

IN THE CIRCUIT COURT FOR ST. LOUIS COUNTY  
TWENTY-FIRST JUDICIAL CIRCUIT  
STATE OF MISSOURI

KEVIN ROACH, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CITY OF BALLWIN, MISSOURI )  
 Serve: 1 Government Center )  
 Ballwin, MO 63011 )  
 )  
 and )  
 )  
 ERIC STERMAN, )  
 Serve: 1 Government Center )  
 Ballwin, MO 63011 )  
 )  
 )  
 Defendants. )

JURY TRIAL DEMANDED

**PETITION FOR INJUNCTIVE AND DECLARATORY RELIEF AGAINST  
DEFENDANTS FOR VIOLATING THE MISSOURI SUNSHINE LAW, CHAPTER 610  
OF THE MISSOURI REVISED STATUTES**

COMES NOW, Plaintiff, Kevin Roach (“Plaintiff”), and for his Complaint against Defendants City of Ballwin (“Ballwin”) and Eric Serman (“Serman”) states the following:

**INTRODUCTION**

Plaintiff Kevin Roach is a former alderman of the City of Ballwin who is among a group of victims who were improperly searched in Regional Justice Information System (“REJIS”) by the Chief of Police of Ballwin. The Ballwin Police Department opened an investigation into the Chief of Police’s improper and personal use of REJIS, and the chief was eventually terminated from his employment, in part due to a finding that he conducted REJIS searches improperly and for his personal use. The Ballwin police reports into the police chief’s conduct and associated

evidence is central to this case. Plaintiff, a former Ballwin alderman, and one of the victims of the police chief's alleged improper REJIS searches and invasions of Plaintiff's privacy, requested a full, complete and unredacted copy of the Ballwin police report and related evidence as part of his *civil investigation* into the alleged events. Plaintiff is clearly entitled to this information under the Missouri Sunshine Law. However, Ballwin refused, and only produced the police report in a heavily redacted manner, thus concealing from the Plaintiff other pertinent information in the report, including what appears to be redactions of the identities of similar victims, all of which Plaintiff is entitled to pursuant to the civil investigation provisions of the Missouri Sunshine Law.

### **JURISDICTION AND VENUE**

1. This Court has personal jurisdiction over the parties.
2. Plaintiff brings this action pursuant to § 610.027 RSMo and § 610.100 RSMo of the Sunshine Law and the Court thereby has jurisdiction over the subject matter jurisdiction. Plaintiff has standing to seek judicial enforcement of the Sunshine Law in that he is aggrieved by Defendants' acts and omissions as set forth hereinafter.
3. This Court may order declaratory and injunctive relief pursuant to §§ 515.030, 527.010, and 610.030 RSMo.
4. Venue for the filing of this petition is proper in this Court pursuant to § 610.027 of the Sunshine Law.

### **PARTIES**

5. Plaintiff Kevin Roach (hereinafter "Plaintiff" or "Plaintiff Roach") is and was at all times relevant herein a resident of the State of Missouri, and a 37-year resident of Ballwin.
6. Defendant Eric Sterman (hereinafter "Defendant Sterman") is and was at all times relevant hereto a resident of the state of Missouri and employed by Ballwin, Missouri as the City

Administrator and Custodian of Records. Defendant Sterman is being sued in his individual capacity.

7. Defendant City of Ballwin, Missouri (“Defendant Ballwin”) is and was at all times relevant hereto a municipal corporation and political subdivision of the State of Missouri. Ballwin is a public governmental body as defined by §610.010 of the Sunshine Act.

#### **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

8. On April 8, 2024, Plaintiff sent via email and hand-delivered a request for records under the civil investigative provisions of Chapter 610.100 RSMo to Defendant Ballwin, requesting *six* categories of records, including the Ballwin police report and evidence related to an incident which Plaintiff was a victim.

9. The Ballwin Police Department had investigated the former Chief of Ballwin Police Douglas Schaeffler’s alleged improper use of REJIS and/or other police department resources to invade Plaintiff’s privacy and the privacy of others.

10. Section 610.100(4) of the Sunshine Law reads, in part, that any person “involved in an incident...may obtain *a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed* by a law enforcement agency pursuant to this section.” [emphasis added]

11. Section 610.100(4) RSMo specifically provides for access to investigatory records which would otherwise be considered *closed* due to the ongoing status of an investigation to the people involved in the incident.

12. Section 610.100(4) of the Sunshine Law also provides, in part, “Within thirty days of such request, the agency *shall provide the requested material or file a motion pursuant to this subsection with the circuit court* having jurisdiction over the law enforcement agency stating that

the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized.” [emphasis added]

13. Defendants did not provide the requested material to Plaintiff within thirty days without redaction.

14. Defendants also did not, within thirty days, file a motion with any circuit court related to this matter.

15. Instead, on April 15, 2024, Defendant Ballwin, through Defendant Sterman, provided a heavily redacted copy of the requested investigatory record.

16. When Plaintiff requested the investigative report, the City of Ballwin possessed an unredacted copy of the investigative report.

17. Prior to April 15, 2024, Defendant Sterman also possessed an unreacted copy of the police investigative report.

18. If a law enforcement agency desires to conceal records that are part of an ongoing investigation, the burden shifts to the law enforcement agency to a) file a motion with the circuit court within thirty-days stating that the safety of the victim, witness or other individual cannot be reasonably ensured or that a criminal investigation is likely to be jeopardized and, b) then to prevail on the motion. § 610.100(4) RSMo.

19. Defendant does not have an ongoing police investigation related to the facts of this case.

20. Defendants did not file a motion in any circuit court within thirty days of the Sunshine request, and therefore Defendants did not prevail on such a motion.

21. The thirty-day statutory deadline to file this motion pursuant to § 610.100(4) RSMo expired on or about May 8, 2024.

22. By redacting the investigatory report before production to Plaintiff, Defendants were attempting to prevent Plaintiff from knowing the identities of other victims of the police chief's improper REJIS searches.

23. Prior to the redacted production to Plaintiff on April 15, 2024, no employee of Ballwin had attempted to contact the other victims or persons involved in the Chief of Police's improper REJIS searches.

24. By redacting the investigatory report before production to Plaintiff, Defendants were attempting to prevent all the other REJIS search victims from learning that the Ballwin police chief was improperly searching them using REJIS.

25. Defendants knowingly and purposefully violated the Sunshine law in order to conceal the Ballwin Chief of Police's misconduct from his victims.

26. Defendant Ballwin did not file a motion in circuit court stating that the safety of an individual listed in the report cannot be reasonably ensured or that criminal investigation is likely to be jeopardized if they provide the requested records unredacted.

27. Plaintiff's April 8, 2024 Sunshine request additionally contained requests for the Ballwin Police Department's Tape Log Requests to REJIS, response to Tape Log Request from REJIS with affidavits, a list of names searched in REJIS by Douglas Schaeffler as it related to Plaintiff's incident, the list of names that correspond to the license plates searches in REJIS by Ballwin Police Chief Douglas Schaeffler.

28. Even if Defendants had deemed these additional records closed, Plaintiff is also entitled to these closed records pursuant to "*..other records closed* by a law enforcement agency" provision of Section 610.100(4).

29. Defendants Ballwin and Sterman have not provided records responsive to these additional requests either, nor have they claimed these records are closed under any provision of the Sunshine Law in violation of Section 610.023 RSMo.

30. On May 10, 2024, counsel for Plaintiff contacted Defendants Ballwin and Sterman to clearly communicate Defendants' legal responsibilities under Chapter 610 RSMo related to Plaintiff's records requests [**Exhibit 1**].

31. In the May 10, 2024 correspondence, counsel for Plaintiff demanded Defendants produce the records on or before May 17, 2024 at 5:00 p.m. and that failure to do so would result in the filing of a Sunshine lawsuit against them.

32. To date, Plaintiff has not received a response to the May 10, 2024 correspondence from his counsel.

33. Defendants knowingly and purposefully violated the Sunshine Law and will continue doing so unless restrained and enjoined by the Court.

### **COUNT I**

#### ***Violation of the Sunshine Law Mo. Rev. Stat. 610.100.4***

34. Plaintiff hereby incorporates by reference the allegations made in each preceding paragraph as if each were set forth herein.

35. Defendants failed to make the requested investigatory report and other records available to Plaintiff or otherwise file a motion with a circuit court, within thirty-days, to prevent production to Plaintiff pursuant to § 610.100.4 RSMo.

36. By neither producing the requested records nor filing a motion with a court within thirty-days, Defendants violated the Sunshine law.

37. By neither producing the requested records within thirty-days nor filing a motion with a court within thirty-days, Defendants must now immediately produce the records requested.

38. Defendants knowingly and purposefully violated the Sunshine Law and will continue doing so unless restrained and enjoined by the Court.

**WHEREFORE**, Plaintiff prays this Court to:

A. Enter its order finding, adjudging and decreeing that Defendants' acts and omissions as aforesaid were and are wrongful and in violation of the Sunshine Law.

B. Issue a temporary restraining order and preliminary injunction ordering Defendants to immediately produce all documents and redacted information.

C. Assess civil penalties and award Plaintiffs their costs and reasonable attorney's fees incurred in prosecuting this action pursuant to § 610.027.3, RSMo, by reason of Defendants' knowing and purposeful violations of the Sunshine Law.

D. Grant such and other further relief as the Court finds just and proper in the circumstances.

Dated: May 17, 2024

Respectfully submitted,



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