

4/8/2022 10:45 AM
By: AL

**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.)	2022CH000014
)	
CITY OF CHAMPAIGN,)	
)	
Defendant.)	

COMPLAINT

NOW COMES Plaintiff, CHRISTOPHER HANSEN, by the undersigned attorneys, Loevy & Loevy, and brings this suit to overturn Defendant CITY OF CHAMPAIGN’s willful violation of the Illinois Freedom of Information Act. CITY OF CHAMPAIGN improperly asserted FOIA’s exemptions for preliminary drafts and interference with pending law enforcement investigations to withhold complaints filed against police officers in 2021 and 2022. 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 news-media website. *See* <https://checkcu.org/about>.

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

MARCH 21, 2022 FOIA REQUEST

6. On March 21, 2022, HANSEN submitted a FOIA request to CHAMPAIGN for “[a]ll police complaints received by the City in 2021 and 2022.” Ex. 1.

7. On March 24, 2022, CHAMPAIGN denied the request in its entirety by citing Sections 7(1)(d)(i), 7(1)(d)(ii), and 7(1)(f) of FOIA. Ex. 2.

8. Sections 7(1)(d)(i) and (ii) 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;
- (ii) interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request.

5 ILCS 140/7(1)(d)(i) and (ii).

9. Section 7(1)(f) of FOIA exempts, in relevant part, “Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.” 5 ILCS 140/7(1)(f).

10. 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).

11. CHAMPAIGN has not shown how the disclosure of the records *would* “interfere with pending or actually reasonably contemplated law enforcement proceedings” and *would* “interfere with active administrative enforcement proceedings.” 5 ILCS 140/7(1)(d)(i) and (ii).

12. CHAMPAIGN was required to conduct its analysis of Sections 7(1)(d)(i) and (ii) on a document-by-document basis.

13. Instead, CHAMPAIGN only provided a generic claim that the “complaints were part of pending investigations.” Ex. 2.

14. Further, CHAMPAIGN has not shown how the records are exempt under Section 7(1)(f).

15. CHAMPAIGN has not demonstrated that the requested records are exempt under FOIA.

16. As of the date of this filing, CHAMPAIGN has failed to comply with FOIA and has produced no records responsive to the request.

**COUNT I – MARCH 21, 2022 FOIA REQUEST,
FAILURE TO PRODUCE RECORDS**

17. The above paragraphs are incorporated by reference.

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

19. The records sought in the FOIA request are non-exempt public records of CITY OF CHAMPAIGN.

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

**COUNT II – MARCH 21, 2022 FOIA REQUEST,
FAILURE TO PERFORM AN ADEQUATE SEARCH**

21. The above paragraphs are incorporated by reference.

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

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

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

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

**COUNT III – MARCH 21, 2022 FOIA REQUEST,
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

26. The above paragraphs are incorporated by reference.

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

28. The records sought in the FOIA request are non-exempt public records of CITY OF CHAMPAIGN.

29. During the time period from March 21, 2022, to present, CITY OF CHAMPAIGN was aware that it must conduct its analysis of Sections 7(1)(d)(i) and (ii) on a document-by-document basis.

30. CITY OF CHAMPAIGN did not conduct a document-by-document analysis before denying HANSEN's FOIA request.

31. During the time period of March 21, 2022, to present, CITY OF CHAMPAIGN was aware that Section 7(1)(f) does not exempt factual materials from disclosure.

32. Because CITY OF CHAMPAIGN had no good faith basis to deny the request under Section 7(1)(d)(i), (ii), and (f), CITY OF CHAMPAIGN has willfully and intentionally or otherwise in bad faith violated FOIA.

WHEREFORE, HANSEN asks that the Court:

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

Dated: April 8, 2022

RESPECTFULLY SUBMITTED,
/s/ Shelley Geiszler

Attorneys for Plaintiff
CHRISTOPHER HANSEN

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From: Check CU [REDACTED]
Sent: Monday, March 21, 2022 4:40 PM
To: FOIOCity <FOIOCity@champaignil.gov>
Subject: City of Champaign FOIA Request - Police Complaints 2021 & 2022

[EXTERNAL]

I am requesting records under the Illinois Freedom of Information Act.

Please provide:
All police complaints received by the City in 2021 and 2022.

These records were requested on January 26, 2022, but the City did not provide a detailed factual basis for the exemptions claimed.

This is not a commercial request. Please provide the records in digital format via email.

This request is being made by news media (see credentials below), and cannot be treated as voluminous or as a request from a recurrent requester.

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

Thank you,
Christopher Hansen
CheckCU.org

Exhibit 1



Finance Department • 102 N Neil St • Champaign IL 61820 • (217) 403-8940 • fax (217) 403-8995 • champaignil.gov

March 24, 2022

Christopher Hansen
[REDACTED]

RE: FOIA request #22-01-148A – Police Complaints for 2021 and 2022

Dear Requestor:

On January 27, 2022, you requested police complaint records from 2010 to present (FOIA #22-01-148). As agreed upon, the City continues to work to provide those requested documents.

On February 23, 2022, the City denied the records for 2021 and 2022 based on exemptions 7(1)(d)(i), 7(1)(d)(ii) and 7(1)(f) and provided the following explanation for the denial:

“The City began reviewing and redacting the Police Department’s complaint records for 2021 and 2022, and until the final dispositions were requested, we didn’t realize these complaints were part of pending investigations. As such, final dispositions are pending. As you are aware, the Police Chief makes the final determination and the City has had a rapid turnover in that position over the past year. However, once the investigations have concluded, the records will be subject to disclosure in accordance with applicable law. Complaints against police officers may result in discipline of officers involved. There are various State laws that apply to discipline records and the release of information related to the discipline. Until final disposition of these complaints and investigations, the City is unable to determine what information can be legally released.”

On March 21, 2022, you made the following request for records:

“Please provide:
All police complaints received by the City in 2021 and 2022.

These records were requested on January 26, 2022, but the City did not provide a detailed factual basis for the exemptions claimed.”

Your current request for police complaints for 2021 and 2022 is also being denied based on same exemptions:

7(1)(d)(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
7(1)(d)(ii)	Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request
7(1)(f)	Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents

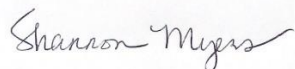
You have a right to request review of this response by the Illinois Public Access Counselor:

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

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,



Shannon Myers
Acting Records Manager/City Clerk