

Scott Emanuel
Development Associate

Redditt Hudson
Program Associate

Deborah Read
Executive Assistant

November 28, 2011

Charles Bryson
Director of Public Safety
City of St. Louis
Room 401
1200 Market Street
St. Louis, Missouri 63103

Re: Follow up on Sunshine Law Request

Dear Mr. Bryson,

I am writing in a final attempt to request a copy of the inmate grievance procedure.

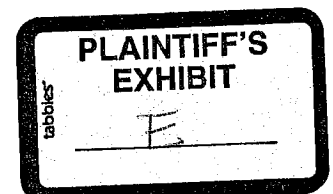
The ACLU of Eastern Missouri made its request to the custodian of records on September 27, 2011. A copy of the request is enclosed.

The request was directed to Lorenzo Chancelor, who is designated on the City's website as custodian of records for the City of St. Louis Division of Corrections. A copy of the website's listing of custodians of records, as it appears today, is enclosed. We received no response.

On October 31, 2011, I followed up with a letter, a copy of which is enclosed. In the letter I indicated that if there was no response by November 4, then we would assume that the failure to response is purposeful and proceed accordingly.

On Friday, November 4, 2011, John Chasnoff (also with the ACLU of Eastern Missouri) received an email from you indicating that you would send me the requested information no later than Monday afternoon. A copy of the email is enclosed. We received nothing.

On November 14, 2011, at my request, Mr. Chasnoff responded to your email to notify you that we still had not received the requested information. A copy is enclosed. There has been no response.

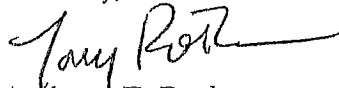


I am not aware of any reason why you would not provide a copy of the grievance policy to us. It is without doubt an open record under the Missouri Sunshine Law. As you know, the ACLU receives a large number of complaints from inmates of the City's correctional facilities and we frequently refer those inmates to the grievance procedures. Having a copy of the policy allows us to inform inmates about how they can attempt to resolve disputes administratively. We have made similar Sunshine Law requests to many other correctional facilities in Missouri without encountering a similar, unexplained failure to provide a copy of the requested documents.

If there is some reason why the City is not complying with this request, then please let me know. As it stands, all we know is that we have made a request, which you personally have received, and the City has not produced any of the public records requested. Under the circumstances, we will have no choice but to seek recourse in the courts under the Missouri Sunshine Law if we do not receive a meaningful response (and, preferably, the documents) by December 7, 2011.

Thank you for giving this matter your immediate attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Rothert", with a stylized, sweeping flourish extending from the end.

Anthony E. Rothert
Legal Director