

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

AARON MALIN,

Plaintiff,

v.

ST. LOUIS COUNTY MULTI-
JURISDICTIONAL DRUG TASK
FORCE, et al.,

Defendants.

Case No. 16SL-CC00168

Division 5

CONSENT JUDGMENT

The parties having stipulated and consented to the relief set forth below and the entry of this Consent Judgment, the Court rules as follows:

FINDINGS

1. Defendant St. Louis County Multi-Jurisdictional Task Force (“the Task Force”) is a law-enforcement group representing the collaborative effort of a number of political subdivisions of the State of Missouri, including St. Louis County, the City of Ballwin, the City of Bellefontaine Neighbors, the City of Chesterfield, the City of Creve Coeur, the City of Ferguson, the City of Florissant, the City of Manchester, the City of St. Charles, the City of Webster Groves, and the City of Woodson Terrace.
2. The Task Force is a multi-jurisdictional enforcement group created under the

authority of § 650.156, RSMo.

3. The Task Force is subject to the oversight of a Board comprising an elected official or his designee, the chief law enforcement officer from each participating unit of local government, and a representative of a hazardous materials team. § 650.161(2), RSMo.
4. Section 610.010(4), RSMo., establishes the definition of “public governmental body.”
5. The Task Force is a public governmental body created under the authority of a statute of this state.
6. Section 610.021.1, RSMo., requires public governmental bodies to post notice of upcoming meetings “on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or, if no such office exists, at the building in which the meeting is to be held[;]” that notice must include the meeting’s “tentative agenda.”
7. The Task Force Board held a meeting on March 19, 2015.
8. The Task Force posted notice of its March 19, 2015 meeting on a bulletin board at the St. Louis County Police Academy in advance of that meeting, but the notice posted on the bulletin board did not include a tentative agenda for the meeting.
9. The Task Force violated § 610.020.1, RSMo., by failing to post a tentative agenda on a bulletin board at the St. Louis County Police Academy at least

- twenty-four hours in advance of the March 19, 2015 Task Force Board meeting.
10. Section 610.021.7, RSMo., requires public governmental bodies to take and retain a journal or minutes of their meetings, which must include the date, time, place, members present, members absent, and a record of any votes taken at the meeting.
 11. Lieutenant Jason Law prepared an agenda prior to the March 19, 2015 Task Force Board meeting, but after the meeting Law did not immediately prepare minutes that reflected what took place at the March 19, 2015 Task Force Board meeting.
 12. The Task Force violated § 610.021.7, RSMo., by failing to take and retain a journal or minutes that included all the required information regarding the March 19, 2015 Task Force Board meeting.
 13. On July 7, 2015, Plaintiff Aaron Malin submitted to Lieutenant Jeff Burk, the Task Force's Custodian of Records, a request for "documents showing meeting minutes from meetings of your task force/organization's Established Policy Board, Oversight Board, or other governing body that exists to comply with RSMo 195.509.2(2)."
 14. After Malin submitted this records request, Burk informed Law that the pre-meeting agenda Law had prepared for the March 19, 2015 Task Force Board meeting could not be considered the minutes for that meeting.
 15. Neither Burk nor Law informed Malin that the Task Force had not kept minutes of its March 19, 2015 Task Force Board meeting and, thus, that it had

no records responsive to Malin's July 7, 2015 records request.

16. Instead, on July 8, 2015, Law created "out of memory" a new document with the heading "Minutes from the 03-19-2015 Multi-Jurisdictional Drug Task Force Quarterly Meeting."

17. This document Law created on July 8, 2015, did not include the time or place of the meeting, nor did it identify the board members absent from that meeting, information that § 610.020.7, RSMo., expressly requires public governmental bodies to include in meeting minutes.

18. The Task Force violated § 610.020.7, RSMo., by failing to prepare adequate minutes for the March 19, 2015 Task Force Board meeting.

19. The Task Force Board held a meeting on September 3, 2015.

20. The Task Force posted notice of its September 3, 2015 meeting on a bulletin board at the St. Louis County Police Academy in advance of that meeting, but the notice posted on the bulletin board did not include a tentative agenda for the meeting.

21. The failure to post a tentative agenda on a bulletin board at the St. Louis County Police Academy at least twenty-four hours in advance of the September 3, 2015 Task Force Board meeting violated § 610.020.1, RSMo.

22. Lieutenant Jason Law prepared an agenda prior to the September 3, 2015 Task Force Board meeting.

23. At the meeting, Law placed check marks next to the names of Task Force Board members who had attended the meeting, but he did not otherwise alter the

- pre-meeting agenda for the September 3, 2015 meeting.
24. Although the September 3, 2015 Task Force Board meeting included discussion of several subjects that the pre-meeting agenda anticipated, the agenda included elements that did not actually take place at the meeting.
 25. After the September 3, 2015 Task Force Board meeting concluded, Law did not prepare a separate document that reflected how the meeting actually proceeded.
 26. On November 4, 2015, Malin sent Lieutenant Burk another Sunshine Law request, asking for (among other things) “meeting minutes from meetings of your drug task force/organization’s Established Policy Board, Oversight Board, or other governing body that exists to comply with RSMo 195.509.2(2).”
 27. In response to Malin’s November 4, 2015 Sunshine Law request, on November 13, 2015, Burk provided Malin a copy of the agenda Lieutenant Law had prepared in advance of the September 3, 2015 Task Force Board meeting; this was the only document Burk provided Malin relative to the September 3, 2015 Task Force Board meeting.
 28. As minutes are intended to preserve an accurate account of how a public governmental body conducted its meetings, the parties agree that minutes should be prepared shortly following the end of the relevant meeting and should be based on notes or recordings made at the meeting to ensure their accuracy.
 29. The parties agree that a pre-meeting agenda cannot be considered “minutes”

if it has not been modified to accurately inform the public of any discrepancies between what was planned for the meeting and what actually took place at the meeting.

30. The Task Force violated § 610.020.7, RSMo., by failing to prepare adequate minutes for the September 3, 2015 Task Force Board meeting.

31. None of the Task Force Board members, each of whom was named as a defendant in this matter solely in their official capacities as members of the Task Force Board, were aware of the aforementioned violations at the time they occurred nor are they individually responsible for the aforementioned violations of the Sunshine Law

32. As part of this Consent Judgment the Plaintiff hereby voluntarily dismisses with prejudice any and all claims that these acknowledged violations of the Sunshine Law were knowing or purposeful; the Plaintiff expressly forgoes any claim he might otherwise have had to recover civil penalties, costs, or attorney fees against any of the named defendants in connection with any of the matters alleged in his Petition.

IT IS HEREBY ORDERED that the Task Force is subject to the Missouri Sunshine Law and that it committed the specified violations of the Sunshine Law.


IT IS FURTHER ORDERED that none of the specified violations of the Sunshine Law were knowing or purposeful.

IT IS FURTHER ORDERED that all other counts and claims included in Plaintiff's Petition are dismissed, with prejudice.

IT IS SO ORDERED.

April 19, 2019

DATE



HONORABLE THEA SHERRY