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March 28, 2022

Via e-mail

E-mail to: [REDACTED]

Christopher Hansen
CheckCU.org

RE: FOIA Request to Village of Rantoul

Dear Mr. Hansen:

On January 21, 2022, you submitted a Freedom of Information Act (FOIA) request by e-mail to Janet Gray, the Village Clerk for the Village of Rantoul. Your request was forwarded to me, as its Attorney, to provide the response. I provided initial responses. The following is the Village's response to your request.

The request submitted was: "Please provide any police complaints, formal and informal, which have been submitted in 2010 through 2018. 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."

For purposes of the Village's response, I have broken the time period of your request into two parts: A. 2010 through 2017; and, B. 2018.

A. Your request for the above-referenced records for the time period of 2010 through 2017 is DENIED.

The denial is based upon the exemptions identified in FOIA as well as the Personnel Records Review Act.

Section 7 of FOIA provides for certain exemptions from disclosure of records or information. Section 7(1)(a) of the Act provides:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.

Under Section 7(1)(a) of (FOIA), information will be exempt from disclosure if a particular state law prohibits the disclosure. One such state law is the Personnel Records Review Act (Review Act) (820 ILCS 40/1 et seq.).

Additionally, Section 7.5 of FOIA makes specific references to certain state statutes where such prohibition and exemption from disclosure are provided. Section 7.5 provides: § 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(q) Information prohibited from being disclosed by the Personnel Record Review Act.

Section 8 of the Review Act provides:

§ 8. An employer shall review a personnel record before releasing information to a third party and, except when the release is ordered to a party in a legal action or arbitration, delete disciplinary reports, letters of reprimand, or other records of disciplinary action which are more than 4 years old.

Pursuant to Section 8 of the Review Act, those records identified therein are required to be deleted from personnel files and are exempt and prohibited from disclosure under FOIA.

The court in Johnson v. Joliet Police Department, 107 N.E.3d 964, 424 Ill.Dec. 245 (3d Dist. 2018) confirmed this exemption and prohibition when it held that disciplinary records more than four years old may not be turned over to third parties. Id. at 965. The court further held: "... we find that the prohibition on disclosure of disciplinary records more than four years old, found in Section 8 of the Review Act, is applicable to FOIA requests and that such records are thus exempt from FOIA." Id. at 967.

Based upon the above, all disciplinary records for the period of 2010-2017 are exempt and prohibited from disclosure.

B. Your request for the above-referenced records for the year 2018 are DENIED.

The denial/partial denial of the records is based upon the exemptions identified in FOIA. Section 7(1)(n) 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 outcome of cases in which discipline is imposed." Other than those records which are the final outcome in a case in which discipline was imposed, the records requested are those which relate to a public body's adjudication of employee disciplinary cases. The term adjudication is clearly intended to mean the process involved in a disciplinary matter, ie from the filing of a complaint, associated actions stemming from the filing of a complaint, through the ultimate decision on the complaint. Further, under Section 7(1)(n), any records "relating to" the adjudication of a disciplinary case are exempt. The records requested fall within the type of records clearly exempt under Section 7(1)(n). This is also supported by the legislative history related to FOIA. During the legislative debates in 2009 related to this particular section of FOIA, Representative Black asked the clear and unequivocal question of whether all records which led up to a termination would be exempt. House Speaker Madigan clearly answered that question in the affirmative. This legislative history clearly supports the plain and ordinary meaning of Section 7(1)(n). And, any proper statutory analysis leads to the same conclusion. The only records to be released regarding disciplinary matters are those identified after the word "however" in Section 7(1)(n), which are final outcomes in cases which result in discipline being imposed. No discipline was issued or imposed on any officer in 2018. As such, no documents exist which would be subject to release pursuant to the exemption in Section 7(1)(n) of the Act.

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You have a right to request review of the denial or partial 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.

Yours very truly,
EVANS, FROEHLICH, BETH & CHAMLEY

BY: /s/ David B. Wesner
David B. Wesner

Cc: Janet Gray, Village Clerk