

10/1/2021 2:04 PM  
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. )  
 )  
CITY OF CHAMPAIGN, )  
ILLINOIS STATE POLICE, )  
 )  
Defendants. )

**COMPLAINT**

NOW COMES Plaintiff, CHRISTOPHER HANSEN, by the undersigned attorneys, Loevy & Loevy, and brings this suit to overturn Defendants CITY OF CHAMPAIGN and ILLINOIS STATE POLICE’s willful violation of the Illinois Freedom of Information Act. Defendants have refused to release investigative records of an officer-involved fatal shooting that occurred in Champaign on May 19, 2021. In support of the Complaint, HANSEN states as follows:

2021CH000064

**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 CITY OF CHAMPAIGN (“CHAMPAIGN”) is a public body located in Champaign County, IL.

6. Defendant ILLINOIS STATE POLICE (“ISP”) is a public body and a statewide agency that has multiple offices throughout Illinois, including in Champaign County, IL.

### **AUGUST 23, 2021 FOIA REQUEST TO CHAMPAIGN**

7. On August 23, 2021, HANSEN submitted a FOIA request to CHAMPAIGN for “[a]ny and all records related to the shooting which occurred on May 19 around 3:30am which resulted in the injury/death of one or more police officers/suspects. Documents should include all video and audio recordings related to the incident, as well as written reports and email and other correspondence.” The response letter that quotes the original request is attached as Exhibit A.

8. On August 26, 2021, CHAMPAIGN assigned reference number 21-186 to the matter and provided a single YouTube link that contains a “portion of the body-worn camera footage.” *Id.*

9. This video pertains to the body-worn camera footage of a single police officer, is less than two minutes, and is posted by ISP on its YouTube page. *See* [https://www.youtube.com/watch?v=61\\_vKLhhI48](https://www.youtube.com/watch?v=61_vKLhhI48).

10. CHAMPAIGN withheld the remainder of the records citing Section 7(1)(d)(vii) of FOIA. Exhibit A.

11. CHAMPAIGN did not produce any investigative reports of the officer-involved shooting or the video and audio records of other officers who reported to the scene during or after the shooting. *Id.*

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

13. Section (vii) states:

Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but ***only to the extent that disclosure would:***

(vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.

5 ILCS 140/7(1)(d)(vii). (Emphasis added).

14. CHAMPAIGN has not shown how the disclosure of the audio and video records pertaining to the arrest records would “obstruct an ongoing criminal investigation” by CHAMPAIGN. 5 ILCS 140/7(1)(d)(vii).

15. CHAMPAIGN provided only a generic claim indicating that ISP told CHAMPAIGN that “this is an open and ongoing investigation, not all reports have been completed, nor have all records been received from other units / agencies.” Exhibit A.

16. CHAMPAIGN has not demonstrated how the disclosure of the records *would* interfere with a pending investigation and an ongoing criminal investigation.

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

## AUGUST 27, 2021 FOIA REQUEST TO ISP

18. On August 27, 2021, HANSEN, under the name of his non-profit news media website Check CU, submitted a FOIA request to ISP for “[a]ny and all records related to the shooting which occurred around 3:30am on May 19[,] 2021 which resulted in the injury/death of one or more police officers/suspects in the City of Champaign. Documents should include all video and audio recordings related to the incident, as well as written reports and email and other correspondence.” Exhibit B.

19. On September 3, 2021, ISP assigned reference number 21-2647 to the matter and sought an extension of five-business days. Exhibit C.

20. On September 14, 2021, ISP provided a non-working link regarding the “previously released video footage” of the fatal shooting and denied the remaining records by citing Sections 7(1)(d)(i), (iii), and (vii) of FOIA. Exhibit D.

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

22. Sections 7(1)(d)(i), (iii), and (vii) state:

Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but *only to the extent that disclosure would:*

- (i) interfere with pending or actual and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;
- (iii) create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;
- (vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.

5 ILCS 140/7(1)(d)(i), (iii), and (vii). (Emphasis added).

23. ISP has not shown how the disclosure of the records would “interfere with pending or actually reasonably contemplated law enforcement proceedings,” “create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing”, and “obstruct an ongoing criminal investigation” by the ISP. 5 ILCS 140/7(1)(d)(i), (iii), and (vii).

24. Instead, ISP only provided a generic claim that the investigation is “ongoing by the Multi-jurisdictional Investigative Team, the Champaign County State’s Attorney’s Office and the Champaign County Coroner’s Office.” Exhibit D.

25. Further, ISP stated that it released some video footage to the media, but cannot release the video footage in its entirety due to the “graphic nature of the footage and not to affect the accuracy or influence potential witness statements.” *Id.*

26. ISP has not demonstrated that the requested records are exempt under FOIA.

27. As of the date of this request, ISP failed to comply with FOIA and has produced no records responsive to the request.

**COUNT I – AUGUST 23, 2021 FOIA REQUEST TO CHAMPAIGN,  
FAILURE TO PRODUCE RECORDS**

28. The above paragraphs are incorporated by reference.

29. CITY OF CHAMPAIGN is a public body under FOIA.

30. The records sought in the FOIA request are non-exempt public records.

31. CITY OF CHAMPAIGN violated FOIA by failing to provide records responsive to the request.

**COUNT II – AUGUST 23, 2021 FOIA REQUEST TO CHAMPAIGN,  
FAILURE TO PERFORM AN ADEQUATE SEARCH**

32. The above paragraphs are incorporated by reference.

33. CITY OF CHAMPAIGN is a public body under FOIA.

34. CITY OF CHAMPAIGN bears the burden of proving beyond material doubt that it performed an adequate search for records responsive to the request.

35. CITY OF CHAMPAIGN has failed to come forward with sufficient evidence to carry this burden.

36. CITY OF CHAMPAIGN has violated FOIA by failing to adequately search for records responsive to the request.

**COUNT III – AUGUST 23, 2021 FOIA REQUEST TO CHAMPAIGN,  
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

37. The above paragraphs are incorporated by reference.

38. CITY OF CHAMPAIGN is a public body under FOIA.

39. The records sought in the FOIA request are non-exempt public records.

40. CITY OF CHAMPAIGN has willfully and intentionally or otherwise in bad faith violated FOIA.

**COUNT IV – AUGUST 27, 2021 FOIA REQUEST TO ISP,  
FAILURE TO PRODUCE RECORDS**

41. The above paragraphs are incorporated by reference.

42. ISP is a public body under FOIA.

43. The records sought in the FOIA request are non-exempt public records.

44. ISP violated FOIA by failing to provide records responsive to the request.

**COUNT V – AUGUST 27, 2021 FOIA REQUEST TO ISP,  
FAILURE TO PERFORM AN ADEQUATE SEARCH**

45. The above paragraphs are incorporated by reference.

46. ISP is a public body under FOIA.

47. ISP bears the burden of proving beyond material doubt that it performed an adequate search for records responsive to the request.

48. ISP has failed to come forward with sufficient evidence to carry this burden.

49. ISP has violated FOIA by failing to adequately search for records responsive to the request.

**COUNT VI – AUGUST 27, 2021 FOIA REQUEST TO ISP,  
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

50. The above paragraphs are incorporated by reference.

51. ISP is a public body under FOIA.

52. The records sought in the FOIA request are non-exempt public records.

53. ISP has willfully and intentionally or otherwise in bad faith violated FOIA.

**WHEREFORE**, HANSEN asks that the Court:

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

Dated: October 1, 2021

RESPECTFULLY SUBMITTED,  
*/s/ Joshua Hart Burday*

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Thomas Yu, Assistant City Attorney  
Nancy L. Rabel, Assistant City Attorney

August 26, 2021

Mr. Christopher Hansen  
[REDACTED]

RE: FOIA Request #21-186 – May 19, 2021 Police Shooting

Dear Mr. Hansen:

On August 23, 2021, you made the following request for records:

“Any and all records related to the shooting which occurred on May 19 around 3:30am which resulted in the injury/death of one or more police officers/suspects. Documents should include all video and audio recordings related to the incident, as well as written reports and email and other correspondence.”

Following is a link to the portion of the body-worn camera footage that has been released to the public: [https://www.youtube.com/watch?v=61\\_vKLhhI48](https://www.youtube.com/watch?v=61_vKLhhI48).

We received an update from the Illinois State Police and were told that this is an open and ongoing investigation, not all reports have been completed, nor have all records been received from other units / agencies.

The remainder of your request is being denied based on the following exemption:

7(1)(d)(vii)	Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would: obstruct an ongoing criminal investigation by the agency that is the recipient of the request.
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You have a right to request review of this response by the Illinois Public Counselor:

Public Access Bureau  
Office of the Attorney General  
500 S. 2<sup>nd</sup> Street  
Springfield, Illinois, 62706  
(217) 558-0486  
[publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us)

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a)

You may also file suit for injunctive or declaratory relief in the Circuit Court of Champaign County, Illinois. 5 ILCS 140/11

Sincerely,

*Nancy L. Rabel*

Nancy L. Rabel  
Assistant City Attorney

NLR/sjg

J:\LEG\WORD\FOIA\Requests Specific\2021\Police Shooting - May 19, 2021\#21-186 - Hansen, Chris [REDACTED] - May 19, 2021 Police Shooting\Letter - Hansen, Christopher (Response) 8-26-21 docx



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## Illinois State Police FOIA - May 19 2021 Police Shooting

1 message

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**Check CU** [REDACTED]  
To: "ISP.FOIA.Officer" <ISP.FOIA.Officer@illinois.gov>

Fri, Aug 27, 2021 at 1:47 PM

I am requesting record under the Illinois Freedom of Information Act

Please provide:

Any and all records related to the shooting which occurred around 3:30am on May 19 2021 which resulted in the injury/death of one or more police officer / suspect in the City of Champaign Document should include all video and audio recordings related to the incident, as well as written reports and email and other correspondence.

This is not a commercial request and CheckCU.org is a non-profit news media website. Please provide the records in digital format via email. If the file size(s) are too large for any internet based transmission, I will request that they be mailed.

I am requesting a fee waiver for any fees that may be assessed.

Thank you,  
CheckCU.org



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**FOIR # 21-2647 EXTENSION**

1 message

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**ISP.FOIA.Officer** <ISP.FOIA.Officer@illinois.gov>

Fri, Sep 3, 2021 at 2:43 PM

To: [REDACTED]

Re: FOIR # 21-2647 Extension

The Illinois State Police acknowledges receipt of your FOIA request. (See attached request). A response to your request is due 9/3/2021. However, additional time is needed to respond to your request. In accordance with Section 3(e) of the Freedom of Information Act (5 ILCS 140/3 (e)), the response due date is being unilaterally extended to 9/13/2021. The basis for this extension is as follows:

The requested records are stored in whole or in part at another location.

The request requires the collection of a substantial number of records.

The request is stated in categorical terms which requires an extensive search for the records requested.

The requested records have not yet been located and additional time is needed to complete the search.

The requested records require examination and evaluation to determine if the documents are exempt from disclosure and/or must be redacted.

The requested records cannot be provided within the prescribed time frame without causing an undue burden or interfering with the operation of the Department

Consultation is needed with another public body in order to respond to the request

Note: Extending the deadline to the above referenced date does not necessarily mean a response and/or public record will be provided to you by that date. FOIA requests are reviewed in the order in which they are received.

Your patience is appreciated.

Freedom of Information Act Unit

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney client privilege, attorney work product privilege, or any other exemption from disclosure.

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 **21-2647 request (8-27-21).pdf**  
446K



**ILLINOIS STATE POLICE**  
*Office of the Director*

JB Pritzker  
*Governor*

Brendan F. Kelly  
*Director*

September 14, 2021

CheckCU  
[REDACTED]

Re: FOIR #21-2647 Response

Thank you for writing the Illinois State Police (“ISP”) with your request for information pursuant to the Illinois Freedom of Information Act (“FOIA”), 5 ILCS 140/1 *et seq.* The ISP acknowledges receipt of your FOIA request dated August 27, 2021. (*See attached request*).

“Law enforcement operations have little hope of being effective if conducted in full public view ... Without the grant of confidentiality, the public is less likely to cooperate with an investigation and wrongdoing will go undetected or unsolved.” *The Copley Press, Inc. v. City of Springfield*, 266 Ill. App. 3d 421, 424 (4th Dist. 1994).

The ISP is denying your request for the reasons outlined below:

**1. Section 7(1)(d)(i) of FOIA**

“(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would: (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;” (5 ILCS 140/7(1)(d)(i)).

The information requested would interfere with pending or actually and reasonably contemplated law enforcement proceeding conducted by law enforcement or correctional agency.

**Exhibit D**

**2. Section 7(1)(d)(iii) of FOIA**

“(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would: ... (iii) create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;” (5 ILCS 140/7(1)(d)(iii)).

The information requested could create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing if the information were made public, as this case has not yet been adjudicated.

**3. Section 7(1)(d)(vii) of FOIA**

“(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would: ... (vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.” (5 ILCS 140/7(1)(d)(vii)).

The information requested would obstruct a current and ongoing criminal investigation. The case pertaining to your request is currently pending and the ISP is expecting to gather additional information regarding the case up to, and until, a verdict has been reached. Therefore, the case pertaining to your request is considered an ongoing investigation.

According to Lieutenant Mark Doiron, Violent Crimes Commander, Zone 6, ISP, the factual basis to support the above-referenced exemptions is as follows:

On Wednesday, 05/19/2021, ISP D-10 was notified ISP DCI Zone 5 of a Champaign Police Department Officer involved shooting. Preliminary information, two Officers were shot, and one subject is deceased. The Champaign County Multi-Jurisdictional Investigative Team, led by the Illinois State Police, was activated to conduct the investigation. Investigation's personnel responded and learned that two Champaign Police Officers responded to a domestic disturbance call. Preliminary investigation indicates they encountered an armed individual and gunfire was exchanged. The suspect was fatally wounded and pronounced deceased on the scene. One Champaign Police Officer succumbed to his injury and died at the Hospital. The other Champaign Police Officer was transported to an area Hospital. The investigation is ongoing by the Multi-jurisdictional Investigative Team, the Champaign County State's Attorney's Office and the Champaign County Coroner's Office.

Some video footage was previously released to the media, but not in its entirety do to the graphic nature of the footage and not to affect the accuracy or influence potential witness statements. If video evidence, in its entirety is released prior to identifying and interviewing other witness, the potential exists this may affect the accuracy or could influence witness statements. In addition, if evidence in this investigation is released prematurely, particular portions of the evidence may be focused on and sensationalized which would shift the focus to those specific portions, and in turn, discount other elements of evidence so that all the evidence is not considered in its entirety. This again, would diminish the objectivity of the investigation.

We invite you to resubmit your FOIA request at a later date when the ISP is able to release the records you are seeking.

Previously released video footage was provided to the media and is available on the ISP public accountability dashboard, may be released.

<https://gisweb.statepolice.il/portal/apps/opsdashboard/index.html#/0136c8f0de9c422cb14aaa492c76ebdd>

*Standard Reservation of rights. The ISP reserves all rights to assert additional exemptions set forth in FOIA, 5 ILCS 140/1 et. seq. and other applicable federal or state laws or rules and regulations, to withhold these records. It also reserves the right to provide supplement factual information in support of the claimed exemption or any further exemptions that may be claimed. Certain records may be withheld in their entirety due to applicable exemptions. Finally, the ISP reserves the right to withhold records based on another law enforcement agency's claimed exemptions.*

*Standard Requirements - A reasonable search for the requested records was conducted using the provided search terms. The ISP has provided all responsive records that were located unless otherwise cited above. Please be aware the ISP only maintains records that it creates or receives. The ISP FOIA unit will not be able to answer questions concerning any records provided. Per section 3.3 of FOIA, the ISP is not compelled to interpret or advise requesters as to the meaning or significance of the public records. The FOIA unit: David Catlin – Executive II, Tina Cordova – Office Specialist, Rhiann Martynowski – Office Specialist, Dawn Beckman – Office Coordinator, Jessica Marcolini – Office Coordinator, and Porcia Sledge – Office Coordinator (5 ILCS 140/9(a)).*

You have the right to have the decision of the ISP reviewed by the Public Access Counselor (“PAC”) at the Office of the Attorney General (5 ILCS 140/9.5(a)). You can file your Request for Review by writing the PAC at:

500 South 2<sup>nd</sup> Street  
Springfield, Illinois 62706  
(877) 299-3642

You also have the right to seek judicial review of the decision of the ISP by filing a lawsuit in the State circuit court (5 ILCS 140/11).

Sincerely,

Illinois State Police  
Freedom of Information Unit