

MISSOURI CIRCUIT COURT  
 TWENTY-SECOND JUDICIAL CIRCUIT  
 (CITY OF ST. LOUIS)

IN RE: SUNSHINE LAW REQUEST	)	Case No. _____
INVOLVING JOSEPH FINGER	)	
ON OCTOBER 24, 2017.	)	Division No. _____
	)	

**MOTION OF PETITIONER CITY OF ST. LOUIS TO CLOSE RECORDS**  
**PURSUANT TO SECTION 610.100.4, RSMO**

COMES NOW the City of St. Louis (“City” or “Petitioner”), by and through the Police Division of the Department of Public Safety (“PD”), pursuant to Section 610.100.4, RSMo, moves and prays the Court to enter an order that the PD records shall be closed records. Petitioner states the following:

1. The PD is a law enforcement agency which resides in the City of St. Louis.
2. Venue is proper in this Court pursuant to Section 610.100.4, RSMo.
3. On or about October 24, 2017, Joseph Finger and Megan Nieder were involved in an incident at or near the 8400 block of Pennsylvania Avenue, St. Louis, Missouri (hereinafter, “Incident”). The Incident, identified by the PD as Incident Report Number CN 17-052128, is being investigated by the PD.
4. On or about February 7, 2018, Office of the Medical Examiner for the City of St. Louis received a Missouri Sunshine Law request from LaDarla Nieder (“Respondent”) for the Medical Examiner report for the Incident; thereafter, the City PD became aware of this request (hereinafter, “Sunshine Law Request” or “Request”).
5. Respondent requests the Medical Examiner report.
6. Section 610.100.4, RSMo states the following:

Any person, including a legal guardian or a parent of such person if he or she is a minor, family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, legal guardian or parent of such person if he or she is a minor, his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, 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. 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. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

7. The rationale for the Sunshine Law exception to disclosing the investigative file is that:

To compel investigators to reveal contents of their investigative reports before the culmination of the investigation and, when appropriate, the prosecution, could result in compromising the investigation and prosecution by disclosing the status of the investigation, jeopardizing witnesses, aid the guilty in the destruction of yet undiscovered evidence, promote fabricated evidence by the guilty party, and foster other inhibiting consequences.

*News-Press and Gazette Co. v. Cathcart*, 974 S.W.2d 576, 579 (Mo. App. W.D. 1998)

(footnote 3).

8. The Medical Examiner report is part of the investigation/investigative reports.
9. The PD is currently investigating the Incident; it is still an active case.
10. Petitioner states that the release of the complete report, and any of the investigative file regarding the Incident, i.e., the investigation file, 911 calls, crime scene investigation records,

videos, photographs, persons of interest, etc., including the Medical Examiner report would likely jeopardize the on-going criminal investigation, pursuant to Section 610.100.4, RSMo.; and that the safety of witnesses and/or others involved could not be reasonably ensured if released.

11. Pursuant to Section 610.100.4, RSMo, Petitioner seeks to close the records described herein.

12. Petitioner acknowledges that it makes this Motion beyond the time period prescribed by Section 610.100.4, RSMo, however, justice requires that the Court still grant this Motion for the reasons forth herein.

13. Petitioner is prepared to present evidence including testimony and make oral argument in support of this Motion, if the Court deems it appropriate.

WHEREFORE, Petitioner, the City of St. Louis, by and through the City of St. Louis Police Division, respectfully requests that the Court issue an Order that the records sought by Respondent to be closed, and for any other orders that the Court deems just and proper under the circumstances.

Respectfully Submitted,  
JULIAN L. BUSH, CITY COUNSELOR

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing was mailed on October 29, 2018, to LaDarla Nieder, 7405 Gayola Place, St. Louis, MO 63143-2005.

/s/ Raymond B. Flojo