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Hearing Date: 1/20/2021 9:30 AM - 9:30 AM
Courtroom Number: 2008
Location: District 1 Court
Cook County, IL

FILED
9/22/2020 11:00 AM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2020CH05958

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

KIRK ALLEN,)
EDGAR COUNTY WATCHDOGS,)
)
Plaintiffs,)
)
v.)
ILLINOIS STATE POLICE,)
)
Defendant.)

10528511

2020CH05958

COMPLAINT

NOW COME Plaintiffs, KIRK ALLEN and EDGAR COUNTY WATCHDOGS, by the undersigned attorneys, LOEVY & LOEVY, and bring this suit to overturn Defendant ILLINOIS STATE POLICE’s failure, in willful violation of the Illinois Freedom of Information Act, to comply with Plaintiffs’ Freedom of Information Act request for investigative records related to Coles County States Attorney Jesse Danley in the past two years. In support of the 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

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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. Plaintiffs KIRK ALLEN and EDGAR COUNTY WATCHDOGS are members of the media and made the FOIA request in this case.

5. Defendant ILLINOIS STATE POLICE (“ISP”) is a public body located in Cook County, Illinois.

JULY 27, 2020, FOIA REQUEST

6. On July 27, 2020, Plaintiffs submitted a FOIA request to ISP for [1] “copy of all criminal complaints filed against Coles County States Attorney Jesse Danley in the last 2 years” and [2] “copy of all investigative reports, interviews, and any other public records available pertaining to a criminal investigation of Coles County State’s Attorney Jesse Dan[ley] in the last 2 years.” Exhibit A.

7. As of July 28, 2020, a complaint against Coles County State’s Attorney Jesse Danley had been referred to ISP’s Special Investigations Unit within the Division of Criminal Investigation for review. Exhibit B.

8. On August 30, 2020, after taking several extensions not authorized under the statute, ISP stated that it found no responsive records and denied the request. Exhibit C.

9. ISP has not demonstrated that it conducted an adequate search for the responsive records.

10. ISP has not conducted an adequate search for the responsive records.

11. As of the date of this filing, ISP has not complied with FOIA and has produced no responsive records.

**COUNT I – JULY 27, 2020, FOIA REQUEST,
FAILURE TO PRODUCE RECORDS**

12. The above paragraphs are incorporated by reference.

13. ISP is a public body under FOIA.

14. The records sought in the FOIA request are non-exempt public records of ISP.

15. ISP violated FOIA by failing to produce the requested records.

**COUNT II – JULY 27, 2020, FOIA REQUEST,
FAILURE TO PERFORM AN ADEQUATE SEARCH**

16. The above paragraphs are incorporated by reference.

17. ISP is a public body under FOIA.

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

19. ISP has failed to come forward with sufficient evidence to carry this burden.

20. ISP has violated FOIA by failing to adequately search for responsive records.

**COUNT III – JULY 27, 2020, FOIA REQUEST,
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

21. The above paragraphs are incorporated by reference.

22. ISP is a public body under FOIA.

23. The records sought in the FOIA request are non-exempt public records of ISP.

24. ISP willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

WHEREFORE, Plaintiffs ask that the Court:

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

Dated: September 22, 2020

RESPECTFULLY SUBMITTED,
/s/ Joshua Hart Burday

Attorneys for Plaintiffs,
KIRK ALLEN,
EDGAR COUNTY WATCHDOGS

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

Beckman, Dawn M.

From: Kirk Allen <Kirk@illinoisleaks.com>
Sent: Monday, July 27, 2020 9:25 AM
To: ISP.FOIA.Officer
Subject: [External] FOIA Request

In accordance with the Freedom of Information Act of Illinois, I am requesting the following public records.

- 1) Copy of all criminal complaints filed against the Coles County States Attorney Jesse Danley in the last 2 years.
- 2) Copy of all investigative reports, interviews, and any other public records available pertaining to a criminal investigation of Coles County State's Attorney Jesse Danely in the last 2 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 or 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.

Thanks,

Kirk Allen

Edgar County Watchdogs

PO Box 593

Kansas, IL 61933

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Subject: complaint



Mervin Wolfe <wolfelawoffice@yahoo.com>
to Kirk Allen

Thu, Sep 3, 4:20 PM (6 days ago)

From: Thomas, Samuel <Samuel.J.Thomas@illinois.gov>
Sent: Tuesday, July 28, 2020 2:44 PM
To: parklawoffice2006@gmail.com
Subject: FW: [External] Mervin Wolfe/Jessie Danley misuse of office
Importance: High

This information regarding Mr. Wolfe's complaint has been referred to the Statewide Special Investigations Unit within the Division of Criminal Investigation for review. No determination has been made if a formal investigation will be initiated. Investigators will reach out to Mr. Wolfe for additional information when necessary. Any future inquires may be forwarded to myself. Thank you for your consideration.

From: Dumonceaux, Chad <Chad.Dumonceaux@illinois.gov>
Sent: Tuesday, July 28, 2020 7:57 AM
To: Thomas, Samuel <Samuel.J.Thomas@illinois.gov>
Cc: Kestner, Anthony <Anthony.Kestner@illinois.gov>
Subject: FW: [External] Mervin Wolfe/Jessie Danley misuse of office
Importance: High

Sir,

I have not responded to this email but am forwarding to you for handling. I understand your unit is reviewing this. Feel free to contact me with any questions.

Thank you,

Acting Master Sergeant Chad Dumonceaux

Zone 5 Investigations, Champaign

Division of Criminal Investigation

Illinois State Police

217-278-5000 – Office

815-419-7467 – Cell

From: Park Law Office <parklawoffice2006@gmail.com>

Sent: Monday, July 27, 2020 11:59 AM

To: Dumonceaux, Chad <Chad.Dumonceaux@illinois.gov>

Subject: [External] Mervin Wolfe/Jessie Danley misuse of office

Importance: High

Mr. Dumonceaux,

Mr. Wolfe's complaint which was initially given to the Charleston Police Department concerning misuse of office by Coles County State's Attorney Jessie Danley was forwarded to you by the Charleston Police Chief. All I am needing to know at this point, is whether a report has been completed and if so, the report number.

Thank you for your attention to this matter.

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Mervin L. Wolfe Attorney At Law 212 N. Michigan Ave. P.O. Box 242 Marshall, IL 62441-0242
Phone: 812-645-1200 Fax: 888-480-2645 email: wolfelawoffice@yahoo.com

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ILLINOIS STATE POLICE
Office of the Director

JB Pritzker
Governor

Brendan F. Kelly
Director

August 30, 2020

Kirk Allen
kirk@illinoisleaks.com

RE: FOIR #20-1999 Response

Dear Mr. Allen:

Thank you for writing the Illinois State Police (“ISP”) with your request for information pursuant to the Illinois Freedom of Information Act (“FOIA”), 5 ILCS 140/1 *et seq.* The ISP acknowledges receipt of your FOIA request dated July 27, 2020. (*See* attached request).

A reasonable search for the requested records was conducted; however, the ISP found no responsive records with the provided search terms. Please be aware the ISP only maintains records that it creates or receives.

Sincerely,

BRUCE A. KUGLER
FREEDOM OF INFORMATION OFFICER

By: *Jessica Marcolini*
Jessica Marcolini
Illinois State Police
801 S. Seventh St., Suite 1000-S
Springfield, Illinois 62703

Exhibit C

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