

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

SARGENT SHRIVER NATIONAL)
CENTER ON POVERTY LAW, INC.,)
)
Plaintiff,)
)
v.)
)
BOARD OF EDUCATION OF THE)
CITY OF CHICAGO,)
)
Defendant.)

COMPLAINT

NOW COMES Plaintiff, SARGENT SHRIVER NATIONAL CENTER ON POVERTY LAW, INC., (“SHRIVER”) by its undersigned attorneys, LOEVY & LOEVY, and brings this suit to overturn Defendant BOARD OF EDUCATION OF THE CITY OF CHICAGO’S refusal, in willful violation of the Illinois Freedom of Information Act, to produce records related to policing within Chicago Public Schools (“CPS”), possible police misconduct and arrests of children in school. In support of its Complaint, SHRIVER states 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. All public records 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 140/3.

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.”

PARTIES

5. Plaintiff SHRIVER is a national non-profit legal and policy advocacy organization that litigates on behalf of poor families in Illinois and nationwide. SHRIVER also organizes multiple networks of statewide law and policy organizations and legal aid lawyers. As a national clearinghouse for the legal aid community for over 50 years, SHRIVER supports precedent-setting litigation affecting the rights of low-income households.

6. Defendant CPS is a public body located in Cook County, Illinois.

BACKGROUND

7. The SHRIVER’s Community Justice team advocates for law, policy, and procedure reforms that discourage over reliance on arrest, prosecution, and incarceration to address behavior and status issues better handled as health, mental health, economic, or developmental issues, that encourage more positive interrelations and cooperation between individuals and law enforcement, and that decrease violence among members of communities and at the hands of law enforcement. The Community Justice team also advocates for laws and

policies that increase access to employment, education, health care, housing, and income supports and against laws and policies that irrationally limit such access by people with criminal records.

8. SHRIVER's Community Justice team has partnered with the Illinois Juvenile Justice Commission to recommend effective, respectful school discipline policies in CPS. Along with many groups in Chicago, SHRIVER's Community Justice Team is concerned that school discipline in CPS has created a school to prison pipeline that disproportionately harms minority children. To that end, SHRIVER's Community Justice Team sought information from CPS to determine how and why children were arrested while attending CPS.

9. In an effort to minimize the school to prison pipeline, school arrest data is critical in determining whether students are being arrested for offenses that should only warrant disciplinary intervention by school officials and not formal arrests.

10. Evaluating the conduct of police officers and holding them accountable is an issue of paramount importance in Chicago and elsewhere. The need for police oversight and accountability is heightened when the vulnerable policed population, like CPS school children, has limited access to recourse.

11. The public has a tremendous interest in the proper use of discipline within public schools and an effective and equitable juvenile justice system for all children, regardless of their race or national origin. The lack of oversight of police officers assigned to CPS coupled with their unchecked authority to arrest students in an educational environment exacerbates the school to prison pipeline and disproportionately harms children of color.

JUNE 2 REQUEST

12. On June 2, 2016, the Community Justice team of SHRIVER ("SHRIVER")

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requested from CPS “[a]ll complaints made to CPS involving police officer[s] stationed inside CPS schools from 2012-2016...” as well as “[a]ll complaints made to CPS involving security guards inside CPS schools 2012 - 2016.” A true and correct copy of the request is attached as Exhibit A.

13. On June 2, 2016, seconds after SHRIVER submitted the request, CPS sent an automated message seeking an extension of five business days to respond.

14. On June 10, 2016, CPS denied SHRIVER’s request. CPS asserted that it does not maintain an overall complaints database and does not in the ordinary course of business maintain or generate reports showing complaints made to CPS involving police officers or security guards inside schools or any particular type of school employee or contractor. CPS contends that there is not enough public interest in release of these records to justify the work required to produce them. A true and correct copy of the denial is attached as Exhibit B.

15. Upon information and belief CPS possesses and uses a database to, among other things, enter student discipline and alleged employee misconduct.

JUNE 8 REQUEST

16. On June 8, 2016, SHRIVER requested from CPS “[a]lleged employee misconduct reports involving in school police officers in any capacity entered into the Verify system in 2014.” A true and correct copy of the request is attached as Exhibit C.

17. On June 8, 2016, seconds after SHRIVER submitted the request, CPS sent an automated message seeking an extension of five business days to respond.

18. On June 16, 2016, CPS denied SHRIVER’s request. CPS contends that there is not enough public interest in release of these records to justify the work required to produce them. A true and correct copy of the denial is attached as Exhibit D.

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JUNE 16 REQUEST

19. On June 16, 2016, SHRIVER requested from CPS alleged employee misconduct reports entered into the VERIFY system in 2014. A true and correct copy of the request is attached as Exhibit E.

20. On June 16, 2016, seconds after SHRIVER submitted the request, CPS sent an automated message seeking an extension of five business days to respond.

21. On June 27, 2016, CPS denied SHRIVER's request. CPS contends that there is not enough public interest in release of these records to justify the work required to produce them. A true and correct copy of the denial is attached as Exhibit F.

PUBLIC ACCESS COUNSELOR REVIEW

22. On June 29, 2016, SHRIVER submitted a request for review with the PAC. A true and correct copy of the request is attached as Exhibit G.

23. CPS was unwilling to discuss with the PAC whether it could do a keyword search in the Verify system for responsive documents or not.

CPS' IMPROPER AUTOMATED EXTENSIONS

24. Upon information and belief CPS sends an automated response seeking a five day extension to respond to all FOIA requests that it receives citing 5 ILCS 140/3(e)(vi).

25. Section 3(e)(vi) allows a public body to take a 5 day extension if "the request for records cannot be complied with by the public body within the time limits prescribed by paragraph (c) of this Section without unduly burdening or interfering with the operations of the public body." 5 ILCS 140/3(e)(vi).

26. A public body may not automatically take a five day extension in response to every FOIA request it receives as part of its routine handling of requests.

27. FOIA Section 1 explicitly states: “The General Assembly recognizes that this Act imposes fiscal obligations on public bodies to provide adequate staff and equipment to comply with its requirements. The General Assembly declares that providing records in compliance with the requirements of this Act is a primary duty of public bodies to the people of this State, and this Act should be construed to this end, fiscal obligations notwithstanding.” 5 ILCS 140/1.

COUNT I – JUNE 2 WILLFUL VIOLATION OF FOIA

28. The above paragraphs are incorporated by reference.

29. CPS is a public body under FOIA.

30. The records sought in SHRIVER’s FOIA request are non-exempt public records of CPS.

31. CPS has willfully and intentionally violated FOIA by refusing to produce the requested records.

COUNT II – JUNE 8 WILLFUL VIOLATION OF FOIA

32. The above paragraphs are incorporated by reference.

33. CPS is a public body under FOIA.

34. The records sought in SHRIVER’s FOIA request are non-exempt public records of CPS.

35. CPS has willfully and intentionally violated FOIA by refusing to produce the requested records.

COUNT III – JUNE 16 WILLFUL VIOLATION OF FOIA

36. The above paragraphs are incorporated by reference.

37. CPS is a public body under FOIA.

38. The records sought in SHRIVER’s FOIA request are non-exempt public records

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of CPS.

39. CPS has willfully and intentionally violated FOIA by refusing to produce the requested records.

WHEREFORE, SHRIVER asks 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 CPS has violated FOIA;
- iii. order CPS to produce the requested records;
- iv. enjoin CPS from withholding non-exempt public records under FOIA;
- v. enjoin CPS from taking extensions via automated response;
- vi. order CPS to pay civil penalties;
- vii. award Plaintiff reasonable attorneys' fees and costs;
- viii. award such other relief the Court considers appropriate.

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RESPECTFULLY SUBMITTED,

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