

IN THE CIRCUIT COURT OF SAINT LOUIS COUNTY
TWENTY-FIRST JUDICIAL CIRCUIT
STATE OF MISSOURI

FILED

AUG 14 2014

JOAN M. GILMER
CIRCUIT CLERK ST LOUIS COUNTY

American Civil Liberties Union)
of Missouri Foundation, Inc.,)
)
Jeffrey A. Mittman, and)
)
Mustafa A. Abdullah,)
)
Plaintiffs,)
)
v.)
)
Saint Louis County, Missouri, and)
)
SERVE: Patricia Redington)
County Counselor)
County Government Center)
41 South Central, 9th Floor)
Clayton, Missouri 63105)
)
St. Louis County Police Department,)
)
SERVE: Patricia Redington)
County Counselor)
County Government Center)
41 South Central, 9th Floor)
Clayton, Missouri 63105)
)
Defendants.)

NO.:

14SL-CC02743

DIVISION:

18

PETITION

1. This action is brought pursuant to the Missouri Sunshine Law, Chapter 610 of the Missouri Revised Statutes, to require public disclosure of certain documents retained by the St. Louis County Police Department.
2. This Court has jurisdiction over this action pursuant to § 610.010, *et seq.*, RSMo.

3. This Court has jurisdiction to issue injunctions to enforce provisions of the Sunshine Law pursuant to § 610.030, RSMo.
4. Venue for this action is proper in this Court because the principal place of business of the St. Louis County Police Department is in Saint Louis County.

Parties

5. Plaintiff American Civil Liberties Union of Missouri Foundation, Inc. (ACLU), 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 Missouri.
6. Plaintiff Jeffrey A. Mittman is a resident of the State of Missouri.
7. Plaintiff Mustafa A. Abdullah is resident of the State of Missouri.
8. Defendant Saint Louis County is a political subdivision of the State of Missouri.
9. Defendant St. Louis County Police Department is a department of Defendant Saint Louis County.

Factual Allegations

10. Defendant Saint Louis County is a “[p]ublic governmental body” within the definition of § 610.010(4), RSMo.
11. Defendant St. Louis County Police Department is a “[p]ublic governmental body” within the definition of § 610.010(4), RSMo.
12. On August 12, 2014, Plaintiffs Mittman and Abdullah, on behalf of Plaintiff ACLU, made a written request to Defendant’s custodian of records seeking copies of documents. In particular, Plaintiffs sought “a copy of the incident report for the shooting of Michael Brown on August 9, 2014.” A copy of the request is attached hereto as Exhibit 1 and is incorporated herein by reference.

13. Plaintiffs specifically asked that “[i]f any or part of this request is denied, please send a letter listing the specific exemptions upon which you rely for each denial and provide the contact information for the official to whom I may appeal. Mo. Rev. Stat. § 610.023.4.”

Ex. 1.

14. Plaintiffs delivered their written request to Defendant’s custodian of records on August 12, 2014, by facsimile and by placing a copy in the United States Mail.

15. On August 13, 2014, the St. Louis County Police Department Bureau of Central Police Records (“Central Records”) responded to Plaintiffs’ request by facsimile. A copy of the facsimile transmission is attached hereto as Exhibit 2 and is incorporated herein by reference.

16. Central Records denied Plaintiffs’ request:

In ref to your request for incident report involving Michael Brown, [t]his is an on-going investigation and we are unable to release a copy at this time.

Ex. 2.

17. Approximately 30 minutes after Plaintiffs received the facsimile transmission from Central Records, Jeff Burk responded to Plaintiffs’ request by email. He attached one document “responsive to the request for an incident report consistent with RSMo 610.100.1(4). A copy of the email is attached hereto as Exhibit 3 and is incorporated herein by reference.

18. The file attached to Burk’s email has two pages: (1) a copy of Plaintiffs’ request and (2) a “CAD Calls List” indicating “1 Call Found.” A copy of the file is attached hereto as Exhibit 4 and is incorporated herein by reference.

19. The CAD Calls List includes the date, time, and specific location of complaint # 43984, which is described only as "SHOOT." Ex. 4.
20. The CAD Calls List does not include either the name of the victim or the immediate facts and circumstances surrounding the initial report of the crime or incident.
21. Counsel for Plaintiffs contacted Burk to discuss the inadequate response and left a detailed voicemail message. Burk did not respond.

Violation of the Missouri Sunshine Law

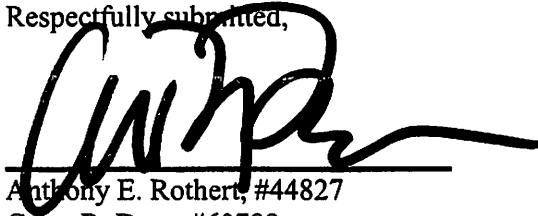
22. Defendant Saint Louis County is subject to the provisions of Chapter 610 of the Missouri Revised Statutes because it is a public governmental body.
23. Defendant St. Louis County Police Department is subject to the provisions of Chapter 610 of the Missouri Revised Statutes because it is a public governmental body.
24. The incident report requested by Plaintiffs is an open record. § 610.100.2, RSMo.
25. None of the provisions of Chapter 610 permit Defendants to withhold the requested incident report from the public.
26. Defendants' failure to produce the requested records is a purposeful, or, in the alternate, knowing violation of the Sunshine Law.

WHEREFORE Plaintiffs pray that this Court enter judgment in their favor and against Defendants, and:

- A. Declare that the incident report described in ¶ 12 is an open record under the Sunshine Law and is not subject to any exception that would require, or permit, Defendants to close it or any portion thereof;
- B. Enter an injunction requiring Defendants to provide Plaintiffs a copy of the incident report they requested;

- C. Find Defendants purposely, or in the alternate, knowingly, violated the Sunshine Law;
- D. Impose a civil penalty against Defendants pursuant to the Sunshine Law;
- E. Award Plaintiffs' attorneys' fees and costs of litigation as authorized by the Sunshine Law; and
- F. Grant to Plaintiffs such other and further relief as is just and proper.

Respectfully submitted,



Anthony E. Rothert, #44827
Grant R. Doty, #60788
ACLU of Missouri Foundation
454 Whittier Street
St. Louis, Missouri 63108
trothert@aclu-mo.org
gdoty@aclu-mo.org

Gillian R. Wilcox, #61278
ACLU of Missouri Foundation
3601 Main Street
Kansas City, Missouri 64111
gwilcox@aclu-mo.org

ATTORNEYS FOR PLAINTIFFS



August 12, 2014

Custodian of Records
St. Louis County Police Department
7900 Forsyth Boulevard
St. Louis, MO 63105

By U.S. Mail and Facsimile to (314) 615-7065

To Whom It May Concern:

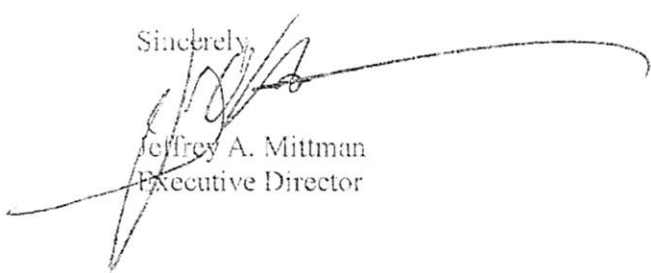
This letter is a request under the Missouri Sunshine Law. Pursuant to the provisions of Chapter 610 of the Missouri Revised Statutes, we request that you provide a copy of the incident report for the shooting of Michael Brown on August 9, 2014.¹

If any or part of this request is denied, please send a letter listing the specific exemptions upon which you rely for each denial and provide the contact information for the official to whom we may appeal. Mo. Rev. Stat. § 610.023.4. 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.

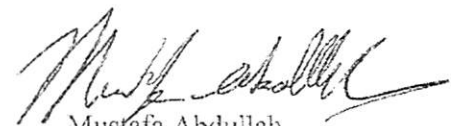
Because this records request is being submitted in the public interest and "is likely to contribute significantly to public understanding of the operation or activities" of your department, we ask that you waive any fees or charge a substantially reduced fee pursuant to Mo. Rev. Stat. § 610.026.1(1). However, should you decline to waive or reduce fees, proceed without further approval if the cost does not exceed \$50.00 and send a detailed invoice with the records. If the cost will exceed \$50.00, please inform us of the cost in advance.

Do not hesitate to contact us with any questions. We appreciate your attention to this matter.

Sincerely,



Jeffrey A. Mittman
Executive Director



Mustafa Abdullah
Program Associate

¹ This request is for the incident report only, which is defined as "a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency." Mo. Rev. Stat. § 610.100.1(4). Unlike "investigative reports," which may be closed until the investigation becomes inactive, "[a]ll incident reports and arrest reports shall be open records." Mo. Rev. Stat. § 610.100.2.

	PHONE	FAX
<input type="checkbox"/> St. Louis County & Municipal Police Academy	314-889-8600	314-863-2317
<input type="checkbox"/> Bureau of Staff Services	314-615-4273	314-615-0316
<input type="checkbox"/> Personnel Services Unit	314-615-4273	314-615-0316
<input type="checkbox"/> Planning and Analysis Unit	314-615-4268	314-615-5450
<input type="checkbox"/> Fiscal Services Unit	314-615-0176	314-615-5453
<input type="checkbox"/> Vehicle and Supply Unit	314-615-5333	314-615-7249
<input type="checkbox"/> Office Services Unit	314-615-3758	314-615-1766
<input type="checkbox"/> Bureau of Security Services	314-615-8003	314-615-5025
<input type="checkbox"/> Bureau of Professional Responsibility	314-615-5340	314-615-7501
<input type="checkbox"/> Bureau of Communications	314-889-2341	314-615-4698
<input type="checkbox"/> Bureau of Computer Services	314-615-7822	314-615-4698
<input type="checkbox"/> Bureau of Central Police Records	314-615-5317	314-615-7247
<input type="checkbox"/> Mr. William Howe, Executive Director	314-615-4273	314-615-0316



ST. LOUIS COUNTY POLICE DEPARTMENT DIVISION OF OPERATIONAL SUPPORT

Mr. William Howe, Executive Director

TO:	Mr. Michael Hill, ACD of Eastern Missouri		
FROM:	ST. LOUIS COUNTY POLICE DEPT. Bureau of Central Police Records		
SUBJECT:	Report Request - Michael Brown		
DATE:	8.13.2014	TIME:	
TOTAL NUMBER OF PAGES INCLUDING COVER PAGE:		2.	
MESSAGE:	<p>Mr. Hill,</p> <p>In ref to your request for incident report involving Michael Brown, This is an on-going investigation and we are unable to release a copy at this time.</p> <p style="text-align: right;">St. Louis County PD - Record Room</p>		

"The best place for the best people to work"

EXHIBIT

2

08-13-'14 07:07 FROM-

314-615-7065

T-562 P0005/0005 F-376



August 12, 2014

Custodian of Records
 St. Louis County Police Department
 7900 Forsyth Boulevard
 St. Louis, MO 63105

By U.S. Mail and Facsimile to (314) 615-7065

To Whom It May Concern:

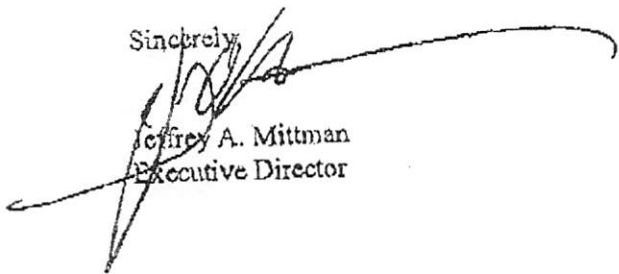
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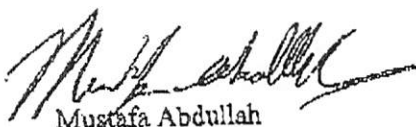
If any or part of this request is denied, please send a letter listing the specific exemptions upon which you rely for each denial and provide the contact information for the official to whom we may appeal. Mo. Rev. Stat. § 610.023.4. This request must "be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received." Mo. Rev. Stat. § 610.023.3.

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 Executive Director


 Mustafa Abdullah
 Program Associate

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American Civil Liberties Union of Missouri Foundation
 454 Whittier Street · Saint Louis, Missouri 63108

Michael Hill

From: Burk, Jeff <JBurk@stlouisco.com>
Sent: Wednesday, August 13, 2014 10:50 AM
To: Michael Hill
Subject: Incident Copy-Brown
Attachments: DOC081314-08132014104702.pdf

The attached is responsive to the request for an incident report consistent with RSMo 610.100.1(4).

If I can be of further assistance, please feel free to contact me.

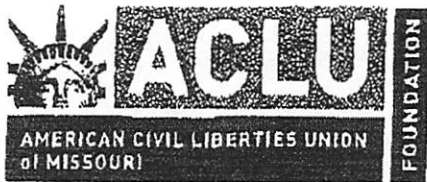
LIEUTENANT JEFF BURK, Commander
Central Police Records
St. Louis County Police Department
7900 Forsyth Blvd., Clayton, MO 63105
PH (314) 615-0381

-----Original Message-----

From: Private Security SLCPD [<mailto:PrivateSecurity@SLCPD.com>]
Sent: Wednesday, August 13, 2014 10:47 AM
To: Burk, Jeff
Subject: Send data from MFP-07311775 08/13/2014 10:47

Scanned from MFP-07311775.
Date: 08/13/2014 10:47
Pages:2
Resolution:200x200 DPI

Mary



August 12, 2014

Custodian of Records
St. Louis County Police Department
7900 Forsyth Boulevard
St. Louis, MO 63105

By U.S. Mail and Facsimile to (314) 615-7065

To Whom It May Concern:

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[Signature]
Jeffrey A. Mittman
Executive Director

[Signature]
Mustafa Abdullah
Program Associate

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American Civil Liberties Union of Missouri Foundation
454 Whittier Street · Saint Louis, Missouri 63108

EXHIBIT
4

1 Call Found

COMP #	NATURE	TIME RECV	ADDRESS	APT	CITY	CAR NUMBER/DSN	FULL VIEW
43984	SHOOT	2014-08-09 12:07:50.000	2947 CANFIELD DR		UNI	4412 / 3403	VIEW

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Bureau of Computer Services.
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