

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
MCLEAN COUNTY, ILLINOIS**

KIRK ALLEN,)
EDGAR COUNTY WATCHDOGS,)
)
Plaintiffs,)
)
v.)
)
CITY OF BLOOMINGTON,)
)
Defendant.)

FILED
11/26/2019 2:48 PM
DONALD R. EVERHART, JR.
CLERK OF THE CIRCUIT COURT
MCLEAN COUNTY, ILLINOIS

2019CH000247

FIRST CASE MANAGEMENT CONFERENCE
BEFORE JUDGE FOLEY
SET ON 04/09/20 @ 10:00 AM

COMPLAINT

NOW COME Plaintiffs, KIRK ALLEN and EDGAR COUNTY WATCHDOGS, by the undersigned attorneys, LOEVY & LOEVY, and bring this suit to overturn CITY OF BLOOMINGTON’s refusal, in willful violation of the Illinois Freedom of Information Act, to comply with Plaintiffs’ Freedom of Information Act requests for all records regarding complaints filed against and investigation of former Bloomington Police Officer Curtis Squires. In support of its 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. 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. Plaintiffs KIRK ALLEN and EDGAR COUNTY WATCHDOGS are members of the media and made the FOIA requests in this case.

6. Defendant CITY OF BLOOMINGTON (“BLOOMINGTON”) is a public body and located in McLean County, IL.

AUGUST 28, 2019 FOIA REQUEST

7. On August 28, 2019, Plaintiffs submitted a FOIA request to BLOOMINGTON seeking: [1] “[c]opies of all complaints filed against Officer Curtis Squires in the last 5 years,” [2] “[c]opies of all discipline reports filed against Officer Curtis Squires in the last 5 years,” and [3] “[c]opies of all emails that make reference to Officer Curtis Squires in the last 5 years.” Exhibit A.

8. On August 28, 2019, BLOOMINGTON acknowledged receipt of the request and assigned reference number FOIA #19-08-0994 to the matter. Exhibit B.

9. On September 4, 2019, BLOOMINGTON sought an extension of five working days regarding complaints and discipline reports filed against Officer Curtis. Exhibit C.

10. On September 11, 2019, BLOOMINGTON partially granted the request by producing two Records of Disciplinary Action each from October 21, 2015 and May 9, 2016. Exhibit D.

11. Plaintiffs do not challenge BLOOMINGTON's denial on the request for emails.

12. As of the date of this filing, BLOOMINGTON has not produced all requested records pertaining to complaints and discipline reports filed against Officer Curtis Squires in the last 5 years.

OCTOBER 1, 2019 FOIA REQUEST

13. On October 1, 2019, Plaintiffs submitted a FOIA request to BLOOMINGTON for "copies of all documents related to an internal or external investigation of former Bloomington Police Department Officer Curtis Squires in the last year. This would include, but not limited to, investigations pertaining to potential discipline or other civil/criminal actions of Officer Squires." Exhibit E.

14. On October 15, 2019, BLOOMINGTON denied the request in its entirety pursuant to 5 ILCS 140/7(1)(b), 7(1)(c), 7(1)(f), and 7(1)(n). Exhibit F.

15. BLOOMINGTON claimed, "The documents responsive to this request were compiled in accordance with the Uniform Peace Officers' Disciplinary Act, 50 ILCS 725, after the initiation of *a formal complaint/request sworn by affidavit of Assistant Police Chief Gregory Scott* on July 3, 2019." BLOOMINGTON also stated that "the resignation of Officer Squires occurred prior to the conclusion of the adjudicatory process and thus there are no final outcomes to be provide[d]." (Emphasis added). Exhibit F.

16. Plaintiffs requested all investigatory records, a product of the investigatory process that is initiated after a formal complaint is filed. This is separate and distinct from records of an adjudicatory process.

17. In *Kalven v. City of Chicago*, 2014 IL App (1st) 121846, 379 Ill. Dec. 903, 7 N.E. 3d 741, the Court limited the scope of records exempt under section 7(1)(n): “Given that section 7(1)(n) also refers to employee grievances and disciplinary cases, the statute appears to be limited to documents connected to formalized legal proceedings that involve only those two issues and that result in final and enforceable decision.” The Court made a clear distinction that “a substantiated complaint can result in disciplinary proceedings being instituted against an officer,” but “those proceedings are a different matter entirely.”

18. As of the date of this filing, BLOOMINGTON has produced no responsive records.

COUNT I – AUGUST 28, 2019 FAILURE TO PRODUCE RECORDS

19. The above paragraphs are incorporated by reference.

20. BLOOMINGTON is a public body under FOIA.

21. The records sought in the FOIA request are non-exempt public records of BLOOMINGTON.

22. BLOOMINGTON has violated FOIA by failing to produce the requested records in its entirety.

COUNT II – AUGUST 28, 2019 FAILURE TO PERFORM AN ADEQUATE SEARCH

23. The above paragraphs are incorporated by reference.

24. BLOOMINGTON is a public body under FOIA.

25. BLOOMINGTON bears the burden of proving beyond material doubt that it performed an adequate search for responsive records.

26. BLOOMINGTON has failed to come forward with sufficient evidence to carry this burden.

27. BLOOMINGTON has violated FOIA by failing to adequately search for the responsive records.

COUNT III – AUGUST 28, 2019 WILLFUL VIOLATION OF FOIA

28. The above paragraphs are incorporated by reference.

29. BLOOMINGTON is a public body under FOIA.

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

31. BLOOMINGTON has willfully and intentionally or otherwise in bad faith violated FOIA.

COUNT IV – OCTOBER 1, 2019 FAILURE TO PRODUCE RECORDS

32. The above paragraphs are incorporated by reference.

33. BLOOMINGTON is a public body under FOIA.

34. The records sought in the FOIA request are non-exempt public records of BLOOMINGTON.

35. BLOOMINGTON has violated FOIA by failing to produce the requested records.

COUNT V – OCTOBER 1, 2019 FAILURE TO PERFORM AN ADEQUATE SEARCH

36. The above paragraphs are incorporated by reference.

37. BLOOMINGTON is a public body under FOIA.

38. BLOOMINGTON bears the burden of proving beyond material doubt that it performed an adequate search for responsive records.

39. BLOOMINGTON has failed to come forward with sufficient evidence to carry this burden.

40. BLOOMINGTON has violated FOIA by failing to adequately search for the responsive records.

COUNT VI – OCTOBER 1, 2019 WILLFUL VIOLATION OF FOIA

41. The above paragraphs are incorporated by reference.

42. BLOOMINGTON is a public body under FOIA.

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

44. BLOOMINGTON has willfully and intentionally or otherwise in bad faith violated FOIA.

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

Dated: November 26, 2019

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

Attorneys for Plaintiffs

KIRK ALLEN

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: [Kirk Allen](#)
To: Cityclerk@cityblm.org
Bcc: blnnews@yahoo.com; john@illinoisleaks.com
Subject: FOIA Request
Date: Wednesday, August 28, 2019 1:35:31 PM

On behalf of Edgar County Watchdogs, pursuant to the Freedom of Information Act of Illinois, I am requesting the following public records.

1. Copies of all complaints filed against Officer Curtis Squires in the last 5 years.
2. Copies of all discipline reports filed against Officer Curtis Squires in the last 5 years.
3. Copies of all emails that make reference to Officer Curtis Squires in the last 5 years.

I qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), Section 2 (f) ("News media"), 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).

I request expedited processing on the basis of an urgency to inform the citizens and taxpayers of Illinois about their government's activities. If any element of this request is denied in whole or in part, I ask that you justify all withholdings individually by reference to specific exemptions of the Act. Please provide all responsive information to me electronically.

I request a rolling production of records, such that the public body furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the below address. If you have any questions please do not hesitate to contact me. Rolling production is not to be perceived as an agreement to extend the time frame for compliance under FOIA.

If you are not the FOIA officer responsible for any part of this request you are required by law to forward it to the appropriate FOIA officer.

The purpose of the request is to access and disseminate information regarding the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

As outlined in FOIA, documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the 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 personal or commercial benefit.

I am requesting the records be provided in electronic format if that is the method in which they are stored. If they are in paper form and the copier can convert them to electronic format I would appreciate receiving them electronically.

Thanks,
Kirk Allen

Exhibit A

Edgar County Watchdogs
PO Box 593
Kansas, IL 61933

From: [Jodee Cesario](#)
To: [Kirk Allen](#)
Subject: Re: FOIA Request
Date: Wednesday, August 28, 2019 2:25:57 PM

Good afternoon Kirk,

Thank you for your recent FOIA submission. Your request was given the FOIA #19-08-0994 and has a current due date of 09/04/2019.

You can expect to hear from the City Clerk's Department in regards to your request within 5 business days.

Thank you,
Jodee Cesario
Support Staff V
City Clerk's Department
City of Bloomington
109 E. Olive St.
Bloomington, IL 61701

From: Kirk Allen <Kirk@illinoisleaks.com>
Sent: Wednesday, August 28, 2019 1:35 PM
To: IM DL CityClerk <cityclerk@cityblm.org>
Subject: FOIA Request

On behalf of Edgar County Watchdogs, pursuant to the Freedom of Information Act of Illinois, I am requesting the following public records.

1. Copies of all complaints filed against Officer Curtis Squires in the last 5 years.
2. Copies of all discipline reports filed against Officer Curtis Squires in the last 5 years.
3. Copies of all emails that make reference to Officer Curtis Squires in the last 5 years.

I qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), Section 2 (f) ("News media"), 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).

I request expedited processing on the basis of an urgency to inform the citizens and taxpayers of Illinois about their government's activities. If any element of this request is denied in whole or in part, I ask that you justify all withholdings individually by reference to specific exemptions of the Act. Please provide all responsive information to me electronically.

I request a rolling production of records, such that the public body furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the below address. If you have any questions please do not hesitate to contact me.

Exhibit B

Rolling production is not to be perceived as an agreement to extend the time frame for compliance under FOIA.

If you are not the FOIA officer responsible for any part of this request you are required by law to forward it to the appropriate FOIA officer.

The purpose of the request is to access and disseminate information regarding the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

As outlined in FOIA, documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the 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 personal or commercial benefit.

I am requesting the records be provided in electronic format if that is the method in which they are stored. If they are in paper form and the copier can convert them to electronic format I would appreciate receiving them electronically.

Thanks,
Kirk Allen
Edgar County Watchdogs
PO Box 593
Kansas, IL 61933

Websense: Click [here](#) to report this email as spam.



Office of the City Clerk
109 E. Olive St., PO BOX 3157
Bloomington, IL 61702-3157
Phone: 309-434-2240

Notice of Extension of Time to Respond

09/04/2019

Kirk Allan, Edgar County Watchdogs
PO Box 593
Kansas, IL 61933

On 08/28/2019, the City received your request for the inspection or copying of certain City public records ("Request"). The FOIA Request is # 19-08-0994.

I. Extension of Time to Respond

Pursuant to Section 3(e) of the Illinois Freedom of Information Act, 5 ILCS 140/3(e), the City hereby notifies you that the time to respond to your Request is extended for five working days as to all records identified in Section II below ("Records"). Accordingly, the City will respond to your Request as it relates to the Records on or before 09/11/2019, a date that is not more than 10 working days after the date on which your Request was originally received by the City (or 26 working days for a Commercial Purposes Request).

II. Original Request

On behalf of Edgar County Watchdogs, pursuant to the Freedom of Information Act of Illinois, I am requesting the following public records.

Copies of all complaints filed against Officer Curtis Squires in the last 5 years.
Copies of all discipline reports filed against Officer Curtis Squires in the last 5 years.
Copies of all emails that make reference to Officer Curtis Squires in the last 5 years.



Office of the City Clerk
109 E. Olive St., PO BOX 3157
Bloomington, IL 61702-3157
Phone: 309-434-2240

III. Specified Records

[checked] This extension applies to only the following public records included in your request:

Complaints & discipline reports

You will receive a separate response from the City regarding your Request as it relates to any public records that are not listed above.

[] This extension applies all public records pertaining to the Original Request.

IV. Justification for Extension

This extension is necessary because:

- [] The Records are stored in whole or in part at a location other than the Office.
[] Your Request requires the collection of a substantial number of Records.
[] Your Request is couched in categorical terms and requires an extensive search for responsive records.
[] The Records have not been located in the course of a routine search and additional efforts are being made to locate them.
[checked] The Records require examination and evaluation by personnel having the necessary expertise and discretion to determine if they are exempt from disclosure under the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq. or should be disclosed only with appropriate deletions.
[] Your Request for records cannot be complied with by the City within the time limits required without unduly burdening or interfering with the operations of the City.
[] There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of your Request.

Dated: 09/04/2019

CITY OF BLOOMINGTON
By: Jodee Cesario
Digitally signed by Jodee Cesario
FOIA Officer



Response to Request for Public Records

09/11/2019

Kirk Allan, Edgar County Watchdogs
PO Box 593
Kansas, IL 61933

DENIED: IN FULL IN PART

On 8/28/2019, the City received your request for inspection or copying of certain City public records ("**Request**"). The request number is 19-08-0994.

I. Requested Records

Your Request sought the following records ("Records"):

Copies of all complaints filed against Officer Curtis Squires in the last 5 years
Copies of all discipline reports filed against Officer Curtis Squires in the last 5 years
Copies of all emails that make reference to Officer Curtis Squires in the last 5 years

II. Response to Request

The City's response to your Request is as follows:

Denial of the Request in full as set forth in Section III.

Partial Denial

Denied records as set forth in Section III:

Approved records for release:

discipline history document

Redacted records as set forth in Section III:

citizen complaints

III. Justification for Denial of Records or Redactions

Your Request is being denied with respect to the Records outlined above, and/or are being redacted because the Records, or information therein, are exempt from disclosure pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, pursuant to the specific citation(s) below. The detailed factual basis for the application of any exemption claimed is as follows:

Certain information defined as "private information" pursuant to Section 7(1)(b) and "personal information" pursuant to Section 7(1)(c) have been redacted.

*see box marked "other"

Citation to the specific section or sections of the Act containing the applicable exemption or exemptions is identified below:

- The Records you have requested are not "public records" under the definition provided in Section 2(c) of the Act.
- The Records do not exist and the City is not required to create public records or documents. §1
- Contractors' employees' addresses, telephone numbers, and social security numbers have been redacted from certified payroll records. § 2.10
- Your Request is unduly burdensome because you have repeatedly requested the same Specified Records that are unchanged or identical to previous requests provided or properly denied. § 3(g)
- Your Request, couched in categorical terms, is unduly burdensome because the burden on the City of complying with your Request outweighs the public interest in providing the Records, and efforts to reduce your Request to manageable proportions have been unsuccessful. § 3(g)

The reason(s) the Request is unduly burdensome:

The burden(s) on the operations of the City are as follows:

Disclosure of the Records is prohibited by Federal or State law, rule, or regulation. § 7(1)(a)

The applicable Federal or State law, rule or regulation is:

The Records constitute “private information.” § 7(1)(b)

The Records constitute “personal information,” the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. § 7(1)(c)

As set forth above, the redacted information includes dates of birth, victim's names, third party names, and identifying information

The Records were created in the course of administrative enforcement proceedings, or any law enforcement or correctional agency for law enforcement purposes and disclosure would (i) interfere with a pending or actually and reasonably contemplated law enforcement proceedings; or (ii) interfere with active administrative enforcement proceedings; or (iii) create a substantial likelihood that a person would be deprived of a fair trial or impartial hearing; or (iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by a confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies, except for traffic accident and rescue reports, or (v) disclose unique or specialized investigative techniques and disclosure would result in demonstrable harm to the City ; or (vi) would endanger the life or safety of law enforcement personnel or other person; or (vii) obstruct an ongoing criminal investigation. § 7(1)(d)

The Records are preliminary drafts, notes, recommendations, memoranda, or other records in which opinions are expressed or policies or actions are formulated. § 7(1)(f)

The Records contain trade secrets or commercial or financial information that is furnished under a claim that they are proprietary or confidential and disclosure would cause competitive harm. § 7(1)(g)

The Records constitute proposals or bids for a contract, grant, or agreement that has not been finally awarded and executed or would, if disclosed, frustrate or compromise the City’s procurement procedures. § 7(1)(h)

The Records are valuable formulae, computer geographic systems, designs, drawings, or research data if disclosure could reasonably be expected to produce private gain or public loss. § 7(1)(i)

- The Records are of educational data not required to be disclosed, including test data, evaluation information, student disciplinary information, and faculty course or research materials. § 7(1)(j)
- The Records are architects' plans, engineers' technical submissions, or other construction related technical documents not constructed in whole or in part with public funds, or where disclosure would or could compromise the security of a public building. § 7(1)(k)
- The Records are minutes of closed meetings of the City and are not subject to public inspection pursuant to the Open Meetings Act. § 7(1)(l)
- The Records constitute or reflect communications between the City and an attorney or auditor that are not subject to discovery in litigation or were prepared or compiled at the request of an attorney advising the City in anticipation of criminal, civil, or administrative proceedings or an internal audit of the City. § 7(1)(m)
- The Records relate to a City's adjudication of employee grievances or disciplinary cases. § 7(1)(n)
- Disclosure of the Records would jeopardize the security of a data processing system or the data contained therein. § 7(1)(o)
- The Records relate to employee collective bargaining matters and do not constitute a final collective bargaining agreement. § 7(1)(p)
- The Records are examination data used to determine the qualifications of an applicant for a license or employment. § 7(1)(q)
- The Records relate to pending negotiations for the purchase or sale of real estate or pending or contemplated eminent domain proceedings and are not subject to discovery pursuant to the rules of the Illinois Supreme Court. § 7(1)(r)
- The Records are proprietary information related to the operation of an intergovernmental risk management association, self-insurance pool, or jointly self-administered health and accident cooperative or pool, or are insurance or self-insurance claims, loss, or risk management information, records, data, or communications. § 7(1)(s)
- The Records are information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures. § 7(1)(u)
- The Records concern vulnerability assessments, security measures, or response policies or plans designed to identify, protect, or respond to potential attacks on a community's population or systems, facilities, or installations. § 7(1)(v)

- The Records are maps or other records regarding the location or security of utility facilities. § 7(1)(x)
- The Records relate to proposals, bids, or negotiations for electric power procurement. § 7(1)(y)
- Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act. § 7.5(cc)

Other:

Request to narrow has been sent regarding the email portion of this request

IV. Responsible Official

The City's FOIA Officer, named below, is the official responsible for this denial.

You have the right to have this decision reviewed by the Public Access Counselor, Sarah Pratt. Her contact information is: Sarah Pratt, Public Access Counselor, Office of the Attorney General, 500 S. 2nd Street, Springfield, Illinois 62706, Phone: 312-814-5526 or 1-877-299-FOIA (1-877-299-3642), Fax: 217-782-1396 -- Email: 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. 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. 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.

Dated: **09/11/2019**

By: CITY OF BLOOMINGTON

Jodee Cesario

FOIA Officer

Digitally signed by Jodee Cesario
DN: cn=Jodee Cesario, o=City of Bloomington,
ou=City Clerk's Department,
email=jcesario@cityblm.org, c=US
Date: 2019.09.11 16:05:21 -0500'

From: Kirk Allen
Sent: Tuesday, October 1, 2019 11:53 AM
To: cityclerk@cityblm.org
Subject: FOIA Request

On behalf of Edgar County Watchdogs, pursuant to the Freedom of Information Act of Illinois, I am requesting the following public records.

1. Copies of all documents related to an internal or external investigation of former Bloomington Police Department Officer Curtis Squires in the last year. This would include, but not limited to, investigations pertaining to potential discipline or other civil/criminal actions of Officer Squires.

I qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), Section 2 (f) ("News media"), 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).

I request expedited processing on the basis of an urgency to inform the citizens and taxpayers of Illinois about their government's activities. If any element of this request is denied in whole or in part, I ask that you justify all withholdings individually by reference to specific exemptions of the Act. Please provide all responsive information to me electronically.

I request a rolling production of records, such that the public body furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the below address. If you have any questions please do not hesitate to contact me. Rolling production is not to be perceived as an agreement to extend the time frame for compliance under FOIA.

If you are not the FOIA officer responsible for any part of this request you are required by law to forward it to the appropriate FOIA officer.

Exhibit E

The purpose of the request is to access and disseminate information regarding the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

As outlined in FOIA, documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the 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 personal or commercial benefit.

I am requesting the records be provided in electronic format if that is the method in which they are stored. If they are in paper form and the copier can convert them to electronic format I would appreciate receiving them electronically.

Thanks,

Kirk Allen

Edgar County Watchdogs

PO Box 593

Kansas, IL 61933



Response to Request for Public Records

10-15-19

Kirk Allen
P.O. Box 593
Kansas, IL 61933

DENIED: **IN FULL** **IN PART**

On 10/1/2019, the City received your request for inspection or copying of certain City public records ("**Request**"). The request number is 19-10-1117.

I. Requested Records

Your Request sought the following records ("Records"):

Copies of all documents related to an internal or external investigation of former Bloomington Police Department Officer Curtis Squires in the last year. This would include, but not limited to, investigations pertaining to potential discipline or other civil/criminal actions of Officer Squires.

II. Response to Request

The City's response to your Request is as follows:

Denial of the Request in full as set forth in Section III.

Partial Denial

Denied records as set forth in Section III:

Approved records for release:

Redacted records as set forth in Section III:

III. Justification for Denial of Records or Redactions

Your Request is being denied with respect to the Records outlined above, and/or are being redacted because the Records, or information therein, are exempt from disclosure pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, pursuant to the specific citation(s) below. The detailed factual basis for the application of any exemption claimed is as follows:

The documents responsive to this request were compiled in accordance with the Uniform Peace Officers' Disciplinary Act, 50 ILCS 725, after the initiation of a formal complaint/request sworn to by affidavit of Assistant Police Chief Gregory Scott on July 3, 2019. Officer Squires was given formal notification as required by the Act and this adjudicatory process was ongoing until the resignation of Officer Squires on August 16, 2019.

Section 7(1)(n) of the Illinois Freedom of Information Act exempts from disclosure records relating to a public body's adjudication of employee grievances or disciplinary cases. The only records not covered by the exemption is the "final outcome" of cases in which discipline is imposed.

As set forth above, the resignation of Officer Squires occurred prior to the conclusion of the adjudicatory process and thus there are no final outcomes to be provide.

In the alternative to the documents being exempt in accordance with Section 7(1)(n), the investigation report, which was not finalized, is considered a draft and contains numerous opinions allowing exemption pursuant to Section 7(1)(f). Additional information that is personal in nature, including health information, would also be exempt in accordance with Section 7(1)(b).

Citation to the specific section or sections of the Act containing the applicable exemption or exemptions is identified below:

- The Records you have requested are not "public records" under the definition provided in Section 2(c) of the Act.
- The Records do not exist and the City is not required to create public records or documents. §1
- Contractors' employees' addresses, telephone numbers, and social security numbers have been redacted from certified payroll records. § 2.10
- Your Request is unduly burdensome because you have repeatedly requested the same Specified Records that are unchanged or identical to previous requests provided or properly denied. § 3(g)
- Your Request, couched in categorical terms, is unduly burdensome because the burden on the City of complying with your Request outweighs the public interest in providing the Records, and efforts to reduce your Request to manageable proportions have been unsuccessful. § 3(g)

The reason(s) the Request is unduly burdensome:

The burden(s) on the operations of the City are as follows:

Disclosure of the Records is prohibited by Federal or State law, rule, or regulation. § 7(1)(a)

The applicable Federal or State law, rule or regulation is:

The Records constitute “private information.” § 7(1)(b)

The Records constitute “personal information,” the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. § 7(1)(c)

This includes information on the health of an individual subject to the report which is personal in nature and the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Records were created in the course of administrative enforcement proceedings, or any law enforcement or correctional agency for law enforcement purposes and disclosure would (i) interfere with a pending or actually and reasonably contemplated law enforcement proceedings; or (ii) interfere with active administrative enforcement proceedings; or (iii) create a substantial likelihood that a person would be deprived of a fair trial or impartial hearing; or (iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by a confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies, except for traffic accident and rescue reports, or (v) disclose unique or specialized investigative techniques and disclosure would result in demonstrable harm to the City ; or (vi) would endanger the life or safety of law enforcement personnel or other person; or (vii) obstruct an ongoing criminal investigation. § 7(1)(d)

The Records are preliminary drafts, notes, recommendations, memoranda, or other records in which opinions are expressed or policies or actions are formulated. § 7(1)(f)

The Records contain trade secrets or commercial or financial information that is furnished under a claim that they are proprietary or confidential and disclosure would cause competitive harm. § 7(1)(g)

The Records constitute proposals or bids for a contract, grant, or agreement that has not been finally awarded and executed or would, if disclosed, frustrate or compromise the City’s procurement procedures. § 7(1)(h)

The Records are valuable formulae, computer geographic systems, designs, drawings, or research data if disclosure could reasonably be expected to produce private gain or public loss. § 7(1)(i)

- The Records are of educational data not required to be disclosed, including test data, evaluation information, student disciplinary information, and faculty course or research materials. § 7(1)(j)
- The Records are architects' plans, engineers' technical submissions, or other construction related technical documents not constructed in whole or in part with public funds, or where disclosure would or could compromise the security of a public building. § 7(1)(k)
- The Records are minutes of closed meetings of the City and are not subject to public inspection pursuant to the Open Meetings Act. § 7(1)(l)
- The Records constitute or reflect communications between the City and an attorney or auditor that are not subject to discovery in litigation or were prepared or compiled at the request of an attorney advising the City in anticipation of criminal, civil, or administrative proceedings or an internal audit of the City. § 7(1)(m)
- The Records relate to a City's adjudication of employee grievances or disciplinary cases. § 7(1)(n)
- Disclosure of the Records would jeopardize the security of a data processing system or the data contained therein. § 7(1)(o)
- The Records relate to employee collective bargaining matters and do not constitute a final collective bargaining agreement. § 7(1)(p)
- The Records are examination data used to determine the qualifications of an applicant for a license or employment. § 7(1)(q)
- The Records relate to pending negotiations for the purchase or sale of real estate or pending or contemplated eminent domain proceedings and are not subject to discovery pursuant to the rules of the Illinois Supreme Court. § 7(1)(r)
- The Records are proprietary information related to the operation of an intergovernmental risk management association, self-insurance pool, or jointly self-administered health and accident cooperative or pool, or are insurance or self-insurance claims, loss, or risk management information, records, data, or communications. § 7(1)(s)
- The Records are information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures. § 7(1)(u)
- The Records concern vulnerability assessments, security measures, or response policies or plans designed to identify, protect, or respond to potential attacks on a community's population or systems, facilities, or installations. § 7(1)(v)

The Records are maps or other records regarding the location or security of utility facilities. § 7(1)(x)

The Records relate to proposals, bids, or negotiations for electric power procurement. § 7(1)(y)

Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act. § 7.5(cc)

Other:

IV. Responsible Official

The City's FOIA Officer, named below, is the official responsible for this denial.

You have the right to have this decision reviewed by the Public Access Counselor, Sarah Pratt. Her contact information is: Sarah Pratt, Public Access Counselor, Office of the Attorney General, 500 S. 2nd Street, Springfield, Illinois 62706, Phone: 312-814-5526 or 1-877-299-FOIA (1-877-299-3642), Fax: 217-782-1396 -- Email: 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. 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. 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.

Dated: **10-15-19**

By: CITY OF BLOOMINGTON

Jodee Cesario

FOIA Officer

Digitally signed by Jodee Cesario
DN: cn=Jodee Cesario, o=City of Bloomington,
ou=City Clerk's Department,
email=jcesario@cityblm.org, c=US
Date: 2019.10.15 16:20:54 -05'00'