

## Watchdog group accuses Missouri Supreme Court of violating Sunshine Law

By Brian Jarvis

April 22, 2009 | 12:01 a.m. CDT

JEFFERSON CITY – A Missouri watchdog group accused the Missouri Supreme Court of violating the Sunshine Law this week by refusing to provide e-mail correspondence of its employees.

Better Courts for Missouri, a group based in Jefferson City seeking changes in the judge-selection process, requested all the e-mails from official and personal accounts of Supreme Court employees sent this year. It also asked to see policies relating to the "personal or private use of public resources such as computers, e-mail systems, office supplies, vehicles or time-off requests."

In a written reply dated April 16, however, Supreme Court Clerk Thomas Simon wrote that the Supreme Court was not bound by its laws to provide the information requested.

Better Courts for Missouri Executive Director James Harris said he disagreed.

"Anyone who has a position of government trust and receives taxpayer funding should be held accountable. If we allow the court to have some silly loophole or reason to skirt the Missouri Sunshine law, every other politician or state bureaucrat will look for a reason to skirt it, too," Harris said. "I don't know if they're hiding something, but when you're denying the public information, that's a problem."

Harris said that the goal of his inquiry was to determine how much time and taxpayer money the courts are using for personal and political activities and that the public had a right to know that information.

In both his letter and in a subsequent interview, Simon said the information sought by the group was not covered by the court's rules defining what is available. In the letter, Simon also wrote that the personal records of the judges do not fall under the Sunshine Law's purview.

"I don't think Mr. Harris totally understands the law, or the constitution for that matter," Simon said. "He pushes an agenda, and he pushes an interpretation of the law."

Simon said he also questioned if the BCM qualified as a credible organization.

"Do they have an annual meeting? Do they have a membership roster? Do they have a board of governors?" asked Simon. "The answer is no, it's a fictitious name."

Under Missouri's Sunshine Law, government records can be requested by anyone.

By law, meetings and records of public governmental bodies are presumed open unless a legislative exemption can be cited, such as student records and personal medical records.

However, the extent that the law covers the courts is less clear. The law restricts its coverage to "judicial entities when operating in an administrative capacity."

Jean Maneke, a media law attorney representing the Missouri Press Association, said past court cases have found Supreme Court rules to take precedence over Missouri state laws.

"It would be a difficult issue for a judge to sort out to what extent the records being requested may be a public body or not, to what extent they fall within this administrative language of the Sunshine Law or to what extent they're totally unrelated and aren't governed by the Sunshine Law," she said.

Harris said BCM plans to continue pushing the issue and may file a suit.

"All options are on the table," Harris said.