

**IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI**

THE REPORTERS COMMITTEE FOR)
FREEDOM OF THE PRESS et al.,)

Plaintiffs,)

v.)

Case No. 14AC-CC00254

DEPARTMENT OF)
CORRECTIONS)

Defendant.)

ANSWER AND AFFIRMATIVE DEFENSES

Defendants, the Department of Corrections for the State of Missouri, (collectively, the “Department”), through the Missouri Attorney General, provide the following answers and affirmative defenses to Plaintiffs’ Petition:

1. Paragraph 1 purports to set forth statements and conclusions of law, to which no additional response is required.

2. Paragraph 2 sets forth general statements and opinions about democracy and government, not factual allegations, to which no response is required. Paragraph 2 references the Sunshine Law, which speaks for itself. The Department admits to withholding records which are closed by law. As to the remainder of the allegations, to the extent a response is required, the Department denies the allegations.

3. Paragraph 3 purports to set forth statements and conclusions of law, to which no additional response is required.

4. Paragraph 4 purports to set forth statements and conclusions of law, to which no additional response is required.

5. Paragraph 5 purports to set forth statements and conclusions of law, to which no additional response is required.

6. Paragraph 6 states various opinions and conclusions about the “Reporters Committee” to which no response is required. To the extent a response is required, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.

7. Paragraph 7 states various opinions and conclusions about the ACLU to which no response is required. To the extent a response is required, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.

8. Paragraph 8 states various opinions and conclusions about Christopher McDaniel to which no response is required. To the extent a response is required, the Department is without knowledge or information

sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.

9. Admit.

10. Paragraph 10 purports to set forth statements and conclusions of law, to which no additional response is required.

11. Admit.

12. Paragraph 12 purports to set forth statements and conclusions of law, to which no additional response is required.

13. Admit.

14. The Department admits to withholding records, as required by law, which could disclose the identities of pharmacies or laboratories that are involved in making drugs to be used in lethal injections. As for the remainder of the allegations, to the extent a response is required, the Department denies the allegations.

15. Admit.

16. Deny. The Department responded to the request on December 4, 2014.

17. The Department admits to receiving records requests from McDaniel on January 27, 2014, which speak for themselves requiring no additional response.

18. The Department admits to the allegations except that it responded on March 14, 2014 instead of March 17, 2014 as alleged in Paragraph 18.

19. The Department admits to receiving a records request from the Reporters Committee on February 13, 2014 which was dated February 7, 2014.

20. Admit.

21. The Department admits to receiving a records request from the ACLU on February 24, 2014, which speaks for itself requiring no additional response.

22. Admit.

23. As to paragraph 23, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same pursuant to Rule 55.07.

24. As to paragraph 24, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same pursuant to Rule 55.07.

25. As to paragraph 25, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same pursuant to Rule 55.07.

26. The text of the Sunshine Law speaks for itself and requires no additional response. To the extent Plaintiffs characterize the law outside of the text, the Department denies the allegations.

27. Paragraph 27 purports to set forth statements and conclusions of law, to which no additional response is required. To the extent Plaintiffs characterize the law outside of the text, the Department denies the allegations.

28. Paragraph 28 purports to set forth statements and conclusions of law, to which no additional response is required.

29. Paragraph 29 purports to set forth statements and conclusions of law, to which no additional response is required. To the extent Plaintiffs characterize the law and its purpose, the Department denies the allegations.

30. Paragraph 30 states various opinions and conclusions by Plaintiffs, not factual allegations, about executions and drugs to which no response is required. To the extent a response is required, the Department denies the allegations.

31. The Department admits to revising its execution protocol in October of 2013, but denies the remainder of the allegations.

32. Paragraph 32 references a press release by the Department, which speaks for itself and requires no additional response.

33. Paragraph 33 references a press release by the Department, which speaks for itself and requires no additional response.

34. Paragraph 34 purports to set forth statements and conclusions of law, to which no additional response is required.

35. Paragraph 35 purports to set forth statements and conclusions of law, to which no additional response is required. To the extent a response is required, the Department denies the allegations.

36. Deny.

37. Deny.

38. Paragraph 38 is Plaintiffs' Prayer for Relief, not a factual allegation, to which no response is required. To the extent a response is required, the Department denies the allegations.

AFFIRMATIVE DEFENSES

1. The records requested by Plaintiffs are closed records pursuant to sections 217.075, 546.720 and 610.021(1) and (14), and therefore are not subject to disclosure under the Sunshine Law.

2. Plaintiffs' Petition should be dismissed for failure to state a claim upon which relief can be granted.

3. Plaintiffs' Petition should be dismissed because the proposed relief, if granted, would violate separation of powers principles.

4. The Department reserves the right to assert further affirmative defenses as may be revealed in the course of litigation.

WHEREFORE, having provided full answers and affirmative defenses to Plaintiffs' Petition, the Department respectfully requests that the Court dismiss Plaintiffs' Petition with prejudice and enter such other relief as is proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed and served electronically via Missouri CaseNet, on June 20th, 2014, to:

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