

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

EDGAR COUNTY WATCHDOGS,)
)
Plaintiff,)
)
v.)
)
IROQUOIS COUNTY,)
)
Defendant.)

COMPLAINT

1. NOW COMES Plaintiff EDGAR COUNTY WATCHDOGS, by the undersigned attorneys Loevy & Loevy, and brings this suit to overturn IROQUOIS COUNTY's willful violation of the Illinois Freedom of Information Act in its refusal to produce copies of search warrants and subpoenas issued to its Health Department within the last two years. Defendant denied Plaintiff's FOIA request, claiming that release of the records would interfere with law enforcement proceedings, but did not provide any evidence or details to establish that the records are exempt from disclosure, or establishing, as the exemption requires, that IROQUOIS COUNTY is the public body conducting those proceedings. In support of the Complaint, EDGAR COUNTY WATCHDOGS states as follows:

INTRODUCTION

2. 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.

3. 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.

4. 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

5. Plaintiff EDGAR COUNTY WATCHDOGS (ECW) is a non-profit news media organization located in Paris, Illinois. ECW made the FOIA request at issue in this case

6. Defendant IROQUOIS COUNTY is a public body located in Iroquois County, Illinois.

MARCH 21, 2024 FOIA REQUEST

7. On March 21, 2024, ECW submitted a FOIA request to IROQUOIS COUNTY for the following records:

1. A copy of all search warrants presented to the Iroquois County Health Department in the last 2 years.

2. A copy of all subpoenas issued to the Iroquois County Health Department in the last 2 years.

8. On April 8, 2024, Defendant denied Plaintiff’s FOIA request in full under Section 7(1)(d)(i), which exempt records created in the course of administrative or legal enforcement proceedings to the extent that disclosure would “interfere with pending or actually and reasonable contemplated law enforcement proceedings conducted by any law enforcement or correctional

agency that is the recipient of the request.” Defendant did not provide any further details to establish this claim.

9. A true and correct copy of the denial letter, quoting the FOIA request, is attached as Exhibit 1.

10. Defendant has not demonstrated by clear and convincing evidence specifically how release of any portion of the records would obstruct an ongoing criminal investigation.

11. As of the date of this filing, Defendant has failed to comply with FOIA and has not produced all non-exempt portions of records responsive to the request.

12. All public bodies are required to take annual Public Access Counselor trainings.

13. The PAC training for the year of and year preceding the request in this case indicate that it “must show that disclosure of the records would interfere with or obstruct an investigation” and it is not sufficient for a public body to “merely state that an investigation is ongoing.”

14. Defendant's FOIA officer took the required PAC training prior to the deadline to respond to the request.

15. IROQUOIS COUNTY did not issue or cause to be issued any of the subpoenas or search warrants that are the subject of the request.

16. Upon information and belief, the investigations or proceedings referenced in the denial letter are being conducted by entities other than IROQUOIS COUNTY.

**COUNT I – MARCH 21, 2024 FOIA REQUEST
IROQUOIS COUNTY’S FOIA VIOLATION**

17. The above paragraphs are incorporated by reference.

18. IROQUOIS COUNTY is a public body under FOIA.

19. The records sought in the FOIA request include non-exempt public records or portions of public records of IR.

20. IROQUOIS COUNTY has failed to adequately search for records responsive to the request.

21. IROQUOIS COUNTY violated FOIA by failing to produce all non-exempt portions of records responsive to the request.

22. IROQUOIS COUNTY willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

WHEREFORE, EDGAR COUNTY WATCHDOGS asks that the Court:

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

Dated: May 20, 2024

RESPECTFULLY SUBMITTED,
/s/ Matthew Topic

Attorneys for Plaintiff,
EDGAR COUNTY WATCHDOGS

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April 8, 2024

Kirk Allen

Kansas, IL 61933

Dear Mr. Allen,

Thank you for writing to Iroquois County with your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq.

On March 21, 2024, you requested the following documents:

1. *A copy of all search warrants presented to the Iroquois County Health Department in the last 2 years.*
2. *A copy of all subpoenas issued to the Iroquois County Health Department in the last 2 years.*

Your request is denied for the following reasons:

- 5 ILCS 140/7(1)(d): Records in 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 actually and reasonable contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request.

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 2nd Street
Springfield, IL 62706
Fax: 217-782-1396

Exhibit 1

E-mail: publicaccess@atg.state.il.us

You also have the right to seek judicial review of your denial by filing a lawsuit in the State of 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.

Sincerely,

A handwritten signature in black ink that reads "Amanda Longfellow". The signature is written in a cursive style with a large, stylized initial 'A'.

Amanda Longfellow
Executive Assistant/FOIA Officer