



St. Charles
 County
 Business
 Record
 St. Charles, MO
 Circ. 650
 From Page:
 1
 12/17/2009
 10125



900-114-79
Sun shines on cops' internal affairs)

*Third party gets
 access to police
 reviews for first time*

By Angela Riley
 angela.riley@molawyersmedia.com

The results of police departments' internal investigations will be more accessible to the public after a ruling by a St. Louis circuit judge.

Judge Philip D. Heagney ordered on Friday that the St. Louis Board of Police Commissioners release findings of an internal affairs investigation regarding officers who confiscated 2006 Cardinals World Series Tickets from scalpers. It was later found out that friends and family members of the officers used the tickets.

Plaintiff attorney Anthony Rothert, legal director of the American Civil Liberties of Eastern Missouri, said this was the first time a court has applied Missouri's Sunshine Law to third parties requesting reports of internal affairs investigations.

"Courts have allowed for police officers to receive the information and a criminal defendant seeking information regarding a complaint he filed," Rothert said. "I didn't see a distinction in the law relating to third parties, and the court did not either."

John Chasnoff, an activist and member of The Coalition Against Police Crimes and Suppression, filed a petition in August 2007 in St. Louis Circuit Court asking for the police

board to turn over a complaint made against the officers and the findings of the Internal Affairs Department investigation. Chasnoff became a program director for the ACLU of Eastern Missouri in January. He filed the lawsuit after the department refused to turn over information to him.

In January, Heagney ruled that Chasnoff was entitled to the complaint against the officers that started the internal investigation. It had to be determined, however, if the complaint alleged a criminal violation. If the complaint did, then Chasnoff was entitled to the subsequent IAD investigation report. Under the Missouri Sunshine Law, investigation documents are open to the public where a complaint alleges criminal activity.

It was revealed at a later hearing that the complaint against the officers made allegations of criminal conduct — Eric Johnson accused the officers of stealing \$2,600 that they seized from him.

The IAD investigation did not find any evidence that the arresting officers had stolen money from Johnson but that seven officers and one sergeant had allowed for friends and family members to use World Series Tickets seized by scalpers. The eight officers were demoted and placed on suspension for two weeks. Eight additional officers were disciplined by the board for procedural violations relating to the incident. St. Louis Circuit Attorney's Office conducted its own investigation, but Circuit

■ See INTERNAL, Page 4





St. Charles
County
Business
Record
St. Charles, MO
Circ. 650
From Page:
1
12/17/2009
10125

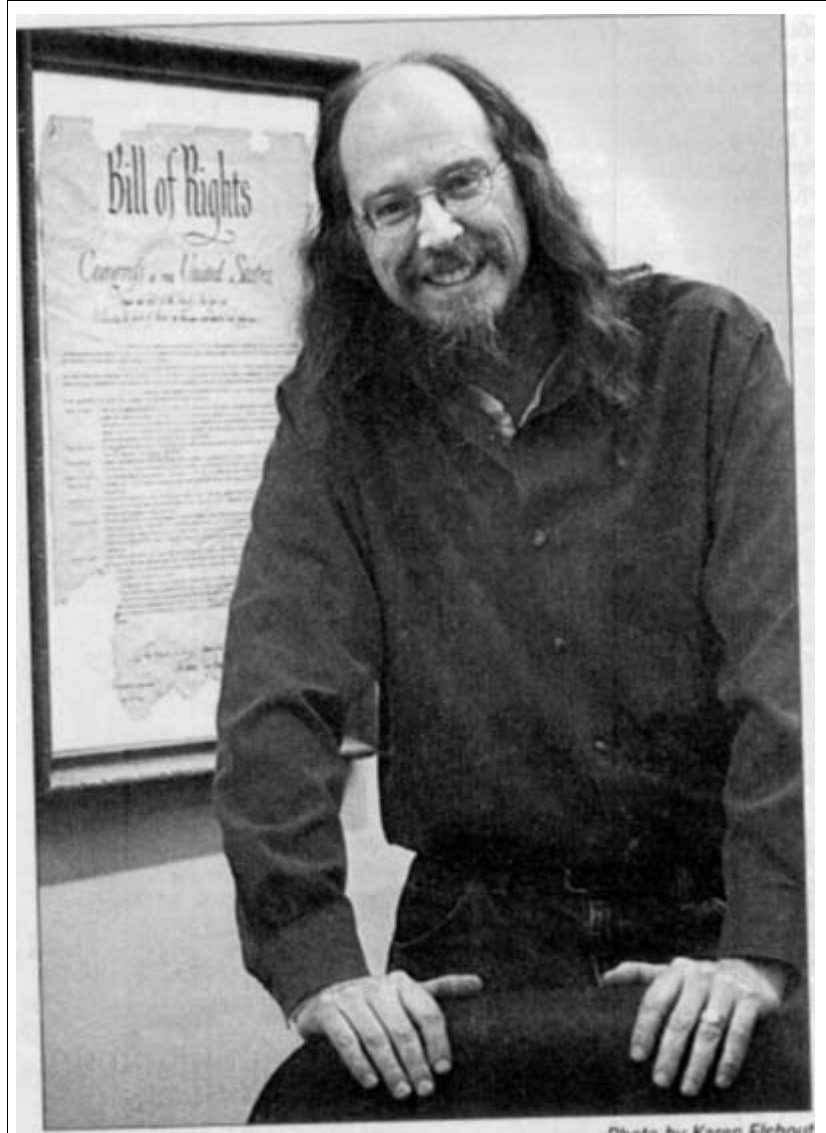


Photo by Karen Elshout

Activist John Chasnoff at the ACLU of Eastern Missouri, where he is now on staff. Chasnoff initiated the challenge to see the police report on the baseball ticket scandal. Last week a judge ruled in his favor.





INTERNAL: Opinion stems from 2001 Supreme Court ruling

■ continued from Page 1

Attorney Jennifer Joyce found there was no basis to file criminal charges.

In his judgment, Heagney rejected the board's argument that the IAD report is a closed record because it deals with personnel matters. The judge relied on the 2001 Missouri Supreme Court decision *Guyer v. City of Kirkwood*, which held that investigative reports become open records once the investigation is closed and if it looked into alleged criminal misconduct.

The board argued that the Supreme Court's decision only applied to the facts in the case. In *Guyer*, police officers who were the subject of the investigation sought the IAD records. Heagney found no language in the decision to construe the case narrowly and noted that a Missouri Court of Appeals Southern District decision, *State ex rel. City of Springfield v. Brown*, applied *Guyer* to a different fact situation involving a criminal defendant.

St. Louis Metropolitan Police Department spokeswoman Erica Van Ross said the board's lawyers are reviewing the decision and haven't decided whether to appeal.

The board also raised issues relating to privacy, arguing that allowing the IAD report to be open by the public would make internal investi-

gations difficult and stated it would be too "burdensome and impractical" for the department to routinely release reports. Heagney found that there was no evidence given to support the board's assertions.

The court was led "to believe that the Board of Police Commissioners simply wants [to] have itself and the Metropolitan Police Department to be declared exempt from complying with any requirement of the Missouri's Sunshine law that it finds to be contrary to the traditional police ways of doing business," Heagney wrote.

Rothert noted that while the court did find that the records were open, there are exceptions outlined in the Sunshine Law that could keep sections of the IAD report confidential if information would jeopardize a criminal investigation, endanger a witness, disclose the identity of a confidential source or reveal methods of how police conduct investigations.

"There hasn't been a lot of case-law on exactly what can be withheld," Rothert said. "This might have been a case to explore the exceptions, but the board never put on any evidence regarding this issue."

The case is *John Chasnoff v. Board of Police Commissioners*, 0722-CC007278.

St. Charles
County
Business
Record
St. Charles, MO
Circ. 650
From Page:
4
12/17/2009
10125

