



AMERICANS FOR LIMITED GOVERNMENT

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October 20, 2009

John M. Britt
Director
Department of Public Safety
301 W. High Street
HST Building, Rm. 870
P.O. Box 749
Jefferson City, MO 65102

Via fax to: 573.751.5399; hard copy via U.S. Mail

**RE: Problems with Records Retention and Disclosure in the Missouri
Information Analysis Center (MIAC)**

Dear Mr. Britt:

I write today to bring your attention to a disturbing lack of record retention that is occurring within the Missouri Information Analysis Center (MIAC). As you are aware earlier this year MIAC published a document report titled "The Modern Militia Movement," hereinafter "Report."

On August 21, 2009, Americans for Limited Government (ALG), filed a records request pursuant to Missouri's "Sunshine Law," MO. REV. STAT. § 610.010 *et seq.* This request sought the following information regarding the Report:

1. All draft versions of the Report that exist;
2. All data and all studies, reports, or other documents regarding data and any other background material created or reviewed by the MIAC in general to draft the Report;
3. Name, title, grade, and salary of all personnel involved in drafting the Report;
4. All records of communications and the communications themselves between any MIAC official and any private citizens, *i.e.*, persons who are not MIAC or state

employees regarding the Report prior to or contemporaneous with its drafting;
and

5. All records relating to information received from groups outside the MIAC that influenced the drafting of the Report.

On October 1, 2009, a response was sent to us with information regarding our request. Unfortunately what we received contained very little responsive records because the records "were not retained."

Other than one draft version of the Report, which contains no material differences from the published version, no responsive records were provided. In place of responsive records we were informed as follows regarding the points of our request:

2. None. Background material was not retained by the author during drafting.
3. There is no record listing the individual who wrote the report.
4. None.
5. There are no records relating to information received from groups outside the MIAC that influenced the drafting of the report.

These responses create more questions than they answer. After receiving the MIAC response we engaged in further research. A discussion of the MIAC response and our further research follows.

Point #2 of the ALG Records Request - All Background Materials Used to Draft the Report

The response we received would lead a reasonable person to conclude that background materials did at one point exist but that they were destroyed. How else can MIAC know that "Background material was not retained"? Upon receiving the MIAC response we conducted an examination of the Report and were able to determine that in at least two instances material from the Report was lifted verbatim from materials authored by outside groups, the Anti-Defamation League and the Southern Poverty Law Center. In so doing MIAC probably violated the federal copyright law rights of these two organizations unless it had obtained express written consent to republish the information without attribution. Given the fact that MIAC asserts that it has no records of communications from outside groups regarding the Report is it unlikely that it secured the necessary copyright permission before reprinting these groups' materials.

Point #3 of the ALG Records Request – Records Identifying All Personnel Involved in Drafting the Report

The response we received is puzzling especially when reviewed in context with the response received in relation to Point #2. How can MIAC possibly know that “material was not retained by the author during drafting” if MIAC does not know who that person is? How could the Custodian of Records possibly have asked this person whether or not material was retained if the identity of this person is not known?

Subsequent to the response received from MIAC, ALG was made aware of further information that had been provided to another group pursuant to a Sunshine Law request. That information includes email traffic from within the MIAC between at least two officials concerning the distribution of the document. Obviously at the point in time at which this email traffic was release pursuant to that Sunshine Law request MIAC knew the identity of “personnel involved in drafting the Report,” the exact subject matter of Point #3 in our request. See attachment #1. This begs the question as to why did MIAC release these records to one group but assert to ALG that the records do not exist?

Please provide a thorough explanation as to why MIAC decided to release this information to one group but not to ALG.

Points #4 and #5 of the ALG Records Request – Communications With Private Citizens Prior to or Contemporaneous with the Drafting of the MIAC Report and Materials Received From Such Groups

The response received on this point, “None,” is puzzling and would seem to indicate that MIAC simply engaged in plagiarism. Is it standard operating procedure for MIAC to engage in plagiarism?

Lack of Acknowledgment or Analysis of Fee Waiver Requests

Although Missouri law allows for a waiver of fees in a Sunshine Law matter when the subject matter is of significant public interest, the MIAC without one word of explanation did not waive the fees. This despite repeated requests from ALG counsel on September 10, 2009 and September 21, 2009, wherein MIAC was requested to provide “full, complete, and detailed legal analysis of the decision regarding fees.” Not only did MIAC not provide an explanation as to the decision to not grant the waiver of fees MIAC did not even acknowledge the request for analysis on the issue of a fee waiver.

Missouri law on the point of a fee waiver states in relevant part:

Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester. MO. REV. STAT. § 601.026 1 (1).

Given the massive, national public interest in this issue the criteria for granting a fee waiver have been more than met. I request that you direct MIAC to provide this analysis and if sufficient analysis cannot be provided that you direct MIAC to refund the \$320.00 in fees that were paid process the Sunshine Law request.

Conclusion

Given the general lack of responsive records received it is readily apparent that there is breakdown in the records retention policies of the MIAC. As such I request that you provide answers to the questions posed herein and also inform me regarding the official policy for records retention and provide me with the official records retention schedule used by MIAC.

In closing I would also make the point that it is hard if not impossible for MIAC to be effective against the real threats if it is in the habit of trashing background materials as a matter of course. How can it provide true analysis if it doesn't retain these materials?

Thank you in advance for your attention to this matter and your prompt response.

Sincerely,



William Wilson
President

Enclosure:

Attachment #1 - Email traffic from within MIAC



Attachment #1

Brandon Middleton/MSHP400

To Greg Hug/MSHP400@MSHP

cc

01/25/2009 09:30 AM

bcc

Subject Re: Right Wing Groups

Use it as a format, do with it what you will



Militia project.doc

Brandon Middleton, Criminal Intelligence Analyst
Missouri Information Analysis Center
2302 Militia Dr
Jefferson City, MO 65101
(573) 526-6170

▼ Greg Hug---01/25/2009 09:20:45 AM---Can you send the Militia product to me in the digital format? I'll send it out for you early Februa

From: Greg Hug/MSHP400
To: Brandon Middleton/MSHP400@MSHP
Date: 01/25/2009 09:20 AM
Subject: Re: Right Wing Groups

Can you send the Militia product to me in the digital format? I'll send it out for you early February.

Thanks for all you've done, and done very well. Have a productive traing and don't forget to mix a little fun in there.

Greg





Brandon Middleton/MSHP400

To: Connie Farrow/MSHP400@MSHP

01/20/2009 01:20 PM

cc

bcc

Subject: militia



Militia project.doc

Brandon Middleton, Criminal Intelligence Analyst
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