



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

August 14, 2019

Via electronic mail and U.S. mail

Mr. Darrell Erdman
Assistant Police Information Management Administrator
Rockford Police Department
420 West State Street
Rockford, Illinois 61101
darrell.erdman@rockfordil.gov

RE: FOIA Request for Review: 2019 PAC 59112
Requester: Ms. Mary Sugden
Date of FOIA Request: July 19, 2019
SECOND REQUEST

Dear Mr. Erdman:

On August 1, 2019, the Public Access Bureau sent the attached letter requesting records and a response to the above-referenced Request for Review. As of the date of this letter, this office has not received the Police Department's response. Please forward the materials and information requested as soon as possible. Under section 1.2 of FOIA (5 ILCS 140/1.2 (West 2018)), a public body asserting that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt. Further, section 9.5(c) of FOIA (5 ILCS 140/9.5(c) (West 2018)) provides: "Within 7 business days after receipt of the request for review, the public body shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor." If we do not receive your response, this office may be compelled to conclude that you have not met your burden of proving the records are exempt from disclosure.

Mr. Darrell Erdman
August 14, 2019
Page 2

Please contact me at (217) 524-7958 or LHarter@atg.state.il.us if you have questions or would like to discuss this matter. Thank you.

Very truly yours,



LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

Attachment

cc: *Via electronic mail*
Mr. James Stratton
Evening Anchor
WREX-TV
jstratton@wrex.com



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

August 1, 2019

Via electronic mail
Mr. Darrell Erdman
Assistant Police Information Management Administrator
Rockford Police Department
420 West State Street
Rockford, Illinois 61101
darrell.erdman@rockfordil.gov

RE: FOIA Request for Review – 2019 PAC 59112
Requester: Ms. Mary Sugden
Date of FOIA Request: July 19, 2019

Dear Mr. Erdman:

The Public Access Bureau has received the attached Request for Review of the response by the City of Rockford Police Department (Department) to a Freedom of Information Act (FOIA) request submitted by Ms. Mary Sugden. We have determined that further action is warranted.

On July 19, 2019, Ms. Sugden, on behalf of WREX-TV, submitted a FOIA request to the Department seeking copies of: (1) any 2019 police reports, criminal complaints, dashboard camera footage, or police interviews involving a named individual; (2) 2019 police reports or criminal complaints containing a specific address; and (3) 2019 police reports or criminal complaints containing a certain license plate number. On July 26, 2019, the Department denied Ms. Sugden's request pursuant to section 7(1)(n) of FOIA (5 ILCS 140/7(1)(n) (West 2017 Supp.)), as amended by Public Act 100-732, effective August 3, 2018), which exempts from disclosure "[r]ecords relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed." On July 29, 2019, Mr. James Stratton, on behalf of WREX-TV, filed this Request for Review challenging the Department's denial.

As required under section 9.5(c) of FOIA (5 ILCS 140/9.5(c) (West 2016)), please provide un-redacted copies of the withheld records for this office's confidential review.

Mr. Darrell Erdman
August 1, 2019
Page 2

Please also provide a detailed explanation of the factual and legal bases for the assertion that the responsive records are exempt from disclosure pursuant to section 7(1)(n) of FOIA. As we review this matter, we will advise you if we require additional information. If you believe that other documents or information would help us as we review these issues, you may submit additional records or affidavits with the requested information.

This information must be submitted to our office within seven (7) business days after receipt of this letter. Under FOIA, "[t]he Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. The requester may, but is not required to, respond in writing[.]" 5 ILCS 140/9.5(d) (West 2016). If you claim that any portion of your written response is confidential, please send two versions of your response letter: a complete copy for this office's confidential review and a redacted version suitable for this office to forward to the requester.

Please contact me at (217) 524-7958 or at LHarter@atg.state.il.us if you have questions or would like to discuss this matter. Thank you.

Very truly yours,



LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

Attachment:

cc: *Via electronic mail*
Mr. James Stratton
Evening Anchor
WREX-TV
jstratton@wrex.com

Jefferson, Lavittla

59112 initial
docs

From: James Stratton <jstratton@wrex.com>
Sent: Monday, July 29, 2019 2:30 PM
To: Public Access
Subject: WREX FOIA Appeal
Attachments: WREX FOIA Request RPD.odt; Mary Sugden FOIA Response.pdf

Good afternoon,

Attached you will find our initial request to the Rockford Police Department along with its denial. We are seeking a review to this denial. Thank your for your time and consideration.

James Stratton
Evening Anchor | WREX-TV
Phone: 815.335.7855
Twitter: @JamesStrattonTV

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I am requesting copies of any police reports, criminal complaints, dash cam footage, police interviews, involving Eric Thurmond, DOB 1/14/1993, within 2019. In addition, I'm requesting copies of police reports or criminal complaints filed in 2019 that contain the address 1007 15th Street. In addition I'm requesting police reports or criminal complaints filed within 2019 that contain the Illinois License Plate "ZZ6 9452".



CITY OF ROCKFORD

Freedom of Information Response Letter

To: Mary Sugden

On 7/19/2019, the City of Rockford received your written request for inspection or copying of certain City public records ("Your Request").

1. **Approval, Denial or Partial Denial of Request**

- Your Request is hereby approved in its entirety.
- Your Request is hereby approved in its entirety, however no such records exist.
- Your Request is hereby denied in its entirety. The reason(s) for denial are stated in Section 9 below.
- Your Request has been denied in part and approved in part. The records you have requested are identified below, along with an indication of which records have been denied and which have been approved. The reasons for this partial denial are stated in Section 9 below.

This response pertains to the following records listed below (The "Specified Records")

Records Requested	Approved/Denied
Copies of any police reports, criminal complaints, dash cam footage, police interviews, involving Eric Thurmond, DOB 1/14/1993, within 2019. In addition, I'm requesting copies of police reports or criminal complaints filed in 2019 that contain the address 1007 15th Street. In addition I'm requesting police reports or criminal complaints filed within 2019 that contain the Illinois License Plate "ZZ6 9452": 5 ILCS 140/7(n) "Records relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed."	<u>Denied</u>

2. **Availability of Records**

- Copies available at _____
- E-mailed to _____
- Available for review at _____
- Mailed to _____
- Faxed to _____

3. **Appointment for Inspection or Pick-up**

The Specified Records will be made available for inspection or pick-up at _____. You must call the Freedom of Information Liaison Officer at City of Rockford at _____ to schedule an appointment for inspection or pick up of the Specified Records.

- If, within five Business Days after the date of this Notice of Approval, you have not made an appointment to inspect or pick up the Specified Records, then the Specified Records will be re-filed and will be made available to you only upon the filing of a new Request for records.
- Pursuant to Sections 2(c-10) and 3.1 of the Illinois Freedom of Information Act, 5 ILCS 140/2(c-10) and 140/3.1, the City has determined that Your Request is a request made for commercial purposes. The Specified Records will be available for inspection or pick-up on or after _____ (the "Availability Date"). If, within five Business Days after the Availability Date, you have not made an appointment to inspect or pick up the Specified Records on or before the fifth Business Day after the Availability Date, then the Specified Records will be re-filed and will be made available to you only upon the filing of a new Request for records.

4. **Copying and Certification Fees**

No copies or certified copies of the Specified Records will be provided to you until the following applicable fees have been paid. Fees must be paid in cash, by cashier's or certified check, or by money order.

8½ x 11 or 8½ x 14 Black and White Copy Cost:

First 50 Pages: Free

Additional Pages:

\$.15 per page

Reproduction of Electronic Medium Cost: \$ _____

Outside Vendor Cost: \$ _____ (see attached invoice)

Other Actual Reproduction Cost: \$ _____ (see attached invoice)

Freedom of Information Response Letter – Page 3

Cost as Fixed by Statute: \$ _____

Total Fee: \$ _____

The following provisions marked with an "x" apply to your request:

- There were no fees for this request.
- Your fees have been paid in full.
- Your request for a fee waiver or reduction has been approved in the following amount: \$ _____
- Your request for a fee waiver or reduction has been denied.
- You have previously deposited the following amount: \$ _____
- A balance is now due in the following amount: \$ _____

5. **Mailing of Records**

- Your request that the City mail the Specified Records to you has been denied on the basis that you have not shown that it would be unduly burdensome for you to arrange to pick up the Specified Records.
- Your request that the City mail the Specified Records to you has been approved. However, before the City will mail the Specified Records, you must pay the balance, if any, indicated in Section IV above and the following additional amount to cover the cost of postage: \$ _____.

6. **Responsible Official**

The City's Freedom of Information Officer is the official responsible for this response.

7. **Notice of the Right to Review by Illinois Attorney General**

If your request is denied and or partially denied, you have the right to file a request for your request to be reviewed by the Public Access Counselor of the Office of the Illinois Attorney General. The Public Access Counselor may be contacted at:

Sarah Pratt
Acting Public Access Counselor
Public Access Bureau
Office of the Attorney General
500 S. 2nd Street
Springfield, IL 62706
Publicaccess@atg.state.il.us
(put Sarah Pratt's name in the subject field)

8. Notice of Right to Judicial Review

Under Section 11 of the Illinois Freedom of Information Act, 5 ILCS 140/11, you have the right to seek judicial review if your request is denied. The City cannot advise or represent you in this matter. You should consult your own legal counsel.

9. Justification for Denial

Your Request is being denied or partially denied with respect to the Specified Records because the Specified Records are exempt from disclosure pursuant to the Illinois Freedom of Information Act for the following reason or reasons (references are to sections of the Act):

- The Specified Records are neither prepared by or for the City, nor have the Specified Records been or are being used by, or received by, the City. § 1, § 2(c)
- The Specified Records are not within the City's possession or control, nor are the Specified Records related to a governmental function and in the possession of a party with whom the City has contracted to perform that governmental function on behalf of the City. § 1, § 2(c), § 7(2)
- The Specified Records are Chronologically maintained arrest or criminal history information, the disclosure of which would interfere with pending or actually and reasonably contemplated law enforcement proceedings. § 2.15(c)
- The Specified Records are Chronologically maintained arrest or criminal history information, the disclosure of which would endanger the life or physical safety of any person. § 2.15(c)
- The Specified Records are Chronologically maintained arrest or criminal history information, the disclosure of which would compromise the security of a correctional facility. § 2.15(c)
- 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 Specified Records, and efforts to reduce Your Request to manageable proportions have been unsuccessful. § 1, § 3(g)
- Your Request is unduly burdensome because you have repeatedly requested the Specified Records or similar public records, which records are unchanged or identical to records previously provided or properly denied pursuant to the Act. § 3(g)

Freedom of Information Response Letter – Page 5

- Disclosure of the Specified Records is specifically prohibited by the following Federal or State law, rule, or resolution: § 7(1)(a)
- The Specified Records are private information. § 2(c-5), § 7(1)(b)
- The Specified Records are maintained by one or more law enforcement agencies and are specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects. § 7(1)(b-5)
- Disclosure of the Specified Records would constitute a clearly unwarranted invasion of personal privacy. § 7(1)(c)
- The Specified Records were created in the course of administrative enforcement proceedings, or for law enforcement purposes, and disclosure would:
 - interfere with a pending or actually and reasonably contemplated law enforcement proceeding by the City. § 7(1)(d)(i)
 - interfere with active administrative enforcement proceedings by the City. § 7(1)(d)(ii)
 - unavoidably disclose the identity of a confidential source or confidential information provided by the confidential source, or the identity of persons who file complaints with or provide information to administrative, investigative, law enforcements or penal agencies. § 7(1)(d)(iv)
 - disclose unique or specialized investigative techniques other than those generally used and known, and disclosure would result in demonstrable harm to the City. § 7(1)(d)(v)
 - endanger the life or physical safety of any person. § 7(1)(d)(vii)
 - obstruct or interfere with an active or ongoing criminal investigation by the City. § 7(1)(d)(viii)
- The Specified Records relate to the security of correctional institutions or detention facilities. § 7(1)(e)
 - Records requested by a person committed to the Department of Corrections or a county jail, the disclosure of which would result in the risk of harm to any person or the risk of an escape from a jail or correctional institution or facility. § 7(e-8)
 - Records requested by a person in a county jail or committed to the Department of Corrections containing personal information

pertaining to the person's victim or the victim's family, including but not limited to, a victim's home address, home telephone number, work or school address, work telephone number, social security number or any other identifying information, except as may be relevant to a requester's current or potential case or claim. § 7(e-9)

- Law enforcement records of other persons requested by a person committed to the Department of Corrections or a county jail, including, but not limited to arrest and booking records, mug shots, and crime scene photographs, except as these records may be relevant to the requester's current or potential case or claim. § 7(e-10)

- The Specified 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 Specified Records contain trade secrets or commercial or financial information furnished to the City under a claim that they are proprietary, privileged, or confidential, and disclosure would cause competitive harm to the furnisher of the information. § 7(1)(g)

- The Specified Records constitute proposals or bids for a contract, grant, or agreement that has not been awarded or for which a final selection has not been made, and disclosure would either frustrate the City's procurement procedures, or give an advantage to any person who may submit a proposal or bid. § 7(1)(h)

- The Specified Records constitute information prepared by or for the City in preparation of a bid solicitation for which no award or final selection has been made. § 7(1)(h)

- The Specified Records are valuable formulae, computer geographic systems, designs, drawings, or research data obtained or produced by the City, and disclosure could reasonably be expected to produce private gain or public loss. § 7(1)(i)

- The Specified Records contain the following types of information pertaining to specified educational matters that are exempt from disclosure:
 - test questions, scoring keys and other examination data used to administer an academic examination. § 7(1)(j)(i)

Freedom of Information Response Letter - Page 7

- information concerning a school or university's adjudication of student disciplinary cases, and disclosure would unavoidably reveal the identity of the student. § 7(1)(j)(iii)
- course materials or research materials used by faculty members. § 7(1)(j)(iv)
- Disclosure of the Specified Records would compromise the security of a project constructed with public funds. § 7(1)(k)
- The Specified Records are plans, technical submissions or other construction related technical documents for projects not constructed in whole or in part with public funds. § 7(1)(k)
- The Specified 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 Specified Records constitute or reflect communications between the City and an attorney or auditor that are not subject to discovery in litigation. § 7(1)(m)
- The Specified Records were prepared or compiled at the request of an attorney advising the City in anticipation of criminal, civil, or administrative proceedings. § 7(1)(m)
- The Specified Records were prepared or compiled with respect to an internal audit of the City. § 7(1)(m)
- The Specified Records relate to adjudication of an employee grievance or disciplinary case, and do not constitute the final outcome of a case in which discipline was imposed. § 7(1)(n)
- Disclosure of the Specified Records would jeopardize the security of a data processing system, of the data contained therein, or of other related data processing materials. § 7(1)(o)
- The Specified Records relate to employee collective bargaining matters and do not constitute a final collective bargaining agreement. § 7(1)(p)
- The Specified Records are test questions, scoring keys, or other examination data used to determine employment or license qualifications. § 7(1)(q)
- The Specified Records relate to pending negotiations for the purchase or sale of real estate. § 7(1)(r)

- The Specified Records relate to pending or actually and reasonably contemplated eminent domain proceedings and are not subject to discovery pursuant to the rules of the Illinois Supreme Court. § 7(1)(r)
- The Specified 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. § 7(1)(s)
- The Specified Records are insurance or self-insurance records. § 7(1)(s)
- The Specified 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 Specified 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, and disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of any person. § 7(1)(v)
- The Specified Records are maps or other records regarding the location or security of utility or power generator facilities. § 7(1)(x)
- The Specified Records are records of proposals, bids, or negotiations related to the procurement of electric power that have been determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission. § 7(1)(y)
- The Specified Records are library circulation or order records identifying library uses with specific materials, as provided in the Library Records Confidentiality Act. § 7.5(b)
- The Specified Records are held by an authorized representative of the Illinois Department of Public Health and relate to known or suspected cases of sexually transmissible disease, or other information the disclosure of which is prohibited under the Illinois Sexually Transmissible Disease Control Act. § 7.5(d)
- The Specified Records concern an enforcement proceeding under the City's ethics regulations. § 7.5(h)
- The Specified Records are information contained in a local emergency energy plan submitted to the City pursuant to an ordinance adopted under Section 11-21.5-5 of the Illinois Municipal Code. § 7.5(i)

- The Specified Records concern the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act. § 7.5(j)
- The Specified Records are law enforcement identification information or driver identification information compiled pursuant to Section 11-212 of the Illinois Vehicle Code. § 7.5(k)
- The Specified Records are records or information provided to a residential health care facility resident sexual assault and death review team under the Abuse Prevention Review Act. § 7.5(l)
- The Specified Records constitute defense budget and petitions for certifications of compensation and expenses for court-appointed trial counsel under Sections 10 and 15 of the Capital Crimes Litigation Act. § 7.5(n)
- The Specified Records relate to security portions of system safety program plans, reports, and other information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act. § 7.5(p)
- Disclosure of the Specified Records is prohibited by the Personnel Records Review Act. § 7.5(q)
- Disclosure of the Specified Records is prohibited by the Illinois School Student Records Act. § 7.5(r)
- Other: _____

Dated 7/26/2019.

CITY OF ROCKFORD, ILLINOIS

By: Kerry F. Partridge, Freedom of Information Officer

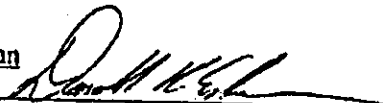
STATE OF ILLINOIS)
)
COUNTY OF WINNEBAGO) SS.

PROOF OF SERVICE

I, Darrell Erdman, being duly sworn on oath, state that on this 26th day of July, 2019, on or about the hour of 4:00 PM, I personally delivered or mailed the foregoing document entitled "Freedom of Information Response Letter" by:

- Personally handing it to the person to whom it is addressed.
- E-mailing it to the following e-mail address: msugden@wrex.com
- Faxing it to:
- Placing it in an envelope addressed to the person to whom it is addressed at the address to which it is addressed and depositing said envelope, with proper postage affixed, in the United States post office or mail box located at:

Signed: Darrell Erdman



Subscribed and sworn to before me this
____ day of _____, 20__

NOTARY PUBLIC