



Missouri Attorney General
JOSH HAWLEY

Missouri Sunshine Law

Casey Lawrence

Director of Sunshine Law Compliance



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Disclaimer:

- This presentation is meant as a summary of relevant provisions of the Sunshine Law; not an official opinion of the AGO. In providing this presentation, we do not suggest that we are providing you legal advice or otherwise treating you as a client of the Attorney General's Office.



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Public Governmental Body

- Missouri's open records and meetings law, commonly referred to as the Sunshine Law, § 610, RSMo. is applicable to public governmental bodies and quasi-public governmental bodies
 - § 610.010(4), [Pages 4-5]



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Custodian of Records

- Body must appoint a custodian of records
 - The identity and location of a public governmental body's custodian is to be made available upon request
 - § 610.023(1) [page14]



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Responding to Open Records Requests



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Public Record Definition

- Any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body;

•§ 610.010(6) [Page 6]



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Statutory Requirement

- Body must act on the request as soon as possible
 - No later than three days after the request was received by the Custodian of Records
 - § 610.023(3) [page14]



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Practical Tips

- Contact the requester in writing so both parties have a copy of the response, including the date it was sent
- If you need clarification to fulfill the request, the agency can contact the requester to ask for more information



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Statutory Requirement

- A public governmental body keeping its records in an electronic format is strongly encouraged to provide access to its public records to members of the public in that format.

- § 610.029.1 [page19]



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Practical Tips

- If the requester did not state a preference in their request you can provide the record in its original format
 - Ex. Requester asks for an email, the body provides the records electronically
 - Ex. Requester asks for a copy of a mailed invoice, the body provides a physical copy of the original invoice
 - § 610.029.1 [page19]



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Statutory Requirement

- If you cannot produce the records within three days, you will still need to contact the requester within this time frame

- § 610.023(3) [page14]



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Practical Tips & Statutory Requirements

- Provide a letter to the requester to let them know the records cannot be produced within three days
 - Estimated time of when the request can be fulfilled
 - Reasonable cause for the delay

- § 610.023.3 [Page 14]



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Practical Tips & Statutory Requirements

- No Records Responsive to the Request
 - If there are no records responsive to a request, the body will still need to send a response to the requester to let them know that there are no records responsive to their request
 - § 610.023.3 [Page 14]



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Case Law

- Jones v. Jackson County Circuit Court
 - 162 S.W.3d 53 (Mo.App. W.D. 2005)
 - The Sunshine Law does not require a government body to create a new record upon request, but only to provide access to existing records held or maintained by the public governmental body



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Closed Records



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Statutory Requirement

- If a record is closed, provide the requester with the reason for closure
 - Cite to the specific provision of law

•§ 610.023.4 [Page 14]



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Practical Tips

- If a record is closed, provide the requester with the reason for closure, before an official request is made.
- When citing the specific provision of law it is helpful to include the full text of the citation within the response

•§ 610.023.4 [Page 14]



Statutory Requirement

- If the records responsive to the request are closed:
 - Provide a response that generally describes the material exempted, unless that description would reveal the contents of the exempt information



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Statutory Requirement

- If the records responsive to the request contain closed information the body will be required to separate the exempt and non-exempt material
 - Redaction

•§610.024.1 [Page 15]



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Fees for Open Records Requests



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Statutory Requirements

- A public governmental body is allowed to charge fees for fulfilling open records requests
 - Fees must be the lowest amount for search, research and duplication time
 - A body may charge 10 cents a page for paper that is legal size or smaller
- § 610.026.1(1) [Pages 15-16]



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Practical Tips

- Alert the requester, before fulfilling the request, of what the expected cost to obtain the records will be
- Explain in a letter, or invoice, how the body arrived at the fee
 - Ex: 3 hours of research time at \$10 per hour is \$30
 - Ex: 200 sheets of paper at 10 cents a page is \$20
- § 610.026.1 & .2[Pages 15-16]



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Public Meetings



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Public Meeting Definition

- Any meeting of a public governmental body subject to section 610.010. to 610.030 at which public business is discussed, decided, or public policy formulated

•§ 610.010(5) [Page 6]



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Statutory Requirements

- A notice must be posted twenty-four hours in advance of a public meeting
 - Exclusive of weekends and holidays

•§ 610.020.2 [Page 8]



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Statutory Requirements

- Meeting Notice Requirements
 - Time
 - Date
 - Place
 - Tentative Agenda
 - Must be reasonably calculated to inform the public of the matters to be considered
 - If the meeting will be conducted by telephone or electronic means
 - § 610.020.1 [Pages 7-8]



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Practical Tips

- Post meeting notices and agendas in an area that is accessible to the public even after business hours
- Include the date and time the notice was posted on the document
- Consider posting more than one physical notice, or creating an electronic notice that could be posted online
- Include the name and contact information of the Records Custodian on meeting notices and agendas in case someone would like to request a copy

Notice of Public Meeting for Everytown City Council

6:00 pm on June 20, 2018

Large Government Building

123 Main Street

Everytown, USA 11111

Meeting Agenda

Call to order

Roll Call

Approve May meeting minutes

Old Business

City Budget

New Business

Approve New Sunshine Law Policy

Public Comment Period

Vote to Close Meeting: pursuant to § 610.021(8) RSMo, for discussion of welfare cases of identifiable individuals

Vote to Adjourn Meeting

This notice was posted at Large Government Building on June 19, 2018, 9:30 am.

A copy of this notice is also available online at www.everytown.usa. If you require a copy of this notice please contact the Custodian of Records at 123-456-7890 or by email at recordscustodian@everytown.usa.



Statutory Requirements

- Meeting Minutes
 - Date
 - Time
 - Place
 - Members Present/Absent
 - Record of all votes taken
 - Including a record of each member's individual vote cast during a roll-call

- § 610.020.7 [Page 8]



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Statutory Requirements

Closed Meetings

.1 Requires an affirmative public vote of the majority of a quorum of a public governmental body with reference to a specific section of 610.021

.2 Requires a meeting notice with reference to a specific section of 610.021

- § 610.022.1 & .2 [Page 13]



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Practical Tips

- While the two subsections appear to operate independently, it may be useful for an agency to apply both processes when closing a meeting
- We are aware that many agencies already use both of these processes when closing a meeting
- By announcing a closed meeting with a public notice, including the citation of the specific provision allowing the closure; along with having a vote during open session to close a portion of the meeting, there can be little doubt as to the propriety of the closure



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Attorney General Opinion

- Reference to the number of the relevant subdivision in the § 610.021, RSMo, list of exceptions to openness is sufficient to meet the requirement of § 610.022, RSMo, which requires a public body announce the reason for closing a meeting. A recitation of the words in the relevant subdivision is not required.
- § 68-95[Page 48]



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Votes in Closed Session

- Votes in a closed session meeting must be taken as a roll-call
- Each yea, nay, or abstention must be attributed to an elected official
 - Ex: Alderman Lawrence – Yea
 - Alderman Jones – Nay
 - Alderman Smith – Abstained

• § 610.015Page 7]



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Sunshine Law Policy



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Statutory Requirements

- “Each public governmental body shall provide a reasonable written policy in compliance with sections 610.010 to 610.030, open to public inspection, regarding the release of information on any meeting, record or vote”

- § 610.028.2 [Page 18]



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Practical Tips

- A sample resolution is available online at www.ago.mo.gov
- **Policy may be simple**
 - name and address of custodian, schedule of fees and deadlines for filling requests...
- **... or more detailed**
 - including policy for routing records requests, specific cost for frequently requested records, circumstances under which fees will be waived...



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AGO Complaint Process

Educate

Provide information to public governmental bodies and constituents about the Missouri Sunshine Law

Mediate

Work with a complainant and the public governmental body to navigate a records request or meeting issue

Litigate

In exceptional circumstances our office has filed petitions against a public governmental body concerning a possible Sunshine Law Violation



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Questions?



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Booklet Request

Daris.Patterson@ago.mo.gov

- Please include:
 - Number of booklets requested
 - Name of public governmental body (if applicable)
 - Mailing address
 - Phone number



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