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DIVISION OF LEGAL SERVICES
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June 29, 2023

Sent via Muckrock:

Ms. Tess Kelly
And Mr. Joshua Dankoff
joshuadankoff@cffji.org

RE: Sunshine Law Request – 06/05/2023

Dear Ms. Kelly,

I am responding on behalf of the Custodian of Records for the Department of Social Services (DSS) to your information request, which DSS received on June 5, 2023.

Your request was:

This is a request for records under your state public records law. I am requesting copies of public records regarding health and behavioral health service delivery in youth correctional facilities in your jurisdiction, to inform a comparative research project regarding health and mental health care delivery in juvenile detention facilities across the US. Specifically, I request information regarding the following:

1. Name and contact details for those responsible for health and behavioral health services provisions at all locations where juveniles are incarcerated within your jurisdiction.
2. Regulations, policies and procedures that govern the operation of health and behavioral health provision for juveniles incarcerated within your jurisdiction. This includes health intake, room confinement, medication management, access to specialist and dental services, discharge planning services, and other health and behavioral health related policies.
3. Contracts from January 1, 2021 to the time the request is filled between your agency and any healthcare provider including both physical health and behavioral health.
4. Records concerning your jurisdiction's most recent application to Centre for Medicaid Services (CMS) for an 1115 Medicaid waiver (if applicable), and any response, with specifically focus on how and whether such a waiver applies to provision of Medicaid funded services for detained juveniles.
5. Records relating to financing for health and behavioral health care delivery in your jurisdiction.

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I request the records be provided electronically. If there are any fees for searching or copying these records, please inform me. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of the administration of juvenile justice. This information is not being sought for commercial purposes.

If access to the records I am requesting will take longer than allowed by statute, please contact me with information about when I might expect copies of the requested records. If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

DSS has followed up with the Division of Youth Services to assist in providing responsive documents. At this time, we would like to respond to your inquiry and to ask additional questions in order to clarify your request and ensure we are providing relevant information.

With regard to your request set forth in bullet #1, information regarding the names, job titles, and salaries of employees of the State of Missouri are public record and may be found on the Missouri Accountability Portal. This information may be accessed at <https://mapyourtaxes.mo.gov/MAP/Employees/HomePage.aspx>.

Pursuant to the Missouri Sunshine Law, § 610.011, RSMo, it is the policy of this state that records of governmental bodies, which includes DSS, are open (disclosable) to the public unless exempted from disclosure by law. Section 610.021, RSMo, provides exemptions to the general rule of disclosure. One such exemption is for personnel records and information regarding state employees beyond an employee's name, position, salary, and length of service. See § 610.021(3) and (13), RSMo. The release of information pertaining to specific employment locations of DSS staff creates a potential safety concern, thus pursuant to statute the information you seek, other than the information contained in the Missouri Accountability Portal, is closed and confidential.

With regard to your request set forth in bullet #2 above, DSS requests additional clarification and wishes to provide clarification, as well. In Missouri, youth are not incarcerated, but rather may be committed by court order to the custody of the Division of Youth Services. You have requested regulations, policies and procedures that govern the "operation of health" and "behavioral health provision" for juveniles incarcerated within the jurisdiction. The operation of health and behavioral health are extremely broad categories, which impact multiple areas of assessment, treatment and discharge planning. DSS is having difficulty determining the information you are requesting. Therefore, in order to satisfy your request, defining the areas of operation of health, behavioral health, room confinement and discharge planning information would be helpful. Without further specificity, DSS is unable to locate or otherwise determine whether it maintains records responsive to your request. A Sunshine Law request must be

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written in such a manner that the custodian of records can identify the records with "reasonable specificity in order to be able to provide access to them". Anderson v. Village of Jacksonville, 103 S.W. 3d 109, 196 (Mo.App. W.D. 2003).

With regard to your request set forth in bullet #3, the information you seek is maintained by the Missouri Office of Administration. Please direct any open records request for specific contracts or awarded/cancelled bids to purchmail@oa.mo.gov. Such requests should include "OPEN RECORDS REQUEST" in the subject line and include the following information:

1. Bid/contract number (if available),
2. Specific documents being requested, and
3. Requestor's company name and contact information (email and phone).

With regard to your request set forth in bullet #4, attached please find the FFCY 1115 waiver and the COA list. The FFCY waiver was amended to grant DSS the authority to require all COA4 individuals be enrolled in the specialty healthcare plan (Show Me Healthy Kids) and may be responsive to your request. If this is not responsive to your request, you may want to seek additional information through the Missouri Department of Mental Health. Please direct any open records request to Janet Gordon, DMH Records Custodian at the following:

Email address: Janet.gordon@dmh.mo.gov

Fax number: 573/526-3067

Mailing address: Department of Mental Health, 1706 East Elm St. Jefferson City, MO 65102

With regard to your request set forth in bullet #5, DSS requests additional clarification. You have requested "records relating to financing for health and behavioral health care delivery in your jurisdiction". Health and behavioral health are extremely broad categories, which impact multiple areas of assessment, treatment and discharge planning. Therefore, in order to satisfy your request, defining the areas of health and/or behavioral health information in which you are interested would be helpful. Without further specificity, DSS is unable to locate or otherwise determine whether it maintains records responsive to your request. A Sunshine Law request must be written in such a manner that the custodian of records can identify the records with "reasonable specificity in order to be able to provide access to them". Anderson v. Village of Jacksonville, 103 S.W. 3d 109, 196 (Mo.App. W.D. 2003).

In addition, the Sunshine Law, Section 610.026, RSMo, allows for the collection of fees, including staff time for the search, research, and duplication for providing the records you have requested, as well as, copying costs. In the event DSS locates responsive documents, emails, and/or other items, an invoice containing the cost estimate for fulfilling your request will be provided to you.

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Please provide clarification by July 28, 2023, in order for DSS to complete your sunshine request.

I hope you find this information helpful.

Sincerely,

A handwritten signature in cursive script, reading "Sharie Hahn".

Sharie Hahn
General Counsel
Department of Social Services
Division of Legal Services
(573) 751-3229