

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

SARAH LAZARE and)
DEBRA SOUTHORN,)
)
Plaintiffs,)
)
v.)
)
CHICAGO POLICE DEPARTMENT,)
)
Defendant.)

COMPLAINT

NOW COME Plaintiffs, SARAH LAZARE and DEBRA SOUTHORN, by their undersigned attorneys, LOEVY & LOEVY, and bring this suit to overturn Defendant CHICAGO POLICE DEPARTMENT's refusal, in willful violation of the Illinois Freedom of Information Act, to produce records related to SWAT incidents. These records are of particular public importance because all of Chicago's mental health clinics have been closed or privatized in recent years and SWAT teams are used to respond to mental health incidents. In support of their Complaint, Plaintiffs state 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. All public records 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 140/3.

4. Under FOIA Section 11(h), “except as to causes the court considers to be of greater importance, proceedings arising under [FOIA] shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.”

PARTIES

5. Plaintiffs LAZARE and SOUTHORN are the FOIA requesters in this case.
6. Defendant CPD is a public body located in Cook County, Illinois.

BACKGROUND

7. Chicago Police Department SWAT team deployments that are responding to emergency situations or critical incidents are recorded in a log book labeled “HBT,” which stands for “Hostage Barricade Terrorist.” The types of incidents noted in the logs include “suicidal subject,” “barricaded gunman,” and many more subjects that make it clear these are SWAT teams responding to emergency calls. HBT deployments are different from HRSW SWAT raids, which involve carrying out “High Risk Search Warrants” and are pre-meditated and involve the execution of a warrant.

8. Plaintiffs are seeking the SWAT HBT log books for the years 2009 through 2012, in order to analyze the rate of SWAT HBT deployments over the past eight years. Of particular note has been the use of SWAT teams responding to mental health incidents in recent

years. Half of the city's clinics were closed (and the remaining 6 privatized) in 2012, and the HBT logs from 2009-2012 will allow us to determine whether SWAT responses to mental health crises have become more frequent since the clinic closures.

APRIL 15 REQUEST

9. On April 15, 2017, Plaintiffs requested "all formal and informal critiques and incident logs for SWAT incidents from Jan 1, 2009 to December 31, 2013." A true and correct copy of the request is attached as Exhibit A.

10. On April 17, 2017, CPD responded taking a five day extension. Ex B.

11. On May 10, 2017, after the extended deadline to respond had passed, Plaintiffs followed up on the request inquiring when they could expect to receive a response. Ex. C.

12. On May 10, 2017, CPD responded that it was still working on the request. Ex. C.

13. On May 16, 2017, Plaintiffs again inquired as to when they could expect a response to the request. Ex D.

14. On May 17, 2017, CPD responded stating only that it was still working on the request. Ex. D.

15. On May 19, 2017, Plaintiffs followed up with CPD explaining that CPD had failed to comply with the statutory deadline to respond to FOIA requests. A true and correct copy is attached as Exhibit E.

16. On May 22, 2017, CPD responded by producing some responsive records, but not producing the Hostage Barricade Terrorist (HBT) SWAT logs from the years 2009-2012. The records CPD produced contained redactions, which CPD stated were made pursuant to Sections 7(1)(v), (d)(v), and d(vi). Ex. F.

COUNT I – APRIL 15 WILLFUL VIOLATION OF FOIA

17. The above paragraphs are incorporated by reference.
18. CPD is a public body under FOIA.
19. The records sought in CPD's FOIA request are non-exempt public records of CPD.
20. CPD has willfully and intentionally violated FOIA by failing to respond to Plaintiffs' request and produce the responsive records.

WHEREFORE, Plaintiffs ask that the Court:

- i. in accordance with FOIA Section 11(f), afford this case precedence on the Court's docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;
- ii. declare that CPD has violated FOIA;
- iii. order CPD to produce the requested records;
- iv. enjoin CPD from withholding non-exempt public records under FOIA;
- v. order CPD to pay civil penalties;
- vi. award Plaintiffs reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

Attorneys for Plaintiffs
SARAH LAZARE and DEBRA
SOUTHORN

Matthew Topic
Joshua Burday
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com
Atty. No. 41295

ELECTRONICALLY FILED
8/7/2017 8:30 AM
2017-CH-10759
PAGE 5 of 5