

IN THE CHANCERY COURT OF RANKIN COUNTY, MISSISSIPPI

FILED

JUL 18 2022

LARRY SWALES
Chancery Clerk, Rankin County

INSIDER, INC.

Plaintiff

v.

CAUSE NO. 22-1143 (0)

RANKIN COUNTY SHERIFF'S DEPARTMENT,

Defendant

COMPLAINT

1. A journalist from Insider, Inc. ("Insider") requested and paid for certain public records from Rankin County Sheriff's Department ("RCSD") pursuant to the Mississippi Public Records Act, Miss. Code Ann. § § 25-61-1, et seq. ("PRA"). Defendants have refused to turn over the records. Insider hereby files this complaint seeking a court order requiring RCSD to follow the law.

The Parties

2. Insider is a media company headquartered in New York. Its news division is comprised of more than 100 journalists covering politics, science, global affairs, national security, crime, courts, criminal justice, education, race, religion, weather, disaster, and breaking news.

3. RCSD is a "public body" within the meaning of the PRA and possesses the public records at issue in this action. Defendant maintains its primary place of business in Rankin County, Mississippi.

Jurisdiction and Venue

4. Jurisdiction and venue are proper in this Court for this complaint pursuant to Miss. Code Ann. § 25-61-13(1), which provides that an action to enforce the PRA shall be brought in the chancery court of the county where the public body is located.

Facts

5. The public records requests at issue were initiated on February 17, 2022, when Hannah Beckler, a research editor at Insider, submitted PRA requests to RCSD for several records, including incident reports, pertaining to four events—each involving the apparent death of men in Defendants’ custody or by their hands:

- a. The death of Mr. Damien Montrell Cameron in RCSD custody on July 26, 2021;
- b. The shooting and death of Mr. Shannon Trevor McKinley on August 21, 2021;
- c. The death of Mr. Cory Jackson in RCSD custody on May 15, 2021;
- d. The shooting and death of Mr. Robert Rushton on December 21, 2021.

6. On February 24, 2022, attorney Jason Dare, on behalf of RCSD, responded to Ms. Beckler’s PRA request with a fee invoice.

7. On March 2, 2022, Kenneth Niemeyer, of Insider, delivered payment in full, and Mr. Dare, on behalf of RCSD, produced responsive records to several requests, but denied requests for incident reports pertaining to three of the four incidents.

8. In response to the request for the incident report pertaining to the arrest and in-custody death of Mr. Jackson on May 15, 2021, RCSD provided a ten-page incident report, an “Evidence Report” and four “Jail Incident Reports.”

9. In response to the requests for the incident reports pertaining to Mr. Cameron, Mr. McKinley, and Mr. Rushton, RCSD claimed that the incident reports were “‘investigative reports’ within the meaning of § 25-61-3(f), and thus exempt from production.”

10. On March 8, 2022, Ms. Beckler asked RCSD to reconsider its denial of the requested incident reports pertaining to Mr. Cameron, Mr. McKinley, and Mr. Rushton.

11. On March 10, 2022, Mr. Dare, on behalf of RCSD, notified Ms. Beckler by email that her request for reconsideration was denied. In that email, he stated that the incident reports “were withheld primarily pursuant to § 25-61-3(f)(iii) – ‘Records that would prematurely release information that would impede [MBI’s] enforcement, investigative or detection efforts.’” He then stated that RCSD would “produce the unredacted items and/or withheld items after a final finding by MBI and/or conclusion of any criminal proceedings.” “MBI” refers to the Mississippi Bureau of Investigation.

Violation

12. RCSD is withholding public records created by a public body under Miss. Code Ann. § 25-61-12(2)(c)—and no exception recognized under law allows them to do so.

13. The PRA provides that “all public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public records of any public body,” subject to certain exceptions set forth in the statute. Miss. Code Ann. § 25-61-5(1)(a). As the Mississippi Ethics Commission has explained, “[t]he statutory definitions of ‘incident report’ and ‘investigative report’ are important because investigative reports are clearly exempt from production, while documents containing a narrative description meeting the definition of an incident report are clearly public records subject to production.” Public Records Opinion No. R-17-014 (citing Miss. Code Ann. § 25-61-12(2)(a) & (c)).

14. Under the PRA, an “incident report” is a narrative description of an alleged offense if such description (1) exists and (2) does not contain investigative information. Miss. Code Ann. § 25-61-3(e). The statute specifies that an incident report must at least include “the name and

identification of each person charged with and arrested for the alleged offense, the time, date and location of the alleged offense, and the property involved, to the extent this information is known.”

Id. An “investigative report” is defined under the PRA as a record of a law enforcement agency containing information beyond the scope of the matters contained in an incident report. § 25-61-3(f).

15. RCSD may not withhold the records requested because another agency, MBI, may or may not have an open investigation into how the four men died in custody or at the hands of RCSD. Incident reports are generated for all arrests—and these hallmark public records do not become non-public if an agency is investigating a related crime. Indeed arrests necessarily involve open criminal investigations, and the PRA is clear that incident reports do not cease to be public records on that basis. They must be produced pursuant to a PRA request—regardless of the presence or absence of an open investigation.

16. The Ethics Commission has already soundly rejected Defendant’s position—consistently and for years. In 2017, Madison County Sheriff Department tried to withhold incident reports sought under the PRA, arguing that, “providing copies of these reports... would impede or jeopardize the District Attorney’s continued investigations into the crimes referenced in these reports and its ability to prosecute these alleged offenses.” In Records Opinion No. R-17-014, the Ethics Commission held that law enforcement agencies may not withhold incident reports—even if they relate to an open investigation; if permitted under the PRA, a law enforcement agency may redact exempt investigative content from a public record, but it must produce the record. *Id.*

17. The Ethics Commission has taken the same position for many years regarding incident reports which contain investigative information. *See, e.g.*, Public Records Opinion Nos. R-08-002, R-10-005, R-10-020, R-14-032, R-15-015.

18. RCSD’s actions constitute willing and knowing violations of the PRA.

Relief

19. In light of this violation, Insider requests that this Court order RCSD to produce the public records sought, and for Defendant's failure to produce the public records, to award to Insider all costs and expenses, including attorneys' fees.

July 18, 2022

Respectfully submitted,

s/ Paloma Wu

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