

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

GUARDIAN NEWS & MEDIA LLC,

Plaintiff,

v.

CHICAGO POLICE DEPARTMENT,

Defendant.

CASE NO.:

2015CH06157
CALENDAR/ROOM 09
TIME 00:00
Injunction

**COMPLAINT IN CHANCERY
FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

Plaintiff, Guardian News & Media LLC, by and through its attorneys, asks this Court to render a declaratory judgment and grant injunctive relief under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et. seq.* For its Complaint, Plaintiff states as follows:

INTRODUCTION

1. The State of Illinois has declared its policy, through the Illinois Freedom of Information Act, that all people are entitled to full and complete information about government affairs and the official acts and policies of public officials and employees. 5 ILCS 140/1.
2. Access to this information is necessary to enable the people to fully discuss public affairs, make informed judgments about their representation and monitor the government to ensure it is being conducted in the public interest. *Id.*
3. All records of a public body are presumed to be open. Any public body that

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CLERK OF COURT
CHANCERY DIV.

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.

4. Proceedings arising under the Freedom of Information Act take precedence over all other causes except those the court considers to be of greater importance and should be expedited in every way. 5 ILCS 140/11(h).

PARTIES

5. Plaintiff Guardian News & Media LLC, also known as Guardian US, covers a wide range of American and international news for an online audience. It is a Delaware company and a wholly owned subsidiary of Guardian News & Media Ltd., an entity incorporated in the United Kingdom. The principal place of business for Guardian US is 536 Broadway, New York, N.Y., 10012.

6. Defendant Chicago Police Department is located in Cook County and is a public body within the meaning of 5 ILCS 140/2(a).

JURISDICTION AND VENUE

7. This action arises under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et. seq.*

8. Jurisdiction and venue are proper in this Court pursuant to 5 ILCS 140/11(c), because Defendant is located in Cook County.

FACTUAL BACKGROUND

9. In February 2015, Guardian US began publishing a series of articles uncovering allegations of abuse at a secretive facility known as Homan Square that is operated by the Chicago Police Department. *See* <http://www.theguardian.com/us-news/homan-square>.

10. The articles published the accounts of 11 people who had been involuntarily

detained at Homan Square, as well as those of more than a half-dozen defense attorneys familiar with the facility. The sources stated that, among other things, arrestees and detainees were kept out of official booking databases; detainees were shackled for prolonged periods; attorneys were denied access to Homan Square; detainees were told they could not contact relatives or attorneys to confirm their whereabouts; detainees were freed after agreeing not to tell attorneys about their detentions; and detainees were punched and had their genitals stepped on by police. *See* <http://www.theguardian.com/us-news/2015/feb/24/chicago-police-detain-americans-black-site>.

11. The conduct of law enforcement in a community is always a matter of significant public interest. This is particularly true where the protection of civil rights is at issue, for those whose rights are at risk are often those with the least power to enforce them.

12. Plaintiff seeks public records as part of its ongoing inquiry into the conduct of the Chicago Police Department, focusing in particular on the interrogation procedures and practices at the facility known as Homan Square.

13. On or about March 2, 2015, Guardian US, through its attorneys, served a Freedom of Information request on Defendant seeking access to 12 categories of public records:

- 1) All records related to interviews or interrogations of any person at Homan Square;
- 2) All records documenting or sufficient to identify the number of people interviewed or interrogated at Homan Square;
- 3) All records documenting or sufficient to identify the number of people kept in detention or arrest at Homan Square;
- 4) All records documenting or sufficient to identify the duration of stay for any person taken to Homan Square for questioning or interrogation, whether or not those people were ultimately arrested or deemed detained;
- 5) All records made available to the public concurrently with any detention, arrest or other stay of any person interviewed or interrogated at Homan Square, sufficient to identify that person's whereabouts while at Homan Square, along with documents sufficient to identify how, where, or through what process or method such records were made publicly available;

- 6) All records of central booking numbers created for any person in custody taken to Homan Square;
- 7) All records made contemporaneously available to the public documenting the transfer of any person in custody to Homan Square after booking;
- 8) All records documenting the visit of any lawyer for a person in custody at Homan Square;
- 9) All photographs and videos of every person in custody at Homan Square;
- 10) All photographs and videos of every lawyer visiting Homan Square;
- 11) All records related to the creation, establishment or identification of Homan Square as a facility for interviews, interrogations or detentions;
- 12) All records related to policies, guidelines or instructions for interviews, interrogations or detentions at Homan Square.

14. Plaintiff's request was served via email on March 2, 2015. Defendant was required under 5 ILCS 140/3(d) to respond to the request within five business days, or March 9, 2015. A true and correct copy this request is attached as Exhibit A.

15. On or about March 10, 2015, Defendant notified Plaintiff's counsel in a letter via email that it was extending its time to respond under 5 ILCS 140/3(e) for an additional five business days. A true and correct copy of this letter is attached as Exhibit B.

16. On or about March 16, 2015, Defendant notified Plaintiff's counsel via email that it would like to seek an extension of time to respond. A true and correct copy of this email is attached as Exhibit C.

17. On or about March 17, 2015, Victor H. Castillo Jr. of Defendant's Office of Legal Affairs spoke with Plaintiff's counsel about an extension, seeking to extend the response period to April 3. Plaintiff's counsel asked Mr. Castillo to confirm in writing that Defendant considered April 3 to be a date on which a meaningful response to Plaintiff's request would be provided. Mr. Castillo said he would consider the request and respond that day.

18. Later that day, Defendant notified Plaintiff's counsel in a letter via email that Plaintiff's request was denied in its entirety as "unduly burdensome" and asked Plaintiff to

narrow its request. The letter specifically pointed to limits on electronic records as a reason for the asserted burden, stating that arrest records “were not tracked electronically prior to 2005.” A true and correct copy of this letter is attached as Exhibit D.

19. On or about March 18, Plaintiff, through its counsel, submitted a narrowed request, accommodating Defendant’s concern over electronic records by limiting the scope to records from January 1, 2005 forward. The request sought these 12 categories of public records:

- 1) All records related to interviews or interrogations of any person at Homan Square;
- 2) All records documenting or sufficient to identify the number of people interviewed or interrogated at Homan Square;
- 3) All records documenting or sufficient to identify the number of people kept in detention or arrest at Homan Square;
- 4) All records documenting or sufficient to identify the duration of stay for any person taken to Homan Square for questioning or interrogation, whether or not those people were ultimately arrested or deemed detained;
- 5) All records made available to the public concurrently with any detention, arrest or other stay of any person interviewed or interrogated at Homan Square, sufficient to identify that person’s whereabouts while at Homan Square, along with documents sufficient to identify how, where, or through what process or method such records were made publicly available;
- 6) All records of central booking numbers created for any person in custody taken to Homan Square;
- 7) All records made contemporaneously available to the public documenting the transfer of any person in custody to Homan Square after booking;
- 8) All records documenting the visit of any lawyer for a person in custody at Homan Square;
- 9) All photographs and videos of every person in custody at Homan Square;
- 10) All photographs and videos of every lawyer visiting Homan Square;
- 11) All records related to the creation, establishment or identification of Homan Square as a facility for interviews, interrogations or detentions;
- 12) All records related to policies, guidelines or instructions for

interviews, interrogations or detentions at Homan Square.

20. Plaintiff's narrowed FOIA request was served via email on March 18, 2015. Defendant was required under 5 ILCS 140/3(d) to respond to the request within five business days, or March 25, 2015. A true and correct copy of this request is attached as Exhibit E.

21. Defendant acknowledged receipt of this request via email on March 19, 2015. A true and correct copy of this email is attached as Exhibit F.

22. On or about March 27, 2015, Mr. Castillo contacted Plaintiff's counsel stating that it had "an item" or "report" it could release that would partially address Plaintiff's narrowed request. Mr. Castillo asked for a call to discuss the record. A true and correct copy of this email is attached as Exhibit G.

23. Mr. Castillo spoke with Plaintiff's counsel on March 27, 2015, and described the item referred to in the email as a spreadsheet containing some data responsive to the request. Mr. Castillo advised Plaintiff's counsel that the spreadsheet required review by the Chicago Mayor's Office and that it would be produced on March 30 or 31, 2015.

24. At Mr. Castillo's request, Plaintiff's counsel acknowledged this conversation in an email on March 27, 2015. A true and correct copy of this email is attached as Exhibit H.

25. As of the date of this Complaint, Plaintiff has not received a final response to its first FOIA request, as submitted on March 2, 2015, and narrowed on March 18, 2015. Plaintiff has not received a determination of whether Defendant will release or withhold the requested records or any notification of the date on which records will be available. Plaintiff has not received any public records in response to this request, including the single record Defendant stated it would produce by March 31, 2015.

26. On March 31, 2015, Plaintiff, through its counsel, submitted a second FOIA request, seeking access to public records prior to 2005 that did not include arrest records, acknowledging that Defendant had previously stated that producing those arrest records would be overly burdensome. The second request sought these five categories of public records:

- 1) All records establishing the total number of persons taken to Homan Square for the purpose of interrogations, interviews and/or custodial detentions;
- 2) All records made available to the public concurrently with any detention, arrest, or other stay of any person interviewed or interrogated at Homan Square, sufficient to identify that person's whereabouts while at Homan Square, along with documents sufficient to identify how, where, or through what process or method such records were made publicly available;
- 3) All records of central booking numbers created for any person in custody taken to Homan Square;
- 4) All records documenting the visit of any lawyer for a person in custody at Homan Square; and
- 5) All records related to the creation, establishment or identification of Homan Square as a facility for interviews interrogations or detentions.

27. Plaintiff's second FOIA request was served via email on March 31, 2015. Defendant was required under 5 ILCS 140/3(d) to respond to the request within five business days, or April 8, 2015. A true and correct copy this request is attached as Exhibit I.

28. As of the date of this Complaint, Defendant has failed to respond in any way to Plaintiff's second FOIA request or to notify Plaintiff of the date on which the requested records will be available.

COUNT ONE

(Violation of the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.*)

29. Plaintiff reaffirms Paragraphs 1-28 as if fully restated herein.

30. Defendant's failure to respond to Plaintiff's first FOIA request, of March 2, 2015, as narrowed on March 18, 2015, is considered to be a denial of the request under 5 ILCS 140/3(f). Moreover, a public body that fails to respond to a request may not treat the request as unduly burdensome. 5 ILCS 140/3(d).

31. Defendant has willfully and intentionally violated FOIA by failing to adequately respond to the requests or produce the requested public records.

32. Plaintiff has been and will continue to be irreparably harmed by Defendant's

failure to respond to these requests, as Plaintiff is being denied its legal right to inspect public documents.

WHEREFORE, Plaintiff asks that this Court: (i) declare Defendant to be in violation of the Illinois Freedom of Information Act, 5 ILCS 140/1, *et.seq.*; (ii) enjoin Defendant from continuing to withhold any and all public records responsive to Plaintiff's FOIA requests and from claiming that the request is unduly burdensome, and further require Defendant to produce any and all such records without further delay; (iii) order Defendant to prepare an affidavit declaring that it has fully and completely complied with Plaintiff's FOIA requests, and that all public records responsive to these requests have been produced; (iv) order Defendant to prepare an affidavit identifying with specificity all public records responsive to Plaintiff's FOIA requests that are claimed to be legally exempt from disclosure and identifying with specificity any reasons claimed for any exemptions; (v) award Plaintiff reasonable attorney fees and costs pursuant to 5 ILCS 140/11(i); (vi) find that Defendant willfully and intentionally failed to comply with FOIA or otherwise acted in bad faith and impose on Defendant a civil penalty of not less than \$2,500 or more than \$5,000 payable to Plaintiff pursuant to 5 ILCS 140/11(j); and (vii) order such other and further relief as the Court deems just and proper.

COUNT TWO

(Violation of the Illinois Freedom of Information Act, 5 ILCS 140/1, *et.seq.*)

33. Plaintiff reaffirms Paragraphs 1-28 as if fully restated herein.
34. Defendant's failure to respond to Plaintiff's second FOIA request, of March 31, 2015, is considered to be a denial of the request under 5 ILCS 140/3(d). Moreover, a public body that fails to respond to a request may not treat the request as unduly burdensome. 5 ILCS 140/3(d).
35. Defendant has willfully and intentionally violated FOIA by failing to adequately respond to the requests or produce the requested public records.

36. Plaintiff has been and will continue to be irreparably harmed by Defendant's failure to respond to these requests, as Plaintiff is being denied its legal right to inspect public documents.

WHEREFORE, Plaintiff asks that this Court: (i) declare Defendant to be in violation of the Illinois Freedom of Information Act, 5 ILCS 140/1, *et.seq.*; (ii) enjoin Defendant from continuing to withhold the public records responsive to Plaintiff's FOIA requests and from claiming that the request is unduly burdensome, and further require Defendant to produce any and all such records without further delay; (iii) order Defendant to prepare an affidavit declaring that it has fully and completely complied with Plaintiff's FOIA requests, and that all public records responsive to these requests have been produced; (iv) order Defendant to prepare an affidavit identifying with specificity all public records responsive to Plaintiff's FOIA requests that are claimed to be legally exempt from disclosure and identifying with specificity any reasons claimed for any exemptions; (v) award Plaintiff reasonable attorney fees and costs pursuant to 5 ILCS 140/11(i); (vi) find that Defendant willfully and intentionally failed to comply with FOIA or otherwise acted in bad faith and impose on Defendant a civil penalty of not less than \$2,500 or more than \$5,000 payable to Plaintiff pursuant to 5 ILCS 140/11(j); and (vii) order such other and further relief as the Court deems just and proper.

Dated: April 13, 2015

Respectfully submitted,

GUARDIAN NEWS & MEDIA LLC

By: Brendan J. Healey
One of its attorneys

Steven P. Mandell
Brendan J. Healey
MANDELL MENKES LLC – Firm No. 38081
One North Franklin, Suite 3600
Chicago, Illinois 60606
Telephone: 312-251-1000

David S. Korzenik
Mona Houck
MILLER KORZENIK SOMMERS LLP
488 Madison Avenue, Suite 1120
New York, NY 10022-5702
Telephone: 212-752-9200

MILLER KORZENIK SOMMERS LLP

488 MADISON AVENUE NEW YORK, NEW YORK 10022-5702
TEL 212-752-9200 • FAX 212-688-3996 • WWW.MKSLEX.COM

March 2, 2015

Chicago Police Department
Attn: Freedom of Information Officer
Records Inquiry Section, Unit 163
3510 S. Michigan Ave.
Chicago, IL 60653

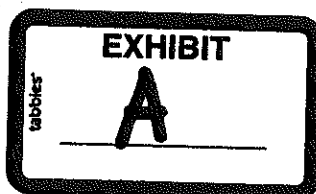
via email to foia@chicagopolice.org

Re: FOIA request from The Guardian

Dear Freedom of Information Officer,

This is a request under the Illinois Freedom of Information Act on behalf of my client, Spencer Ackerman of The Guardian. Chicago Police Department representatives have stated that interviews, interrogations and related activities at the Homan Square facility, sometimes known as the Fillmore Building, follow the same procedures as at other department facilities. Accordingly, I anticipate that records from Homan Square are available and request the following, from the date of the facility's initial use for these purposes to the present:

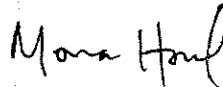
- All records related to interviews or interrogations of any person at Homan Square;
- All records documenting or sufficient to identify the number of people interviewed or interrogated at Homan Square;
- All records documenting or sufficient to identify the number of people kept in detention or arrest at Homan Square;
- All records documenting or sufficient to identify the duration of stay for any person taken to Homan Square for questioning or interrogation, whether or not those people were ultimately arrested or deemed detained;
- All records made available to the public concurrently with any detention, arrest or other stay of any person interviewed or interrogated at Homan Square, sufficient to identify that person's whereabouts while at Homan Square, along with documents sufficient to identify how, where, or through what process or method such records were made publicly available;



- All records of central booking numbers created for any person in custody taken to Homan Square;
- All records made contemporaneously available to the public documenting the transfer of any person in custody to Homan Square after booking;
- All records documenting the visit of any lawyer for a person in custody at Homan Square;
- All photographs and videos of every person in custody at Homan Square;
- All photographs and videos of every lawyer visiting Homan Square;
- All records related to the creation, establishment or identification of Homan Square as a facility for interviews, interrogations or detentions;
- All records related to policies, guidelines or instructions for interviews, interrogations or detentions at Homan Square.

Please provide these documents in electronic format if possible. Please feel free to contact me to discuss any aspect of this request. I am available at (212) 752-9200 or via email at mhouck@mkslex.com. I would appreciate confirmation that you have received this request.

Very truly yours,

A handwritten signature in cursive script that reads "Mona Houck".

Mona Houck



Rahm Emanuel
Mayor

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

Garry F. McCarthy
Superintendent of Police

March 10, 2015

Sent Via E-Mail

RE: NOTICE OF RESPONSE TO FOIA REQUEST
REQUEST DATE: March 3, 2015
FOIA FILE NO.: 15-1116

Dear Ms. Houck:

The Chicago Police Department (CPD) is in receipt of your twelve part Freedom of Information Act (FOIA) request for records related to activities at the Homan Square Chicago Police facility. 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. 5 ILCS 140/3(e). We are extending the time to respond to your request by 5 business days for the following reason(s):

- () the requested records are stored in whole or in part at other locations than the office having charge of the requested records;
- (X) the request may require the collection of a substantial number of specified records, **if any exist**;
- () the request is couched in categorical terms and may require an extensive search for the records responsive to it;
- () the requested records have not been located in the course of routine search and additional efforts are being made to locate them;
- (X) the requested records, **if any exist**, may require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of the Freedom of Information Act or should be revealed only with appropriate deletions;
- () 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;
- (X) there is need for consultation, which shall be concluded with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in

Emergency and TTY: 9-1-1 • Non Emergency and TTY: (within city limits) 3-1-1 • Non Emergency and TTY: (outside city limits) (312) 746-6000

E-mail: police@cityofchicago.org • Website: www.cityofchicago.org/police



the determination or in the subject matter of the request.

If you need any further assistance you may contact the undersigned at 312-745-5308 or the following address:

Chicago Police Department
Attention: Freedom of Information
Office of Legal Affairs, Unit 114
3510 South Michigan Avenue
Chicago, Illinois 60653

Sincerely,

Victor H. Castillo Jr.
Office of Legal Affairs
FOIA Section
Chicago Police Department

From: FOIA
To: Mona Houck
Subject: RE: FOIA request -- MKS for The Guardian
Date: Monday, March 16, 2015 6:09:47 PM

Ms. Houck,

I attempted to contact you at your office today but you were unavailable. I spoke instead to a Mr. Keegan and left my contact information.

I wanted to speak to you, or the appropriate person, concerning an extension for response to your FOIA request on behalf of Spencer Ackerman of the Guardian. As indicated in the correspondence from this office exercising the statutory extension, the number of records that must be sifted through to find any that might be responsive to the 12 bullet points of your request is extensive.

I can be reached at 312-745-5308 during working hours, or 773-220-3369 after 7:00pm, Chicago time. I can also be reached at this e-mail address marked "Attn Castillo" in the subject line.

Thank you for your time,

Victor H Castillo Jr
Office of Legal Affairs
FOIA Section
Chicago Police Department

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering that message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this document is strictly prohibited.

From: Mona Houck [mhouck@mkslex.com]
Sent: Monday, March 02, 2015 4:07 PM
To: FOIA
Subject: FOIA request -- MKS for The Guardian

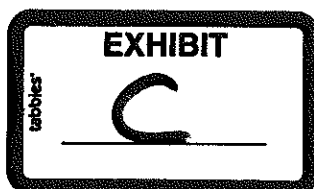
Dear Freedom of Information Officer,

Attached please find a request for records under the Illinois Freedom of Information Act.

Please confirm receipt of this request.

Best,

Mona Houck
MILLER KORZENIK SOMMERS LLP
488 MADISON AVE • NEW YORK, NY 10022
TEL. 212.752.9200 • FAX 212.688.3996





Rahm Emanuel
Mayor

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

Garry F. McCarthy
Superintendent of Police

March 17, 2015

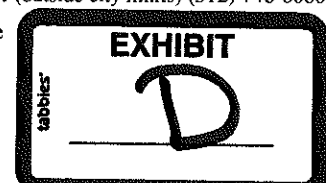
Mona Houck
mhouck@mkslex.com

Re: NOTICE OF RESPONSE
REQUEST DATE: March 3, 2015
FOIA FILE NO.: 15-1116

Dear Ms. Houck :

The Chicago Police Department is in receipt of your Freedom of Information Act request in which you state, "This is a request under the Illinois Freedom of Information Act on behalf of my client, Spencer Ackerman of The Guardian. Chicago Police Department representatives have stated that interviews, interrogations and related activities at the Homan Square facility, sometimes know as the Fillmore Building, follow the same procedures as at other department facilities. Accordingly, I anticipate that records from Homan Square are available and request the following, from the date of the facility's initial use for these purposes to the present:

- All records related to interviews or interrogations of any person at Homan Square
- All records documenting or sufficient to identify the number of people interviewed or interrogated at Homan Square
- All records documenting or sufficient to identify the number of people kept in detention or arrest at Homan Square
- All records documenting or sufficient to identify the duration of stay for any person taken to Homan Square for questioning or interrogation, whether or not those people were ultimately arrested or deemed detained
- All records made available to the public concurrently with any detention, arrest or other stay of any person interviewed or interrogated at Homan Square, sufficient to identify that person's whereabouts while at Homan Square, along with documents sufficient to identify how, where, or through what process or method such records were made publicly available
- All records of central booking numbers created for any person in custody taken to Homan Square
- All records made contemporaneously available to the public documenting the transfer of any person in custody to Homan Square after booking
- All records documenting the visit of any lawyer for a person in custody at Homan Square
- All photographs and videos of any person in custody at Homan Square
- All photographs and videos of every lawyer visiting Homan Square
- All records related to the creation, establishment or identification of Homan Square as a facility for interviews, interrogations or detentions
- All records related to policies, guidelines or instructions for interviews, interrogations or detentions at Homan Square



Your request was reviewed by the undersigned. Upon review, it was determined that your request must be denied as compliance would be unduly burdensome for the Chicago Police Department. Please be advised that section 3(g) of the Illinois FOIA statute provides that, *"requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying body..."*

With regards to bullet-points 1, 2, 3, 4, 5, 6 and 7 of your request, you are asking for these records for the full time that the Homan Square facility has been used by the Chicago Police Department. This is critical because at least part of the means that would be used to determine who falls within this category would be a search of arrest records. Arrest records, while permanent, were not tracked electronically prior to 2005. The Homan Square facility has been in use since the late 1990s. Consequently, to satisfy these portions of your request, paper arrest records would have to be inspected by hand to determine which arrests, if any, had any connection to the Homan Square facility. As an example, during the Calendar year 2005 there were a total of 238,636 arrests. Similarly, the years 2004, 2003, 2002, and 2001 had total arrests of: 244,193; 238,961; 237,706; 233,455 respectively. From that representative sample, subsequent to location and reproduction, the number of paper arrest reports that would have to be read, analyzed, 954,990. Finally, all 954,990 reports would have to be read, analyzed and redacted for, at a minimum, the following types of exempt information:

- (1) Files subject to a protective order, which are exempt under 5 ILCS 140/7(1)(a). To make this redaction/deletion, an attorney handling related litigation would need to be contacted and the litigation files would need to be gathered and reviewed to determine if a protective order was issued by a Court in an underlying lawsuit prohibiting the release of such information. As a protective order is an order issued in accordance with federal or state law, 5 ILCS 140/7(1)(a) exempts records covered by such an order;
- (2) Private information, such as home addresses, telephone numbers, biometric identifiers, dates of birth and social security numbers, which are exempt under 5 ILCS 140/7(1)(b);
- (3) Information the release of which would be an invasion of personal privacy exempt under 5 ILCS 140/7(1)(c);
- (4) Identifying information concerning the victims and witnesses, which is exempt under 5 ILCS 140/7(1)(d)(iv);

The Office of Legal Affairs/FOIA Section has searched for, retrieved, reviewed, analyzed and redacted these types of files in the past. It is estimated that it takes a minimum of 8 hours to properly analyze and redact 100 pages of these documents. Further, redactions of this type may only be undertaken by individuals with knowledge and experience with these types of files. Accordingly, redaction of the permanent paper arrest files associated with just the representative number of years cited, is estimated to take an experienced FOIA Officer approximately 1,193.74 days to complete.

Similarly, with regards to bullet-point 8, 9, and 10 of your request, you are asking for these records for the full time that the Homan Square facility has been used by the Chicago Police Department. As is the case with the previous bullet-points addressed, the totality of Chicago Police records that would have to be searched in order to find those records responsive to your request is voluminous. While Attorney Visitation Logs are currently inventoried and tracked electronically, they have not been so for the entire time that the Homan Square facility has been in use by the Chicago Police Department making a search by hand necessary. As above, all of these reports would have to be read, analyzed and redacted for, at a minimum, the following types of exempt information:

- (1) Files subject to a protective order, which are exempt under 5 ILCS 140/7(1)(a). To make this redaction/deletion, an attorney handling related litigation would need to be contacted and the litigation files would need to be gathered and reviewed to determine if a protective order was issued by a Court in an underlying lawsuit prohibiting the release of such information. As a protective order is an order issued in accordance with federal or state law, 5 ILCS 140/7(1)(a) exempts records covered by such an order;
- (2) Private information, such as home addresses, telephone numbers, biometric identifiers, dates of birth and social security numbers, which are exempt under 5 ILCS 140/7(1)(b);
- (3) Information the release of which would be an invasion of personal privacy exempt under 5 ILCS 140/7(1)(c);
- (4) Identifying information concerning the victims and witnesses, which is exempt under 5 ILCS 140/7(1)(d)(iv);

Lastly, with regards to bullet points 11 and 12 of your request, the Homan Square facility is subject to the same Department General Orders and Directives as are other Chicago Police facilities. A list of Chicago Police Department General Orders is available on-line at <http://home.chicagopolice.org/>. Place the cursor on the blue "Inside the CPD" drop-down box at the top of the screen. Select "Department Directive System." From the screen directed to, place the cursor over the "Access the Department Directives System" box and click. This step placed you in the Chicago Police Directives System which, in turn, provides you with a search box.

In summary, we ask that you narrow your request. If you agree to do so, please submit a revised written request to this office. This office will take no further action or send you any further correspondence unless your current request is narrowed. If we do not receive your narrowed request within 30 calendar days of the date of this letter, your current request will be denied.

If I can be of further assistance, you may contact me at (312) 745-5308, or by mail at the below address:

Chicago Police Department
Unit 114 - FOIA
3510 S. Michigan Ave.
Chicago, IL 60653

Sincerely,

Victor H. Castillo Jr. #7661
Office of Legal Affairs
Freedom of Information Officer
Chicago Police Department

You have a right of review by the Illinois Attorney General's Public Access Counselor (PAC). You can file a request for review by writing to:

Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone: 312-814-5526 or 1-877-299-FOIA (1-877-299-3642)
Fax: 217-782-1396 E-mail: publicaccess@ag.state.il.us

If you choose to file a Request to 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). When filing a Request for Review, you must include a copy of the original FOIA request and this denial letter. You may also seek judicial review of a denial under 5 ILCS 140/11 by filing a lawsuit in the State Circuit Court.

MILLER KORZENIK SOMMERS LLP

488 MADISON AVENUE NEW YORK, NEW YORK 10022-5702
TEL. 212-752-9200 • FAX 212-688-3996 • WWW.MKSLEX.COM

March 18, 2015

Mr. Victor H. Castillo Jr.
Chicago Police Department
Unit 114 – FOIA
3510 S. Michigan Ave.
Chicago, IL 60653

via email to foia@chicagopolice.org

Re: FOIA request from The Guardian, No. 15-1116

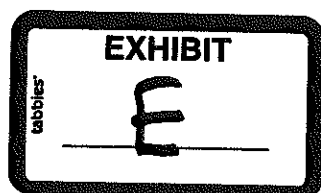
Dear Mr. Castillo,

I write in response to your letter of March 17 asking that I narrow my request for public records under the Illinois Freedom of Information Act on behalf of my client, Spencer Ackerman of The Guardian.

In your letter, you state that searching records for the information I requested would be too burdensome because arrest records were not tracked electronically before 2005. As an initial matter, I'd like to make clear that my request is not limited to arrest records but includes all records maintained by the Chicago Police Department that contain responsive information. That said, I do understand that arrest records would be part of the search and that it is far less time consuming to search electronic records. While I do not agree with your conclusion that providing records created before 2005 would be too burdensome, I will review your comments and consider other approaches for a separate FOIA request addressing those earlier records. Because my client has a pressing need for this information, I am willing to narrow my current request as follows, in the interest of expeditiously receiving the material he is entitled to under the law.

Please provide, from January 1, 2005, to the present the following information related to Homan Square, sometimes known as the Fillmore Building:

1. All records related to interviews or interrogations of any person at Homan Square;



2. All records documenting or sufficient to identify the number of people interviewed or interrogated at Homan Square;
3. All records documenting or sufficient to identify the number of people kept in detention or arrest at Homan Square;
4. All records documenting or sufficient to identify the duration of stay for any person taken to Homan Square for questioning or interrogation, whether or not those people were ultimately arrested or deemed detained;
5. All records made available to the public concurrently with any detention, arrest or other stay of any person interviewed or interrogated at Homan Square, sufficient to identify that person's whereabouts while at Homan Square, along with documents sufficient to identify how, where, or through what process or method such records were made publicly available;
6. All records of central booking numbers created for any person in custody taken to Homan Square;
7. All records made contemporaneously available to the public documenting the transfer of any person in custody to Homan Square after booking;
8. All records documenting the visit of any lawyer for a person in custody at Homan Square;
9. All photographs and videos of every person in custody at Homan Square;
10. All photographs and videos of every lawyer visiting Homan Square;
11. All records related to the creation, establishment or identification of Homan Square as a facility for interviews, interrogations or detentions;
12. All records related to policies, guidelines or instructions for interviews, interrogations or detentions at Homan Square.

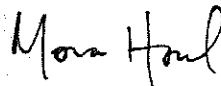
You note in your letter that information related to items 11 and 12 is available on the Chicago Police Department website. While it may be the case that some information is online, please note that my request is for *all* responsive records on those subjects, which surely extends beyond the list of department orders to which you refer. One thing those orders do show is that records I have requested are created – photographs and videos, for example – and should therefore be provided.

As I indicated in my initial request on March 2, Chicago Police Department representatives have stated that interviews, interrogations and related activities at the Homan Square facility follow the same procedures as at other department facilities. Accordingly, I anticipate that the records I requested are

available. Further, in my telephone conversations with you, you reported that collection of this material was under way and that the need to search paper documents was the cause of delay. With that obstacle removed, I expect that the collection can be completed promptly. Please provide the documents within five business days, as provided by the Illinois FOIA statute.

Please provide these documents in electronic format if possible. Feel free to contact me to discuss any aspect of this request. I am available at (212) 752-9200 or via email at mhouck@mkslex.com. I would appreciate confirmation that you have received this request.

Very truly yours,

A handwritten signature in cursive script that reads "Mona Houck". The signature is written in dark ink and is positioned above the printed name.

Mona Houck

From: FOIA
To: Mona Houck
Subject: RE: Attn: Castillo RE: FOIA request -- MKS for The Guardian
Date: Thursday, March 19, 2015 12:37:21 PM

Ms. Houck,

The Chicago Police Department is in receipt of your client's narrowed request. I will be in correspondence with over the next few days for clarification.

Thank you,

Victor H. Castillo Jr.
Office of Legal Affairs
FOIA Section
Chicago Police Department

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering that message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this document is strictly prohibited.

From: Mona Houck [mhouck@mkslex.com]
Sent: Wednesday, March 18, 2015 3:11 PM
To: FOIA
Subject: Attn: Castillo RE: FOIA request -- MKS for The Guardian

Mr. Castillo,

Per your letter of yesterday, please see the attached narrowing of FOIA request 15-1116.

I would appreciate it if you would confirm receipt of this letter.

Best,

Mona Houck

MILLER KORZENIK SOMMERS LLP
488 MADISON AVE • NEW YORK, NY 10022
TEL. 212.752.9200 • FAX 212.688.3996

From: FOIA [mailto:foia@chicagopolice.org]
Sent: Tuesday, March 17, 2015 4:51 PM
To: Mona Houck
Subject: RE: FOIA request -- MKS for The Guardian

Ms. Houck

Thank you for speaking to me concerning this matter. Undoubtedly, we will speak or correspond again. For now, please see the attached for the Chicago Police Department's response to FOIA req 15-1116.



Victor H. Castillo Jr.
Office of Legal Affairs
FOIA Section
Chicago Police Department

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From: Mona Houck [mhouck@mkslex.com]
Sent: Monday, March 02, 2015 4:07 PM
To: FOIA
Subject: FOIA request -- MKS for The Guardian

Dear Freedom of Information Officer,

Attached please find a request for records under the Illinois Freedom of Information Act.

Please confirm receipt of this request.

Best,

Mona Houck
MILLER KORZENIK SOMMERS LLP
488 MADISON AVE • NEW YORK, NY 10022
TEL. 212.752.9200 • FAX 212.688.3996

From: FOIA
To: Mona Houck
Subject: RE: Attn: Castillo RE: FOIA request -- MKS for The Guardian
Date: Friday, March 27, 2015 5:57:42 AM

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering that message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this document is strictly prohibited.

From: Mona Houck [mhouck@mkslex.com]
Sent: Thursday, March 19, 2015 11:42 AM
To: FOIA
Subject: RE: Attn: Castillo RE: FOIA request -- MKS for The Guardian

Mr. Castillo,

Thanks very much. I look forward to discussing with you further.

Best,

Mona

From: FOIA [mailto:foia@chicagopolice.org]
Sent: Thursday, March 19, 2015 12:35 PM
To: Mona Houck
Subject: RE: Attn: Castillo RE: FOIA request -- MKS for The Guardian

Ms. Houck,

The Chicago Police Department is in receipt of your client's narrowed request. I will be in correspondence with over the next few days for clarification.

Thank you,

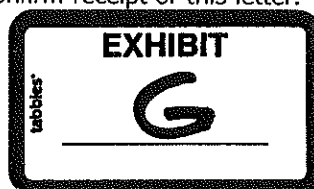
Victor H. Castillo Jr.
Office of Legal Affairs
FOIA Section
Chicago Police Department

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From: Mona Houck [mhouck@mkslex.com]
Sent: Wednesday, March 18, 2015 3:11 PM
To: FOIA
Subject: Attn: Castillo RE: FOIA request -- MKS for The Guardian
Mr. Castillo,

Per your letter of yesterday, please see the attached narrowing of FOIA request 15-1116.

I would appreciate it if you would confirm receipt of this letter.



Best,

Mona Houck

MILLER KORZENIK SOMMERS LLP
488 MADISON AVE • NEW YORK, NY 10022
TEL. 212.752.9200 • FAX 212.688.3996

Ms Houck,

Let's discuss this issue today. If you recall from our last conversation, you said that it would be acceptable if we released records to you/The Guardian as they were identified, analyzed, redacted etc. I have such an item that I can release; however, I need to speak to you first. While this report is responsive to your narrowed request, it does not speak to it completely. Please contact me at your earliest convenience at either my office phone, 312 745 5308, or my mobile, 773 220 3369.

Thanks,

Victor H Castillo Jr.
Office of Legal Affairs
FOIA Section
Chicago Police Department

From: FOIA [<mailto:foia@chicagopolice.org>]
Sent: Tuesday, March 17, 2015 4:51 PM
To: Mona Houck
Subject: RE: FOIA request -- MKS for The Guardian

Ms. Houck

Thank you for speaking to me concerning this matter. Undoubtedly, we will speak or correspond again. For now, please see the attached for the Chicago Police Department's response to FOIA req 15-1116.

Victor H. Castillo Jr.
Office of Legal Affairs
FOIA Section
Chicago Police Department

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From: Mona Houck [mhouck@mkslex.com]
Sent: Monday, March 02, 2015 4:07 PM
To: FOIA
Subject: FOIA request -- MKS for The Guardian
Dear Freedom of Information Officer,

Attached please find a request for records under the Illinois Freedom of Information Act.

Please confirm receipt of this request.

Best,

Mona Houck
MILLER KORZENIK SOMMERS LLP
488 MADISON AVE • NEW YORK, NY 10022
TEL. 212.752.9200 • FAX 212.688.3996

From: Mona Houck
To: "FOIA"
Subject: Attn: Castillo RE: FOIA request -- MKS for The Guardian
Date: Friday, March 27, 2015 2:33:00 PM

Mr. Castillo,

I'm writing to confirm our conversation of today. It is my understanding that you will produce on Monday or Tuesday the spreadsheet we discussed, and that work is continuing to produce the records responsive to the request.

I know you are already aware of our view, but I again emphasize the urgency underlying the request. I appreciate any efforts to expedite its completion.

Best,

Mona

-----Original Message-----

From: FOIA [<mailto:foia@chicagopolice.org>]
Sent: Friday, March 27, 2015 5:58 AM
To: Mona Houck
Subject: RE: Attn: Castillo RE: FOIA request -- MKS for The Guardian

Ms Houck,

Let's discuss this issue today. If you recall from our last conversation, you said that it would be acceptable if we released records to you/The Guardian as they were identified, analyzed, redacted etc. I have such an item that I can release: however, I need to speak to you first. While this report is responsive to your narrowed request, it does not speak to it completely. Please contact me at your earliest convenience at either my office phone, 312 745 5308, or my mobile, 773 220 3369.

Thanks,

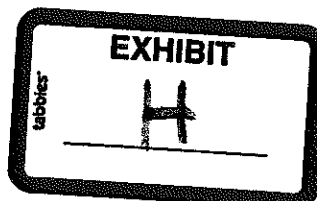
Victor H Castillo Jr.
Office of Legal Affairs
FOIA Section
Chicago Police Department

From: FOIA [<mailto:foia@chicagopolice.org>]
Sent: Tuesday, March 17, 2015 4:51 PM
To: Mona Houck
Subject: RE: FOIA request -- MKS for The Guardian

Ms. Houck

Thank you for speaking to me concerning this matter. Undoubtedly, we will speak or correspond again. For now, please see the attached for the Chicago Police Department's response to FOIA req 15-1116.

Victor H. Castillo Jr.
Office of Legal Affairs
FOIA Section
Chicago Police Department



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From: Mona Houck [mhouck@mkslex.com]

Sent: Monday, March 02, 2015 4:07 PM

To: FOIA

Subject: FOIA request -- MKS for The Guardian Dear Freedom of Information Officer,

Attached please find a request for records under the Illinois Freedom of Information Act.

Please confirm receipt of this request.

Best,

Mona Houck

MILLER KORZENIK SOMMERS LLP

488 MADISON AVE • NEW YORK, NY 10022

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March 31, 2015

Mr. Victor H. Castillo Jr.
Chicago Police Department
Unit 114 – FOIA
3510 S. Michigan Ave.
Chicago, IL 60653

via email to foia@chicagopolice.org

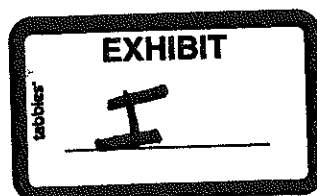
Re: FOIA request from The Guardian

Dear Mr. Castillo,

This is a request under the Illinois Freedom of Information Act on behalf of my client, Spencer Ackerman of The Guardian. This request seeks information about Homan Square, sometimes known as the Fillmore Building. Although this is a new request, it is related to Request No. 15-1116, on which you are currently working. I originally submitted that request on March 2. You denied it on March 17 and invited me to narrow it, which I did on March 18.

In your letter of March 17, you stated that searching for the information I requested would be too burdensome because arrest records were not tracked electronically before 2005. You stated that your department has around 233,000 to 244,000 arrest records for each relevant year before 2005 and concluded that searching those documents by hand would be overly burdensome. Although my request was not limited to arrest records, you denied it in its entirety based largely on the asserted burden of searching those records. Because my client has an urgent need for the information sought in the request – information he is entitled to receive under the law – I immediately filed a narrowed request seeking responsive documents only from January 1, 2005, to the present. I am still awaiting the production of any documents from that narrowed request.

Limiting all requests for documents to those created in 2005 or later is not acceptable to my client, nor is such a limitation supported by law. It is impossible to obtain an adequate picture of the operations of Homan Square without documentation from its entire history, and records of its initial years are especially crucial. Nothing in the Freedom of Information Act suggests that



it is appropriate for an agency to deny a request for documents that predate digital recordkeeping, whether because those earlier records are more difficult to find or for any other reason.

Chicago Police Department representatives have repeatedly stated that interviews, interrogations and related activities at the Homan Square facility follow the same procedures as at other department facilities. Yet your department has refused to produce any documents supporting that claim, despite multiple opportunities to do so in response to Mr. Ackerman's reporting queries and in response to my FOIA requests. (My own requests date back nearly a month, and Mr. Ackerman's requests came much earlier.) If no such records exist, please advise me accordingly. Otherwise, in a good-faith effort to reach a reasonable resolution to my request, and acknowledging your assertions regarding the burdens of searching paper arrest records, I now ask that you produce pre-2005 documents *other than arrest records* related to interrogation activities at Homan Square. Specifically, please provide, from the date Homan Square began operation to December 31, 2004, the following:

- 1) All records establishing the total number of persons taken to Homan Square for the purpose of interrogations, interviews and/or custodial detentions;
- 2) All records made available to the public concurrently with any detention, arrest, or other stay of any person interviewed or interrogated at Homan Square, sufficient to identify that person's whereabouts while at Homan Square, along with documents sufficient to identify how, where, or through what process or method such records were made publicly available;
- 3) All records of central booking numbers created for any person in custody taken to Homan Square;
- 4) All records documenting the visit of any lawyer for a person in custody at Homan Square; and
- 5) All records related to the creation, establishment or identification of Homan Square as a facility for interviews interrogations or detentions.

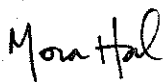
Although some of these requests repeat those in my original request, your denial was based largely on the burden of searching arrest records and did not sufficiently explain why you could not provide other material. Indeed, you did not attempt to quantify the number of attorney visitation logs to be searched, other than stating that it was "voluminous," nor did you even specify the date on which the department began keeping those electronically. The number of these records is surely a fraction of the number of arrest records. Also, though you indicated in your denial that information regarding current request No. 5 is available on the Chicago Police Department website, the request is for *all* responsive records on that subject, which extends beyond the list of

department orders to which you refer but is highly unlikely to include so many documents as to be overly burdensome.

Finally, I'd like to make clear that even though this request seeks documentation apart from arrest records, that limitation is based only on your asserted burden of searching those records and is a good-faith effort to address that assertion. Should you find that those records are easier to locate than you had originally thought, we of course would accept those documents as part of the response to this request. This limitation is only for the purposes of this request and is not meant to suggest that we will not file a further request addressing those records. As we have yet to receive a single document, it is impossible to fully assess what follow-up actions will be necessary. Your responsiveness to this current request will obviously inform those decisions.

Please provide the documents within five business days, as provided by the Illinois FOIA statute, and produce them in electronic format if possible. Feel free to contact me to discuss any aspect of this request. I am available at (212) 752-9200 or via email at mhouck@mkslex.com. I would appreciate confirmation that you have received this request.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Mona Houck". The signature is written in a cursive, flowing style.

Mona Houck