

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

FREDDY MARTINEZ, )  
)  
Plaintiff, )  
)  
v. )  
)  
CHICAGO POLICE DEPARTMENT, )  
)  
Defendant. )

**COMPLAINT**

NOW COMES Plaintiff, FREDDY MARTINEZ, by his undersigned attorneys, LOEVY & LOEVY, and brings this suit to overturn Defendant CHICAGO POLICE DEPARTMENT's refusal, in willful violation of the Illinois Freedom of Information Act, to respond to MARTINEZ's FOIA request. In support of his Complaint, MARTINEZ 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. 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 140/1.2.

3. Public bodies must respond to FOIA requests within five business days, or, if the criteria for an extension are met, within ten business days. 5 ILCS 140/3(d).

4. If the court determines that a public body willfully and intentionally failed to comply with FOIA, or otherwise acted in bad faith, the court shall impose upon the public body a civil penalty of not less than \$2,500 nor more than \$5,000 for each occurrence. 5 ILCS 140/11(j).

5. 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**

6. Plaintiff FREDDY MARTINEZ made the FOIA request.

7. Defendant CHICAGO POLICE DEPARTMENT (“CPD”) is a public body located in Cook County, Illinois.

### **MARTINEZ’S FOIA REQUESTS AND CPD’S FOIA VIOLATIONS**

8. On September 1, 2015, MARTINEZ sent and CPD received, a FOIA request to CPD for documents sufficient to show a balance of the 1505 or 1505 ML program during 2015, expense reports from the last five years for any items purchased with 1505/1505ML, and the sources of all deposits into any 1505/1505ML accounts. A true and correct copy of the request is attached hereto as Exhibit A.

9. Under the 1505 program when CPD seizes suspected drug money it uses that money to fund various policing projects including electronic surveillance. The program is similar to the federal asset forfeiture program.

10. CPD did not respond to the request within the five day FOIA deadline.

11. MARTINEZ followed up three separate times on September 18, 2015, October 9, 2015, and October 15, 2015, all of which CPD received. A copy of these emails is attached as Group Exhibit B.

12. CPD did not respond to any of the September 18, 2015, October 9, 2015, and October 15, 2015 communications.

13. As of the date this Complaint has been filed, CPD has not responded to MARTINEZ's FOIA request.

14. At the time it failed to respond to the request and follow-up inquiries, CPD was aware of the statutory deadlines.

15. At the time it failed to respond to the request and follow-up inquiries, CPD was aware that it had been sued multiple times and been made the subject of over 150 Attorney General reviews since January 1, 2014, for failing to comply with FOIA deadlines.

### **COUNT I – WILLFUL VIOLATION OF FOIA**

16. The above paragraphs are incorporated by reference.
17. CPD is a public body under FOIA.
18. MARTINEZ made a written request to CPD for public records of CPD.
19. CPD received the request.
20. CPD has failed to respond to MARTINEZ's September 1, 2015 FOIA request.
21. CPD's failure to respond is a willful and intentional violation of FOIA and an act of bad faith.

**WHEREFORE**, MARTINEZ 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 CPD has violated FOIA;
- iii. order CPD to produce the requested records under FOIA;
- iv. enjoin CPD from withholding non-exempt public records under FOIA;
- v. award MARTINEZ reasonable attorneys' fees and costs;
- vi. order CPD to pay a civil penalty of between \$2500 and \$5000 for each violation;
- vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,



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Attorneys for Plaintiff  
FREDDY MARTINEZ

Matthew Topic  
LOEVY & LOEVY  
312 North May St., Suite 100  
Chicago, IL 60607  
312-243-5900  
matt@loevy.com  
Atty. No. 41295

From: Freddy <[freddymartinez9@gmail.com](mailto:freddymartinez9@gmail.com)>

Date: Tue, Sep 1, 2015 at 12:20

Subject: FOIA request: 1505 deposits: 2015

To: FOIA <[foia@chicagopolice.org](mailto:foia@chicagopolice.org)>

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11/2/2015 2:55 PM  
2015-CH-16119  
CALENDAR: 05  
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CIRCUIT COURT OF  
COOK COUNTY, ILLINOIS  
CHANCERY DIVISION  
CLERK DOROTHY BROWN

Freddy Martinez

freddymartinez9 AT gmail DOT com

I am seeking the following public records, regardless of physical form or characteristics, under the Freedom of Information Act:

+ Documents sufficient to show a balance of the 1505 or 1505 ML program during 2015. If documents are maintained quarterly, please just provide the latest available documents

+ Expense reports from the last five years for any items purchased with 1505 / 1505 ML.

+ Records showing the sources of all deposits into any 1505/1505ML accounts and the sources of those deposits over \$5,000.

I had previously sent in another FOIA request for similar documents (FOIA #15-0599) and received copies of checks depositing into 1505 funds over 5,000 dollars. please treat this request in the same but for checks in 2015.

Please correspond with me only using the email address from which this email has been sent. Please produce electronic records in their native format with all original metadata and please scan any paper records and produce as PDFs. This request is not made for a commercial purpose.

Please feel free to contact me with any questions, especially with questions about the scope of this request.

Freddy

From: Freddy Martinez <[freddymartinez9@gmail.com](mailto:freddymartinez9@gmail.com)>  
Date: Fri, Oct 9, 2015 at 15:56  
Subject: Re: FOIA request: 1505 deposits: 2015  
To: FOIA <[foia@chicagopolice.org](mailto:foia@chicagopolice.org)>

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11/2/2015 2:55 PM  
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CHANCERY DIVISION  
CLERK DOROTHY BROWN

Greetings FOIA officer,

I have not received an acknowledgment of my FOIA request or any documents to date. Please provide an update on the following request.

Thanks

Freddy Martinez

On Fri, Sep 18, 2015 at 11:24 Freddy Martinez <[freddymartinez9@gmail.com](mailto:freddymartinez9@gmail.com)> wrote:  
Greetings FOIA officers,

I have not received an acknowledgement of my FOIA request within 5 business days as is required by the Illinois FOIA statute which was sent on September 1st of 2015. Please provide a case # and an expected timeline for when I can expect documents.

Freddy Martinez

On Tue, Sep 1, 2015 at 12:18 PM, Freddy <[freddymartinez9@gmail.com](mailto:freddymartinez9@gmail.com)> wrote:

Freddy Martinez  
freddymartinez9 AT gmail DOT com

I am seeking the following public records, regardless of physical form or characteristics, under the Freedom of Information Act:

+ Documents sufficient to show a balance of the 1505 or 1505 ML program during 2015. If documents are maintained quarterly, please just provide the latest available documents

+ Expense reports from the last five years for any items purchased with 1505 / 1505 ML.

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Please correspond with me only using the email address from which this email has been sent. Please produce electronic records in their native format with all original metadata and please scan any paper records and produce as PDFs. This request is not made for a commercial purpose.

Please feel free to contact me with any questions, especially with questions about the scope of this request.

Freddy

From: Freddy Martinez <[freddymartinez9@gmail.com](mailto:freddymartinez9@gmail.com)>  
Date: Thu, Oct 15, 2015 at 07:58  
Subject: Re: FOIA request: 1505 deposits: 2015  
To: FOIA <[foia@chicagopolice.org](mailto:foia@chicagopolice.org)>

FOIA officers,

I have neither received a confirmation number for my FOIA request (below. dated September 18th, 2015) or any requests for extensions or documents pertaining to our request. This request is overdue per the Illinois FOIA statue, please provide an update to the below request.

Freddy Martinez

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11/2/2015 2:55 PM  
2015-CH-16119  
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