

FILED DATE: 12/16/2020 10:55 AM 2020CH07306

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

FILED
12/16/2020 10:55 AM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2020CH07306

ANJANETTE YOUNG,)	
)	
Plaintiff,)	
)	
v.)	2020CH07306
)	
CHICAGO POLICE DEPARTMENT,)	
)	
Defendant.)	

11518374

COMPLAINT

Plaintiff ANJANETTE YOUNG, through her attorneys at Loevy & Loevy, brings this suit under the Freedom of Information Act against the CHICAGO POLICE DEPARTMENT.

INTRODUCTION

1. On February 21, 2019, CPD officers executed a search warrant on Ms. Young’s home that was based solely on an anonymous informant, and in the course of executing the warrant, forced Ms. Young to stand naked and handcuffed for over 30 minutes in the presence of multiple male officers before admitting they were at the wrong home.

2. In an effort to keep records about their own mistake and callous humiliation of Ms. Young from the public, CPD denied Ms. Young’s FOIA request relying on legal positions that have been repeatedly rejected in prior lawsuits, and later attempted, unsuccessfully, to obtain a prior-restraint injunction against the news media to prohibit publication.

3. Ms. Young brings this suit to force CPD to release all of these records under FOIA and seeks a ruling from this Court that CPD’s refusal to release these records was a willful and sanctionable violation of FOIA.

LEGAL BACKGROUND

4. 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.

5. 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.

6. 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

7. Plaintiff ANJANETTE YOUNG is a resident of Cook County, IL and made the FOIA request in this case.

8. Defendant CHICAGO POLICE DEPARTMENT (“CPD”) is a public body located in Cook County, Illinois.

9. Courts in this Circuit have held multiple times that CPD violated FOIA in cases in which CPD relied on allegedly ongoing investigations as a basis to withhold videos of police actions.

10. The U.S. Department of Justice has found that CPD has engaged in a pattern and practice of unconstitutional use of force, that CPD's deficient accountability systems have contributed to that pattern and practice, that CPD has not provided officers with sufficient direction, supervision, and support to ensure lawful and effective policing, and that CPD must better support and incentivize policing that is lawful and restores trust among Chicago's marginalized communities. These findings were true and the time they were issued and are true today.

11. According to a task force that included the now-Mayor of the City of Chicago, CPD's own data gives validity to the widely held belief the police have no regard for the sanctity of life when it comes to people of color. This finding was true at the time it was issued and is true today.

NOVEMBER 1, 2019, FOIA REQUEST

12. On November 1, 2019, YOUNG submitted a FOIA request to CPD for "any and all video recorded from officers' body worn cameras during a search warrant that was executed on my home, 164 N. Hermitage Ave., 1st floor apartment, on February 21, 2019." YOUNG specified that she is the "subject captured in the body worn camera video" and is "requesting video from the body worn camera of each officer, respectively, who responded and was on scene." YOUNG also provided the warrant number, 19SW5247, to aid CPD's search. Exhibit A.

13. On November 4, 2019, CPD acknowledged receipt of the request and assigned reference number P537723-110419 to the matter. Exhibit B.

14. On November 8, 2019, CPD asked YOUNG to provide a "Government issued ID in PDF form." Exhibit C.

15. On November 8, 2019, YOUNG sent CPD a PDF copy of her government issued driver's license. Exhibit C.

16. On November 12, 2019, CPD sought an extension of five business days. Exhibit D.

17. On November 19, 2019, CPD denied the request in its entirety pursuant to Sections 7(1)(d)(i) and (ii) of FOIA. Exhibit E.

18. In its denial letter, which came nine months after the incident occurred, CPD claimed that it was still conducting an "administrative investigation" into the incident and that "disclosure of such file will interfere with our pending and active investigation into this matter such that our investigation is compromised if witnesses who have yet to meet with our office are able to review the materials in our possession, including but not limited to the statements of other witnesses, accused, and complainants." *Id.*

19. Courts, including the First District Appellate Court, have repeatedly held that a law enforcement agency cannot withhold records under Section 7(1)(d) simply because an investigation is open or ongoing.

20. The asserted exemptions do not apply to records related to "administrative investigations." Rather, the plain text of the exemptions makes clear that they only apply to "law enforcement proceedings" and "active administrative enforcement proceedings."

21. There have never been any law enforcement proceedings contemplated against anyone in connection with the raid of Ms. Young's home.

22. CPD does not claim that there is an ongoing criminal investigation under Section 7(1)(d)(vii).

23. There have never been any active administrative enforcement proceedings against anyone in connection with the raid of Ms. Young's home.

24. Even if "administrative investigations" qualified for the exemption, the asserted exemptions only apply when a public body can prove by clear and convincing evidence that release of the requested records "would interfere" with such investigations.

25. Courts have repeatedly rejected CPD's position that release of records from many months after an incident will interfere with any investigation by supposedly impacting the future statements of witnesses who had not yet been interviewed. CPD was aware of these rulings at the time it denied the request.

26. All of the witnesses to the raid, other than Ms. Young, are CPD officers who were present at the scene of the raid.

27. Under the CPD Department Member Bill of Rights, COPA and BIA are permitted to share video or audio recorded evidence relevant to an investigation before taking an officer's statement, and a CPD officer cannot be charged with a Rule 14 violation if the officer was not presented with any relevant video or audio of an incident before the officer gave a statement unless the officer was given the opportunity to "clarify and amend" the original statement after reviewing the video or audio evidence or the false statement was "willful."

**COUNT I – NOVEMBER 1, 2019, FOIA REQUEST,
FAILURE TO PRODUCE RECORDS**

28. The above paragraphs are incorporated by reference.

29. CPD is a public body under FOIA.

30. The records withheld in response to YOUNG's FOIA request are public records of CPD.

31. CPD has not provided a detailed actual basis that proves by clear and convincing evidence that the withheld records are exempt.

32. CPD violated FOIA by failing to produce the requested records.

**COUNT II – NOVEMBER 1, 2019, FOIA REQUEST,
FAILURE TO PERFORM AN ADEQUATE SEARCH**

33. The above paragraphs are incorporated by reference.

34. CPD is a public body under FOIA.

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

36. CPD has not proven that it conducted an adequate search for responsive videos.

**COUNT III – NOVEMBER 1, 2019, FOIA REQUEST,
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

37. The above paragraphs are incorporated by reference.

38. CPD willfully and intentionally, or otherwise in bad faith failed to comply with FOIA by asserting exemptions that clearly do not apply.

39. CPD willfully and intentionally, or otherwise in bad faith failed to comply with FOIA by denying the request in the interests of protecting itself from negative publicity.

WHEREFORE, YOUNG asks that the Court:

- i. declare that CPD has violated FOIA;
- ii. order CPD to conduct an adequate search for the requested records;
- 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 YOUNG reasonable attorneys' fees and costs; and
- vii. award such other relief the Court considers appropriate.

Dated: December 16, 2020

RESPECTFULLY SUBMITTED,
/s/ Matthew V. Topic

Attorneys for Plaintiff,
ANJANETTE YOUNG

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

From: Anjanette Young <anjanettelyoung.11@gmail.com>
Sent: Friday, November 1, 2019 5:38:41 PM
To: foia@chicagopolice.org <foia@chicagopolice.org>
Subject: Body Camera Video Request

Greeting

Please find attached a personal request for body Camera Video.

--



Body cam FOIA letter.docx
157K

Date: 11-1-2019

Dear FOIA Officer,

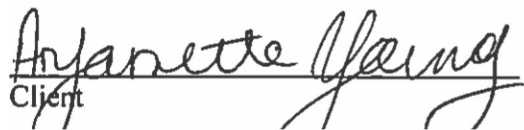
This is a request under the Illinois Freedom of Information Act.

I am requesting any and all video recorded from officers' body worn cameras during a search warrant that was executed on my home, 164 N. Hermitage Ave., 1st floor apartment, on February 21, 2019. I am requesting video from the body worn camera of each officer, respectively, who responded and was on scene. The warrant number is 19SW5247.

I would like to emphasize that I am a subject captured in the body worn camera video. Pursuant to 50 ILCS 706/10-20 (b)(3), "upon request, the law enforcement agency shall disclose, in accordance with the Freedom of Information Act, the recording to the subject of the encounter captured on the recording or to the subjects attorney, or the officer or his or her legal representative."

I look forward to hearing from you within five business days, as required by state FOIA law. Please acknowledge receipt of this FOIA request.

Signature


Client

Anjanette Young
164 N. Hermitage Ave., 1F
630-452-2301

----- Forwarded message -----

From: **Chicago Public Safety** <chicagops@mycusthelp.net>
Date: Mon, Nov 4, 2019 at 10:28 AM
Subject: Non-Commercial FOIA Request :: P537723-110419
To: anjanettelyoung.11@gmail.com <anjanettelyoung.11@gmail.com>

Dear Anjanette:

Thank you for your interest in information from the Chicago Police Department. Your FOIA request has been received and is being processed. Your FOIA Center reference number for tracking purposes is: **P537723-110419**

You have requested the following records: ***Date: 11-1-2019 Dear FOIA Officer, This is a request under the Illinois Freedom of Information Act. I am requesting any and all video recorded from officers' body worn cameras during a search warrant that was executed on my home, 164 N. Hermitage Ave., 1st floor apartment, on February 21, 2019. I am requesting video from the body worn camera of each officer, respectively, who responded and was on scene. The warrant number is 19SW5247. I would like to emphasize that I am a subject captured in the body worn camera video. Pursuant to 50 ILCS 706/10-20 (b)(3), "upon request, the law enforcement agency shall disclose, in accordance with the Freedom of Information Act, the recording to the subject of the encounter captured on the recording or to the subjects attorney, or the officer or his or her legal representative." I look forward to hearing from you within five business days, as required by state FOIA law. Please acknowledge receipt of this FO***

Exhibit B

Chicago Police Department (CPD) responds to all public records requests in accordance with the Illinois Freedom of Information Act (FOIA), 5 ILCS 140/1 et seq. If further time is needed to assemble and copy all documents responsive to your FOIA request, we will contact you with a time estimate and a request to extend.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Thank you for using the Chicago FOIA Center.

To monitor the progress or update this request please log into the [Chicago Public Safety Record System](#).

FILED DATE: 12/16/2020 10:55 AM 2020CH07306

From: Anjanette Young <anjanettelyoung.11@gmail.com>
Sent: Friday, November 8, 2019 3:34:05 PM
To: Chicago Public Safety <chicagops@mycusthelp.net>
Subject: Re: Non-Commercial Police FOIA Request :: P537723-110419

Greetings

You will find attached to this email your request for a PDF copy of my government issued driver license.

Thank You

On Fri, Nov 8, 2019 at 12:39 PM Chicago Public Safety <chicagops@mycusthelp.net> wrote:

Please provide us with a Government issued ID in PDF form.

Thank you

--



Driver License.pdf
120K



Lori Lightfoot
Mayor

Department of Police • City of Chicago
3510 S. Michigan Avenue • Chicago, Illinois 60653

Eddie T. Johnson
Superintendent of Police

November 12, 2019

Via Email:

anjanettelyoung.11@gmail.com

Anjanette Young

RE: NOTICE OF RESPONSE TO FOIA REQUEST
FOIA FILE NO.: P537723

Dear Anjanette Young

The Chicago Police Department (CPD) is in receipt of your Freedom of Information Act (FOIA) request.

"I am requesting any and all video recorded from officers' body worn cameras during a search warrant that was executed on my home, 164 N. Hermitage Ave., 1st floor apartment, on February 21, 2019. I am requesting video from the body worn camera of each officer, respectively, who responded and was on scene. The warrant number is 19SW5247."

Under the Freedom of Information Act, a public body may extend the time to respond to a FOIA request by up to 5 business days for a limited number of reasons. Pursuant to Section 5 ILCS 143/3(e) of the Act, the CPD is extending the time to respond to your request by 5 business days from the original due date for the following reason(s):

1. The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure or should be revealed only with the appropriate deletions.
2. 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 any public body having a substantial interest in the determination or in the subject matter of the request.

A response will be sent to you on or before November 19, 2019.

Sincerely,

P. Rodriguez
Freedom of Information Act Officer
Chicago Police Department
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653

Exhibit D



Lori E. Lightfoot
Mayor

Department of Police • City of Chicago
3510 South Michigan Avenue • Chicago, Illinois 60653

Eddie T. Johnson
Superintendent of Police

November 19, 2019

Via Email:

anjanettelyoung.11@gmail.com

Anjanette Young

RE: NOTICE OF RESPONSE TO FOIA REQUEST
FOIA FILE NO.: P537723

Dear Ms. Young:

The Chicago Police Department (CPD) is in receipt of your Freedom of Information Act (FOIA) request, received for the following:

"I am requesting any and all video recorded from officers' body worn cameras during a search warrant that was executed on my home, 164 N. Hermitage Ave., 1st floor apartment, on February 21, 2019. I am requesting video from the body worn camera of each officer, respectively, who responded and was on scene. The warrant number is 19SW5247."

CPD reviewed your request and it was determined that your request for Body Worn Camera footage is denied.

The file that you requested (2019-0004600) is a pending investigation. Therefore, this file is exempt from inspection and copying under 5 ILCS 140/7(1)(d)(i) and (ii). Our factual basis for this file was compiled in our administrative investigations into allegations of police misconduct pursuant to our establishing ordinance (Chicago Municipal Code 2-78-100 et. Seq) and disclosure of such file will interfere with our pending and active investigation into this matter such that our investigation is compromised if witnesses who have yet to meet with our office are able to review the materials in our possession, including but not limited to the statements of other witnesses, accused, and complainants. *See, e.g., Clark v. City of Chicago*, 10cv1803, 2010 U.S. Dist. Lexis 88124 (N.D. Ill. Aug 25, 2010); *Santiago v. City of Chicago*, 09cv3137, 2010 U.S. Dist. Lexis 29198 (N.D. Ill. Mar. 26, 2010).

You have a right of review by the Illinois Attorney General's Public Access Counselor, who can be contacted at 500 S. Second St., Springfield, IL 62706 or by telephone at 877-299-3642. You may also seek judicial review under 5 ILCS 140/11.

Exhibit E

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Sincerely,

P. Rodriguez
Freedom of Information Act Officer
Chicago Police Department
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653
foia@chicagopolice.org

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