

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

ST. LOUIS POST-DISPATCH, ET AL.,

Plaintiffs,

v.

ST. LOUIS METROPOLITAN POLICE
DEPARTMENT, ET AL.,

Defendants.

Case No. 2422-CC00778

MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

FACTS

Plaintiff St. Louis Post-Dispatch is a corporate taxpayer to and resident of the State of Missouri. **SUMF, ¶ 1.** The Post-Dispatch believes that the information being withheld by the Defendants would allow it to provide readers with information of interest and importance. **SUMF, ¶ 2.** Plaintiff Jacob Barker is a taxpayer to and resident of the State of Missouri and a journalist for the St. Louis Post-Dispatch. **SUMF, ¶ 3.**

Barker asked the Defendants to provide him copies of “incident reports” and “investigative records” regarding a matter investigated by the St. Louis Metropolitan Police Department (“SLMPD”). **SUMF, ¶ 4.** As part of his work as a reporter for the St. Louis Post-Dispatch, Mr. Barker wanted to learn more about the death of Antoine Compton, who fell from a building on Washington

Avenue on May 30, 2020. **SUMF, ¶ 5.** In response to a request made pursuant to § 610.023.1, a Department employee identified Ms. Manuel-Crossman as the Department's Custodian of Records. **SUMF, ¶ 6.**

On or about January 19, 2024, Mr. Barker submitted a request for records under the Sunshine Law directed to the Department's Custodian of Records. **SUMF, ¶ 7.** Specifically, Barker requested (1) incident reports related to a fatal fall that occurred in the 1500 block of Washington Avenue on May 30, 2020, and (2) investigative reports "related to a May 30, 2020 fatal fall from a building in the 1500 block of Washington Avenue." **SUMF, ¶ 8.** Ms. Manuel-Crossman received Mr. Barker's January 19, 2024 request for public records no later than January 22, 2024, because she responded to his request on that date. **SUMF, ¶ 9.**

On January 22, 2024, Ms. Manuel-Crossman provided Mr. Barker with a two-page version of a document labeled "St. Louis Metropolitan Police Incident Report CN 20-022974." **SUMF, ¶ 10.** This two-page version of the Incident Report included information in the fields designated for the name of the victim, his marital status, his resident status, and the injury type; it also identified the name of the officer that prepared the report, the name of his supervisor/commander, and the names of two assisting officers. **SUMF, ¶ 11.** Although the two-page version of the Incident Report included fields for the victim's home address, race, sex, date of birth, age, social security number, and

ethnicity, each of these spaces was blank in this version of the Incident Report. **SUMF, ¶ 12.** In the space designated “Status/Date,” the document provided on January 22, 2024, said “INACTIVE 06/08/2020.” **SUMF, ¶ 13.**

On January 23, 2024, Mr. Barker sent an email asking Ms. Manuel-Crossman whether, apart from an unredacted version of Incident Report CN 20-022974, there were any other investigative reports related to his request. **SUMF, ¶ 14.** The following day Mr. Barker sent Ms. Manuel-Crossman another message in which he invoked his right under § 610.023.4 for “a written statement of the grounds for denial of the investigative records of a closed investigation.” **SUMF, ¶ 15.** In a message sent on January 25, 2024, Ms. Manuel-Crossman acknowledged the Department’s obligation to provide “a written statement of the grounds” for denying a citizen’s records request. **SUMF, ¶ 16.** Ms. Manuel-Crossman’s January 25, 2024 message did not deny that the Department retained “investigative records” responsive to Barker’s request. **SUMF, ¶ 17.** Instead, Ms. Manuel-Crossman stated that the Defendants’ “basis for denial has been provided to you.” **SUMF, ¶ 18.**

In the following weeks, Mr. Barker asked Attorney Dave Roland to help him follow up with the Defendants regarding his records request. **SUMF, ¶ 19.** On March 19, 2024, Attorney Roland sent an email to Ms. Manuel-Crossman regarding Mr. Barker’s request. **SUMF, ¶ 20.** Roland’s email noted that the Defendants had provided Mr. Barker a copy of an incident report, but

that it had not included statements from officers named in the report, nor did it acknowledge that the incident report had been redacted in any way, nor did it indicate what kind of information might have been redacted or the legal basis for any such redactions. **SUMF, ¶ 21.** Roland’s email further emphasized that Mr. Barker had requested not only an “incident report,” but also “investigative reports” related to the fatal fall in May 2020. **SUMF, ¶ 22.** Roland’s email asserted that “officer statements or narratives that might have been submitted in relation to the incident report” were public records that the Defendants were required either to produce to Mr. Barker or to “identify the specific provision of law that the SLMPD is relying upon to justify the redaction/withholding of that information.” **SUMF, ¶ 23.** Roland’s email pointed out that the relevant investigation appeared to be “inactive,” under which circumstances the investigative records related to the event would be open public records under the Sunshine Law. **SUMF, ¶ 24.** Roland noted that “[f]ailure either to produce these records or to provide a written statement identifying the statutory basis for withholding them is a violation of the Sunshine Law.” **SUMF, ¶ 25.** Roland’s email also explained the consequences § 610.027 provides for knowingly or purposefully violating the Sunshine Law. **SUMF, ¶ 26.**

When nearly a week passed without any response from the Defendants, Attorney Roland sent Ms. Manuel-Crossman another email, which included “a formal demand pursuant to § 610.023.4 for ‘a written statement of the grounds’

upon which” the Defendants were denying Mr. Barker’s request. **SUMF, ¶ 27.** On March 27, 2024, Ms. Manuel-Crossman provided Mr. Barker with additional documents. **SUMF, ¶ 28.**

The first of these additional documents was a five-page version of “St. Louis Metropolitan Police Incident Report CN 20-022974.” **SUMF, ¶ 29.** The five-page version of the Incident Report includes information that was omitted from the two-page version, such as information concerning the victim’s race, sex, age, and ethnicity. **SUMF, ¶ 30.** The five-page version of the Incident Report also shows that information has been redacted concerning the victim’s home address, date of birth, and social security number. **SUMF, ¶ 31.** The five-page version of the Incident Report also shows several pages’ worth of redactions having been made, which includes the names of the two “assisting officers” that were included in the two-page version of the Incident Report, and, upon information and belief, the redacted material includes the narrative reports provided by the police officers who responded to the incident. **SUMF, ¶ 32.**

The second of the additional documents Ms. Manuel-Crossman provided on March 27, 2024, is a two-page document labeled “St. Louis Metropolitan Police Supplemental Report,” which is dated June 1, 2020. **SUMF, ¶ 33.** The Supplemental Report identifies the officer who submitted it and her supervisor/commander; each of these names are different from those in similar

fields in the Incident Report. **SUMF, ¶ 34.** The first page of the Supplemental Report does not appear to include any redacted information, but the second page is redacted in its entirety. **SUMF, ¶ 35.**

The third and final additional document Ms. Manuel-Crossman provided on March 27, 2024, is a one-page document labeled “Redaction Log.” **SUMF, ¶ 36.** The Redaction Log purports to identify the legal basis the Defendants relied upon in regard to each of the redactions made to the Incident Report and the Supplemental Report. **SUMF, ¶ 37.** The Redaction Log identifies only two statutes: § 610.100.1(4) and § 610.100.2(1). **SUMF, ¶ 38.**

On April 11, 2024, Attorney Roland sent another email to Ms. Manuel-Crossman. **SUMF, ¶ 39.** Roland’s April 11, 2024 email noted that the Defendants’ responses to Mr. Barker had only addressed his request for an “incident report,” but did not address his request for “investigative records” nor account for the fact that the Department’s records showed that the relevant investigation was inactive. **SUMF, ¶ 40.** Attorney Roland offered “one final opportunity to provide a written statement of the grounds for denying Mr. Barker’s request for ‘investigative records,’” stating that if the Defendants failed to comply with their obligation to explain why they were withholding investigative records related to an investigation that plainly was inactive, Mr. Barker would have no alternative but to ask the courts to enforce the Sunshine Law against them and to seek the maximum penalties available under §

610.027. **SUMF, ¶ 41.** On April 16, 2024, Ms. Manuel-Crossman responded with an email that stated: “The requested report was released to Mr. Barker with redactions. As previously stated, you may disagree; however, we believe we have fulfilled our obligation under the statute.” **SUMF, ¶ 42.**

ARGUMENT

Summary judgment is proper if the moving party establishes that there is no genuine issue as to the material facts and the movant is entitled to judgment as a matter of law. *Green v. Fotoohigham*, 606 S.W.3d 113, 115 (Mo. banc 2020). Here, the Plaintiffs have presented a pure question of law—there can be no legitimate dispute about any of the material facts. Under these circumstances, it would be appropriate for the trial court to enter summary judgment in favor of the Plaintiffs.

I. Under § 610.100.1, “incident reports” and “investigative reports” are different categories of records, each of which are subject to production in response to a Sunshine Law request.

As an initial matter, the plain text of the Sunshine Law states:

“It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy.” § 610.011.1.

Section 610.100 falls within the scope of § 610.011.1, meaning that this Court is obligated to construe its terms liberally in favor of the State’s express policy of transparency and to strictly construe any exceptions to disclosure of public

records. Put another way, if the text of § 610.100 *can* be construed in such a way as would allow a public record to be produced to one requesting it, the Court should adopt that construction. Similarly, if the text of any part of § 610.100 might allow a law enforcement agency to withhold or redact information from a public record, the Court should resolve any ambiguity in the relevant text in favor of the party requesting public records.

Section 610.100.1(4) defines “incident report” 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.” Section 610.100.2(1) requires law enforcement agencies to maintain records of “all incidents reported to the agency, investigations and arrests made by such law enforcement agency.” That same section states, “All incident reports and arrest reports shall be open records.”

Section 610.100.1(5) defines “investigative report” as “a record, ***other than an arrest or incident report***, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.” (emphasis added) Section 610.100.2(2) states that “investigative reports of all law enforcement

agencies... are closed records *until the investigation becomes inactive.*” (emphasis added).

This case squarely presents the question of whether the police officer narratives that typically are included in the documents that law enforcement agencies label as “incident reports” fall within the statutory definition of “incident report,” which includes “immediate facts and circumstances surrounding the initial report of a crime or incident.” § 610.100.1(4). And if those police narratives are *not* part of this statutory definition, the question then becomes whether the police officer narratives fall within the definition of “investigative report,” which includes records “other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.” § 610.100.1(5).

If the Court determines that these officer narratives fall within the definition of “incident report,” the solution to this case is easy—“All incident reports and arrest reports shall be open records.” § 610.100.2(1). But if they do not fall within the definition of “incident report,” then they *necessarily* would fall within the definition of “investigative report.” § 610.100.1(5). And although investigative reports are initially treated as closed records, they are no longer “closed” once the relevant investigation becomes inactive. § 610.100.2(2).

Public records are open unless specifically protected from disclosure by law, and where a statute specifies a time at which that protection ends courts must conclude that the legislature intended for the records to be open thereafter. *See Roland v. St. Louis City Bd. of Election Comm'rs*, 590 S.W.3d 315, 320 (Mo. banc 2019). Thus, “investigative records” become open public records once the relevant investigation becomes inactive, which in this case happened no later than June 8, 2020. Under either categorization, a narrative that a police officer prepared explaining the immediate circumstances surrounding an incident, including their observations of the scene of the incident and (potentially) preliminary discussions with witnesses who might help the officer determine what happened and whether any crime might have been committed, would be an open public record once the law enforcement agency’s investigation became inactive.

A. The police officer narrative at issue in this case is part of an “incident report” and, thus, is an open record.

The documents the Defendants produced to the Plaintiffs were clearly labeled “St. Louis Metropolitan Police Incident Report,” and specifically referenced “CN 20-022974.” As noted above, an “incident report” is by definition an open record. § 610.100.2(1). Although the Defendants claim that section 610.100.1(4) only requires law enforcement agencies to disclose *part* of an incident report, the statutory definition of “incident report” includes the

“facts and circumstances surrounding the initial report of a crime or incident.” In accordance with § 610.011.1, this phrase must be construed liberally in favor of the State’s express policy of transparency; if a public record or the information within a public record can reasonably be thought to include “facts and circumstances surrounding the initial report of a crime or incident,” this Court must conclude that the record falls within the definition of “incident report.” Insofar as law enforcement officers who responded to a reported incident prepared a written narrative concerning their observations of the scene of the incident and any conversations they had to gather information once they responded to the “initial report of a crime or incident,” that written narrative would fall within the statutory definition of “incident report” and, thus, it is an open record under § 610.100.2(1).

B. In the alternative, the police officer narrative at issue in this case was an “investigative report.”

If the Court determines that the police officer narrative the Defendants redacted is not part of an “incident report,” then it must necessarily be an “investigative report” within the meaning of § 610.100.1(5). The police officer narrative was unquestionably “prepared by personnel of a law enforcement agency... in response to an incident,” that “incident being the one reflected in “St. Louis Metropolitan Police Incident Report CN 20-022974.” The “incident”

reported to the Police Department was that someone had fallen to their death from an apartment or condominium on Washington Avenue.

The Plaintiffs expect the Defendants to argue that the police officer narrative is not an incident report because they ultimately determined that no crime had been committed. But that puts the cart before the horse. Even if the person who reported the fatal fall told the police that the fall did not involve any foul play, the police cannot simply take that person's word for it. They must conduct some sort of inquiry or investigation in response to the incident report in order to determine whether or not a crime was committed. Only *after* conducting that inquiry or investigation could the police possibly rule out the possibility that the fatal fall was the result of a crime—and the police officer narrative that describes what responding officers observed at the scene of the incident, to whom they spoke, and what those persons said, is absolutely crucial for the public to understand how and why the police came to the conclusion that no crime had been committed. Even if the investigation phase of an incident only lasts a matter of hours, there is no way that a law enforcement agency that has received a report of a fatal fall from a building can rule out the commission of a crime without conducting some sort of investigation. And any records “prepared by personnel of a law enforcement agency... in response to an incident” that reflect an investigation that led to a

conclusion that no crime was committed would nonetheless be “investigative records” that must be produced once that investigation ceases to be active.

The Sunshine Law exists so that the people of this state will not have to simply trust their public officials when they say, “There’s nothing to see here.” Indeed, if the public is to properly evaluate the manner in which their police department and police officers are doing their jobs, the public must be able to review these police officer narratives and to draw their own conclusions about whether the case was handled properly. Thus, as a matter of law, a police officer narrative describing what responding officers observed at the scene of the incident, to whom they spoke, and what those persons said is an “investigative report” that is open to the public once the investigation is no longer active.

II. The Defendants violated the Sunshine Law by redacting/withholding a public record without citing a specific provision of law that would justify the redaction/withholding.

Section 610.023.4 allows a public governmental body to withhold a public record or to redact information from a public record, but if it is going to do so the custodian of records must provide “a written statement of the grounds” for denying access to that information. Further, “[s]uch statement shall cite *the specific provision of law* under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date

that the request for the statement is received.” If a public governmental body has withheld or redacted information from a public record, the Sunshine Law requires the public governmental body to bear the burden of demonstrating its compliance with the Sunshine Law’s requirements. § 610.027.2.

In this case, the Plaintiffs requested two types of records—“incident reports” and “investigative reports.” The request invoked § 610.023.4, asking the Custodian to “cite the portions of the Sunshine Law which permit the non-disclosure of the requested material[.]” Thus, when the Defendants chose to withhold part or all of the information in records responsive to the Plaintiffs’ request, § 610.023.4 obligated the Defendants to cite the provision of law they were relying on to justify that withholding of information. The only “provisions of law” cited in the redaction log the Custodian provided were § 610.100.1(4), which contains the definition of “incident report,” and § 610.100.2(1), which states “All incident reports and arrest reports shall be open records.”¹ The redaction log did not cite any statute that made reference to “investigative reports,” much less that would have authorized withholding or redacting information found within “investigative reports.” The Plaintiffs brought this

¹ Although the redaction log also referred to *State ex rel. Goodman v. St. Louis Bd. of Police Comm’rs*, 181 S.W.3d 156 (Mo. App. E.D. 2005), where the Sunshine Law requires a public governmental body to justify an exception to the state’s policy of transparency, it requires reference to a *state statute*. See *Webster Cnty. Abstract Co. v. Atkison*, 328 S.W.3d 434, 440 (Mo. App. S.D. 2010); *Pulitzer Pub. Co. v. Mo. State Employees’ Retirement Sys.*, 927 S.W.2d 477, 481 (Mo. App. W.D. 1996).

failure to cite any statute regarding “investigative reports” to the Custodian’s attention multiple times and the Defendants did not remedy this deficiency.

Regarding the Defendants’ citation to statutes involving “incident reports,” the Plaintiffs have explained above that a police officer narrative is, as a matter of law, within the definition of “incident report” and, thus, the law expressly declares it to be an open record. § 610.100.2(1). Far from justifying the redactions, the statutes confirm that the Defendants had no legal authority to withhold the information at issue in this case. But even if the Defendants fulfilled their obligation when it came to the Plaintiff’s request for “incident reports,” the Plaintiffs also asked for “investigative reports.” And when the Defendants declined to produce any “investigative reports”—which necessarily would have included the redacted police officer narrative if it was *not* within the definition of “incident report”—they did not cite any provision of law that might have justified the refusal to produce them. Thus, regardless of whether the police officer narrative at issue in this case is considered an “incident report” or an “investigative report,” the Defendants violated section 610.023.4 by failing to cite any provision of law that would have justified the withholding or redaction of the police officer narrative.

III. The Defendants’ violation of the Sunshine Law was knowing and/or purposeful.

The uncontroverted facts show that the Defendants’ violations of §

610.023, RSMo., were knowing and purposeful. To establish a “knowing” violation of the Sunshine Law, a plaintiff only needs to show that the defendant had actual knowledge that the conduct at issue would violate a provision of the Sunshine Law. *See Strake v. Robinwood West Community Improvement Dist.*, 473 S.W.3d 642, 645 (Mo. banc 2015). To establish a “purposeful” violation of the Sunshine Law, a plaintiff must show that the defendant manifested “a conscious design, intent, or plan to violate the law and [that they did] so with awareness of the probable consequences.” *Id.* (finding purposeful violation even where attorney had advised public government body that they need not produce certain requested records).

The uncontroverted facts show that the Defendants were amply informed that the police officer narrative at issue in this case was an open public record either because it fell within the definition of “incident report” or because it fell within the definition of “investigative report” and the relevant investigation was no longer active. The facts show that although the Defendants did make some effort to justify withholding or redacting the police officer narrative, they violated § 610.023.4 by failing to identify any state statute that would allow them to withhold or redact a report that includes the “facts and circumstances surrounding the initial report of a crime or incident.” Similarly, although the Plaintiffs repeatedly demanded that the Defendants must cite a statute that would allow the Defendants to withhold “investigative

records” responsive to the Plaintiffs’ request, the Defendants expressly refused to cite any provision of law that would have allowed them to withhold “investigative records.” These failures to cite statutory authority for withholding the police officer narrative from the Plaintiffs are, at a minimum, knowing violations of the Sunshine Law because the Defendants had actual knowledge that failure to cite a statute that authorized the withholding of this record would violate § 610.023.4.

Furthermore, at all times relevant to this case the SLMPD was aware of the obligations the Sunshine Law imposes on it as well as the consequences the Sunshine Law provides for knowing or purposeful violations because courts have previously found it liable for such violations. *See Chasnoff v. Mokwa*, 466 S.W.3d 571, 584 (Mo. App. E.D. 2015). Because the Defendants were fully informed as to their obligations under § 610.023.4 and the likely consequences for refusing to comply with those obligations, yet they still chose to violate the Sunshine Law, this Court should conclude that the violation was “purposeful” within the meaning of § 610.027.4.

CONCLUSION

For the foregoing reasons, the Plaintiffs ask the Court to enter summary judgment in their favor and grant them the relief they have requested.

Respectfully submitted,

/s/ David Roland

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CERTIFICATE OF SERVICE

I hereby certify that an electronic copy of the foregoing was served upon all counsel of record by operation of the Court's electronic filing system on October 2, 2025. In addition, I sent via email an electronic copy of the Plaintiff's Statement of Uncontroverted Material Facts in the form of a Microsoft Word document and electronic copies of the supporting exhibits in PDF format to:

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