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By: JH

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS**

Susan W. McGee
CLERK OF THE CIRCUIT COURT
CHAMPAIGN COUNTY, ILLINOIS

CHRISTOPHER HANSEN,)	
)	
Plaintiff,)	
)	
v.)	2021CH000081
)	
VILLAGE OF RANTOUL,)	
)	
Defendant.)	

COMPLAINT

NOW COMES Plaintiff, CHRISTOPHER HANSEN, by the undersigned attorneys, Loevy & Loevy, and brings this suit to overturn Defendant VILLAGE OF RANTOUL’s willful violation of the Illinois Freedom of Information Act. HANSEN requested all citizen complaints filed against police officers between 2019 and 2021 as well as any investigative records created as a result of these citizen complaint(s). Even though courts have ruled that such records are public records and are not exempt under Section 7(1)(n) of FOIA, Defendant refused to produce the records. In support of the Complaint, HANSEN states as follows:

INTRODUCTION

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Illinois Freedom of Information Act (“FOIA”). 5 ILCS 140/1.

2. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of information

relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of the people. 5 ILCS 140/1.

3. Under FOIA Section 1.2, “[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt.” 5 ILCS 140/1.2.

PARTIES

4. Plaintiff CHRISTOPHER HANSEN made the FOIA request at issue in this case. HANSEN is the founder of Check CU, which is a non-profit news-media website. *See* <https://checkcu.org/about>.

5. Defendant VILLAGE OF RANTOUL (“RANTOUL”) is a public body located in Champaign County, IL.

NOVEMBER 7, 2021 FOIA REQUEST

6. On November 7, 2021, HANSEN submitted a FOIA request to RANTOUL for the following records: [1] “[a]ny documents which may be described as a police complaint form (for a civilian who wishes to file a complaint against a police officer)”; and [2] “any police complaints, formal and informal, which have been submitted in 2019, 2020, and 2021.” For Part 2 of the request, HANSEN asked to provide “any disposition or findings letters, complaint investigation documents such as reports and memorandums, and any documents related to any appeals which may have been filed on the Chief’s disposition.” The response letter that quotes the request is attached as Exhibit A.

7. On November 15, 2021, RANTOUL produced records pertaining to Part 1 of the request. HANSEN does not challenge RANTOUL’s response to Part 1 of the request.

8. RANTOUL denied Part 2 of the request by citing Section 7(1)(n) of FOIA. *Id.*

9. RANTOUL stated that it did not receive any complaints during 2019 and 2020 but received “one complaint” in 2021. *Id.*

10. RANTOUL then explained, “Court decisions and Attorney General PAC opinions indicate that ‘complaint logs’ or ‘complaint registers’ are not considered exempt under Section 7(1)(n).” RANTOUL continued, “The Village does not create or maintain such a ‘log’ or ‘register.’” *Id.*

11. RANTOUL asserted that under FOIA, it is not “required to create a record which has not been prepared or maintained by the municipality in its normal course of business.” *Id.*

12. In violation of Section 9(a) of FOIA, RANTOUL has not provided a “detailed factual basis for the application of any exemption claimed.” 5 ILCS 140/9(a).

13. A “complaint register” is a term used by Chicago Police Department (and potentially other local police departments) and refers to “records of investigations into complaints made by citizens against police officers.” *Kalven v. City of Chicago*, 2014 IL App (1st) 121846.

14. In other words, “complaint register” includes the “complaint itself and documents created during the investigation of the complaint.” *Id.*

15. While RANTOUL may not label or categorize the records responsive to the request as “complaint registers” or “complaint logs,” the records themselves—any complaints filed against a police officer and the subsequent investigative records—are public records and not exempt under 7(1)(n) under *Kalven* and other cases.

16. As of the date of this filing, RANTOUL has failed to comply with FOIA and has not produced all records responsive to the request.

**COUNT I – NOVEMBER 7, 2021 FOIA REQUEST,
FAILURE TO PRODUCE RECORDS**

17. The above paragraphs are incorporated by reference.

18. VILLAGE OF RANTOUL is a public body under FOIA.
19. The records sought in the FOIA request are non-exempt public records.
20. VILLAGE OF RANTOUL violated FOIA by failing to provide records responsive to the request.

**COUNT II – NOVEMBER 7, 2021 FOIA REQUEST,
FAILURE TO PERFORM AN ADEQUATE SEARCH**

21. The above paragraphs are incorporated by reference.
22. VILLAGE OF RANTOUL is a public body under FOIA.
23. VILLAGE OF RANTOUL bears the burden of proving beyond material doubt that it performed an adequate search for records responsive to the request.
24. VILLAGE OF RANTOUL has failed to come forward with sufficient evidence to carry this burden.
25. VILLAGE OF RANTOUL has violated FOIA by failing to adequately search for records responsive to the request.

**COUNT III – NOVEMBER 7, 2021 FOIA REQUEST,
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

26. The above paragraphs are incorporated by reference.
27. VILLAGE OF RANTOUL is a public body under FOIA.
28. The records sought in the FOIA request are non-exempt public records.
29. Because there was no good-faith basis for VILLAGE OF RANTOUL to assert that the requested records are exempt under 7(1)(n), VILLAGE OF RANTOUL willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

WHEREFORE, HANSEN asks that the Court:

- i. declare that VILLAGE OF RANTOUL has violated FOIA;

- ii. order VILLAGE OF RANTOUL to conduct an adequate search for the requested records;
- iii. order VILLAGE OF RANTOUL to produce the requested records;
- iv. enjoin VILLAGE OF RANTOUL from withholding non-exempt public records under FOIA;
- v. order VILLAGE OF RANTOUL to pay civil penalties;
- vi. award HANSEN reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

Dated: December 16, 2021

RESPECTFULLY SUBMITTED,
/s/ Josh Loevy

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TELEPHONE 217-359-6494
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November 15, 2021

Via e-mail

E-mail to: 

Christopher Hansen
CheckCU.org

RE: FOIA Request to Village of Rantoul

Dear Mr. Hansen:

On November 7, 2021, you submitted a third Freedom of Information Act (the Act) request by e-mail to Janet Gray, the Village Clerk for the Village of Rantoul. Your request has been forwarded to me, one of its Attorneys, to provide the response.

The request submitted was in two parts:

1. "Any documents which may be described as a police complaint form (for a civilian who wishes to file a complaint against a police officer). Please provide any such form(s) in their current format along with any related documents such as instructions. Please also provide any variants which may have existed from 2010 until now (meaning older variants of the police complaint forms and instructions which Rantoul may have used in the past)."
2. "Please provide any police complaints, formal and informal, which have been submitted in 2019, 2020 and 2021. Please also provide any disposition or findings letters, complaint investigation documents such as reports and memorandums, and any documents related to any appeals which may have been filed on the Chief's disposition."

My responses are below:

1. Response: The documents responsive to this request are provided to you with this response.
2. Response: During 2019 and 2020, no police complaints were received by the Village. As such, the Village has no documents which are responsive to this portion of your request. During the year 2021, only one complaint has been received by the Village. Such complaint was only recently received. Section 7(1)(n) of the Act provides the following exemption: "Records relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final

Exhibit A

outcome of cases in which discipline is imposed.” For the year 2021 concerning the recent complaint, your request is DENIED pursuant to Section 7(1)(n). Court decisions and Attorney General PAC opinions indicate that “complaint logs” or “complaint registers” are not considered exempt under Section 7(1)(n). The Village does not create or maintain such a “log” or “register”. Section 1 of the Act provides: “This Act is not intended to create an obligation on the part of any public body to maintain or prepare any public record which was not maintained or prepared by such public body at the time when this Act becomes effective, except as otherwise required by applicable local, State or federal law.” Pursuant to this section, a municipality is not required to create a record which has not been prepared and maintained by the municipality in its normal course of business. See 2012 PAC 20260 and 22242; *Chicago Tribune Co. v. Department of Financial and Professional Regulation*, 8 N.E.3d 11, 380 Ill.Dec. 80 (4th Dist. 2014). *Kenyon v. Garrels*, 184 Ill. App. 3d 28, 32-33 (4th Dist. 1989); *Borom v. Crawford*, 651 F.2d 500, 502 (7th Cir. 1981)(a public body is not required to create a record that is not maintained in the normal course of business).” The Village is not required to create a new record by creating a “log” or “register” concerning the filing of complaints against police officers.

You have a right to request review of the denial of records as set forth above by the Illinois Public Access Counselor:

Public Access Bureau
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
217-558-0486
publicaccess@atg.state.il.us

You may also file suit for injunctive or declaratory relief in the Circuit Court of Champaign County Illinois.

If you have any questions or comments, please feel free to contact me.

Yours very truly,

EVANS, FROEHLICH, BETH & CHAMLEY

BY: /s/ David B. Wesner
David B. Wesner
Attorney for the Village
dwesner@efbclaw.com

Encl.

Cc: Village Clerk