

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS**

EDGAR COUNTY WATCHDOGS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	19CH00000610
	)	
LAKE COUNTY SHERIFF,	)	
	)	
Defendant.	)	

**COMPLAINT**

NOW COMES Plaintiff, Edgar County Watchdogs by its undersigned attorneys, Loevy & Loevy, and brings this suit to overturn Defendant Lake County Sheriff’s refusal, in willful violation of the Illinois Freedom of Information Act, to produce video from the Lake County Courthouse. In support of its Complaint, ECW 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.

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.” 5 ILCS 140/11(h).

### **PARTIES**

5. Plaintiff Edgar County Watchdogs is the FOIA requester in this case. ECW is a non-profit organization comprised of investigative reporters whose purpose is to foster accountability, truth, and transparency in our local governing bodies.

6. Defendant Lake County Sheriff is a public body located in Lake County, Illinois.

### **APRIL 12, 2019 REQUEST**

7. On April 12, 2019, ECW requested from Lake County Sheriff under FOIA, “video from the Lake County Courthouse for the following location and timeframe: 4th Floor, near the stairwell, from 2:30 p.m. to 2:45 p.m., on April 9, 2019.” Ex. A.

8. On April 12, 2019, Lake County Sheriff responded seeking clarification about the exact location and video footage that ECW sought. Ex. A.

9. On April 12, 2019, ECW answered Lake County Sheriff’s questions explaining that the location was “‘Classic Court,’ Section C, outside Courtroom C-406.” Ex. A.

10. After receiving this clarification, on April 19, 2019, Lake County Sheriff denied the request in its entirety. Ex. B.

**COUNT I – APRIL 12, 2019 FAILURE TO PRODUCE RECORDS**

11. The above paragraphs are incorporated by reference.
12. Lake County Sheriff is a public body under FOIA.
13. The records sought in the FOIA request are non-exempt public records of Lake County Sheriff.
14. Lake County Sheriff has violated FOIA by failing to provide ECW with the records he requested.

**COUNT II – APRIL 12, 2019 FAILURE TO PERFORM AN ADEQUATE SEARCH**

15. The above paragraphs are incorporated by reference.
16. Lake County Sheriff is a public body under FOIA.
17. Lake County Sheriff bears the burden of proving beyond material doubt that it performed an adequate search for responsive records.
18. Lake County Sheriff has failed to come forward with sufficient evidence to carry this burden.
19. Lake County Sheriff has violated FOIA by failing to adequately search for responsive records.

**COUNT III – APRIL 12, 2019 WILLFUL VIOLATION OF FOIA**

20. The above paragraphs are incorporated by reference.
21. Lake County Sheriff is a public body under FOIA.
22. The records sought in the FOIA request are non-exempt public records of Lake County Sheriff.
23. Lake County Sheriff has willfully and intentionally or otherwise in bad faith violated FOIA.

**WHEREFORE**, ECW asks 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 Defendant has violated FOIA;
- iii. order Defendant to produce the requested records;
- iv. enjoin Defendant from withholding non-exempt public records under FOIA;
- v. order Defendant to pay civil penalties;
- vi. award Plaintiff reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,

*/s/ Joshua Hart Burday*

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Attorneys for Plaintiff  
EDGAR COUNTY WATCHDOGS

Matthew Topic  
Joshua Burday, ARDC #6320376  
Merrick Wayne  
LOEVY & LOEVY  
311 North Aberdeen, 3rd Floor  
Chicago, IL 60607  
312-243-5900  
foia@loevy.com

**From:** [John Kraft](#)  
**To:** [Berkquist, Christy R.](#)  
**Subject:** RE: FOIA Request (Lake County Sheriff) - 4-12-2019  
**Date:** Friday, April 12, 2019 5:35:00 PM  
**Attachments:** [image001.png](#)

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“Classic Court,” Section C, outside Courtroom C-406

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**From:** Berkquist, Christy R. <CBerkquist@lakecountyil.gov>  
**Sent:** Friday, April 12, 2019 5:09 PM  
**To:** John Kraft <john@illinoisleaks.com>  
**Subject:** FW: FOIA Request (Lake County Sheriff) - 4-12-2019  
**Importance:** High

Good afternoon, Mr. Kraft. We are in receipt of your FOIA request (below) as of this date, 4/12/19. However, we need some additional location information from you, please. Can you tell us whether you are referring to the “Classic Court” at 18 N. County St., or the new Court Annex at 301 Washington St.? Additionally, since there are multiple stairwells, it would be helpful if you could identify which Courtroom(s) are closest to the location requested, if known, or any other information which might help our staff identify the proper footage in order to best assist you. Thank you, and have a nice weekend.  
Regards,



Christy Berkquist | FOIA Officer  
Lake County Sheriff's Office  
25 S. Martin Luther King Jr. Ave.  
Waukegan, IL 60085  
Direct: 847.377.4276  
[cberkquist@lakecountyil.gov](mailto:cberkquist@lakecountyil.gov)  
[www.lakecountyil.gov/sheriff](http://www.lakecountyil.gov/sheriff)

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**From:** John Kraft <[john@illinoisleaks.com](mailto:john@illinoisleaks.com)>  
**Sent:** Friday, April 12, 2019 8:20 AM  
**To:** Sheriff <[Sheriff@lakecountyil.gov](mailto:Sheriff@lakecountyil.gov)>  
**Subject:** FOIA Request (Lake County Sheriff) - 4-12-2019

In accordance with the Freedom of Information Act I am requesting the following.

**If you are not the FOIA officer, you are required to immediately forward this request to the appropriate FOIA officer as required by statute [5 ILCS 140/3(c)].**

I am requesting the following information under the Freedom of Information Act:

Exhibit A

1. Copy of video from the Lake County Courthouse for the following location and timeframe: 4<sup>th</sup> Floor, near the stairwell, from 2:30 p.m. to 2:45 p.m., on April 9, 2019.

**Electronic copies are requested.**

**This is not a commercial request.**

*I, and the organizations I represent (Disclosure News Magazine, Edgar County Watchdogs Inc, and American Watchdogs Inc), qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), and the principal purpose of the request is to access and disseminate information concerning news and current or passing events, or for articles of opinion or features of interest to the public.; Section 2 (f) ("News media") as an Investigative Reporter for Disclosure News Magazine, an online and printed newspaper, and an Investigative Reporter for the Edgar County Watchdogs, an online news site, and am engaged in making news reels and other motion picture for public viewing, and as a news service to provide news and data to news organization(s) and nonprofits; Section 2 (g) ("Recurrent requester"); and Section 2 (h) ("Voluminous request") of the Freedom of Information Act, for the purposes of being exempt to the provisions of Section 3.1 (Requests for commercial purposes); Section 3.2 (Recurrent requesters); Section 3.6 (Voluminous requests), and Section 6 (Authority to charge fees).*

*This is also a request for fee waiver, should any fees be imposed, as this information bears on the public business of this public body and will be used to inform citizens of the actions of their public officials and employees, of their rights and responsibilities, of news and current or passing events, and for articles of opinion or features of interest to the public. The principal purpose of this request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the principal purpose of gaining a personal or commercial benefit.*

Thanks,

John Kraft

Edgar County Watchdogs

7060 Illinois Highway 1

Paris, Illinois 61944

[john@illinoisleaks.com](mailto:john@illinoisleaks.com)

[217-808-2527](tel:217-808-2527)

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**LAKE COUNTY SHERIFF FREEDOM OF INFORMATION ACT  
DENIAL OF REQUEST**

Dear: **John Kraft, Edgar County Watchdogs,**

We received your Freedom of Information Act request on **4/12/19** for the following documents:  
Copy of Video from the Lake County Courthouse, further defined as the Classis Court, 18 N.  
County, Section C, outside Courtroom C-406.

Please be advised it has been determined that this footage is not the possession of the Lake  
County Sheriff's Office. See letter below from Kasey Dunn Morgan, 19<sup>th</sup> Judicial Circuit for a  
response.

**Dear Mr. Kraft,**

**Your Freedom of Information Act Request dated April 12, 2019 has been  
referred to my attention for response.**

**Please be advised there will be no turnover of information or further response  
to your request, as the judicial branch of state government is not subject to the  
Freedom of Information Act. For a more complete review of the case  
authority, see: 5 ILCS 140/2(a); Copley Press, Inc., etc., v Administrative  
Office of the Courts, et al, 217 Ill.App.3d 548, 553; 648 N.E.2d324, 327-28  
(2dDist. 1995); 1999 Ill.Atty.Gen.Op.005 and 2007 Ill.Atty.Gen.Op.002.**

Kasey Dunn Morgan  
Assistant Director of Judicial Operations/Public Information Officer  
19<sup>th</sup> Judicial Circuit  
18 N. County Street  
Waukegan, IL 60085  
847-377-3818  
Fax: 847-984-5954  
[KMorgan@lakecountyil.gov](mailto:KMorgan@lakecountyil.gov)

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

Public Access Counselor  
Office of the Attorney General  
500 South 2<sup>nd</sup> Street  
Springfield, Illinois 62706  
Fax: 217-782-1396  
E-mail: [publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us)



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

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). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Christy Berkquist

FOIA Officer, Lake County Sheriff's Office

25 S. Martin Luther King Jr Ave

Waukegan, IL 60085

847-377-4000 [sherifffoia@lakecountyil.gov](mailto:sherifffoia@lakecountyil.gov)

847-377-4276 [cberkquist@lakecountyil.gov](mailto:cberkquist@lakecountyil.gov)