



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 22, 2017

Via electronic mail
Mr. Sam Stecklow
Reporter
South Side Weekly
6100 South Blackstone Avenue
Chicago, Illinois 60637
[REDACTED]

RE: FOIA Request for Review – 2017 PAC 48279

Dear Mr. Stecklow:

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2014)). For the reasons set forth below, the Public Access Bureau concludes that no further action on this matter is warranted.

On May 16, 2017, you submitted a FOIA request to the Office of the Inspector General for the City of Chicago (Inspector General's Office) seeking information about every investigation concerning police misconduct that the Inspector General's Office has opened in the past 10 years based on a referral from either the Chicago Police Department (CPD) or the Independent Police Review Authority (IPRA). On May 22, 2017, the Inspector General's Office responded that any responsive records are part of its investigative files and therefore are exempt from disclosure pursuant to section 7.5(h) of FOIA (5 ILCS 140/7.5(h) (West 2015 Supp.), as amended by Public Acts 99-642, effective July 28, 2016; 99-776, effective August 12, 2016; 99-863, effective August 19, 2016). Your Request for Review, submitted on June 13, 2017, contests the denial.

Section 7.5(h) of FOIA exempts from disclosure "[i]nformation the disclosure of which is exempted under the State Officials and Employees Ethics Act [SOEEA], and records of **any lawfully created State or local inspector general's office** that would be exempt if created or obtained by an Executive Inspector General's office under that Act." (Emphasis added.) Section 20-95(d) of the SOEEA (5 ILCS 430/20-95(d) (West 2014)) provides:

Mr. Sam Stecklow
June 22, 2017
Page 2

Unless otherwise provided in this Act, ***all investigatory files and reports*** of the Office of an Executive Inspector General, other than monthly reports required under Section 20-85, are confidential, ***are exempt from disclosure under the Freedom of Information Act***, and shall not be divulged to any person or agency, except as necessary (i) to a law enforcement authority, (ii) to the ultimate jurisdictional authority, (iii) to the Executive Ethics Commission, (iv) to another Inspector General appointed pursuant to this Act, or (v) to an Inspector General appointed or employed by a Regional Transit Board in accordance with Section 75-10. (Emphasis added.)

Because any information in the possession of the Inspector General's Office that would be responsive to your FOIA request would be contained within the Inspector General's Office's investigatory files concerning the matters identified in your request, that information is within the scope of section 7.5(h) of FOIA.

Your Request for Review argues that "IPRA investigatory records are subject to release under FOIA and the Illinois Appellate Court's decision in *Kalven v. Chicago*, which found investigatory records into police misconduct are public records. The PAC and federal and state courts have repeatedly come to the same conclusion."¹ However, the FOIA request at issue in the *Kalven* case was submitted to CPD for records in its possession. *Kalven v. City of Chicago*, 2014 IL App (1st) 121846, ¶2, 7 N.E.3d 741, 742-43 (2014). Therefore, the court did not consider whether records concerning police misconduct investigations that were created or obtained by a lawfully-created local inspector general's office were exempt from disclosure pursuant to section 7.5(h) of FOIA. The plain language of section 20-95(d) of the SOEEA broadly applies to "all investigatory files and reports." Your Request for Review does not identify, and this office is not aware, of any authority to the contrary. If the General Assembly had intended to carve out an exception in section 20-95(d) of SOEEA or section 7.5(h) of FOIA for records of police misconduct investigations, it would have done so expressly. *See, e.g., Kunkel v. Walton*, 179 Ill. 2d 519, 534 (1997) ("There is no rule of construction which authorizes a court to declare that the legislature did not mean what the plain language of the statute imports, and a court is not at liberty to depart from the plain language of a statute by reading into it exceptions, limitations or conditions that the legislature did not express.").

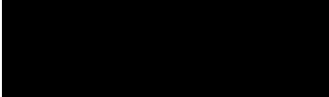
For the reasons stated above, this office has determined that the Inspector General's Office did not improperly deny your request pursuant to section 7.5(h) of FOIA.

¹Letter from Sam Stecklow, Reporter, *South Side Weekly*, to Sarah Pratt, Public Access Counselor, Office of the Attorney General (June 13, 2017).

Mr. Sam Stecklow
June 22, 2017
Page 3

Accordingly, no further action on this matter is warranted. This file is closed. If you have any questions, you may contact me at the Chicago address on the first page of this letter.

Very truly yours,



LEAH BARTELT
Assistant Attorney General
Public Access Bureau

48279 f no fi war mun

cc: Ms. Stephanie Patterson
Assistant Inspector General
Office of the Inspector General
City of Chicago
740 North Sedgwick Avenue, Suite 200
Chicago, Illinois 60654