

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

BETTER GOVERNMENT ASSOCIATION,)
)
Plaintiff,)
)
v.)
)
OFFICE OF THE SPECIAL PROSECUTOR)
DAN K. WEBB,)
CITY OF CHICAGO LAW DEPARTMENT,)
CITY OF CHICAGO MAYOR’S OFFICE,)
CHICAGO POLICE DEPARTMENT,)
)
Defendants.)

COMPLAINT

NOW COMES Plaintiff, BETTER GOVERNMENT ASSOCIATION, by its undersigned attorneys, LOEVY & LOEVY, and brings this Freedom of Information Act suit to obtain records regarding R.J. Vanecko’s killing of David Koschman and possible criminal and unethical conduct by government officials and others during the investigation. In support of its Complaint, BETTER GOVERNMENT ASSOCIATION alleges:

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. 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

4. Plaintiff BETTER GOVERNMENT ASSOCIATION (“BGA”) is a nonpartisan, Illinois non-profit corporation, whose mission is to educate the public about waste, inefficiencies, and corruption in government by acting as a watchdog agency uncovering and exposing this type of activity; to promote respect for the law; and to support public officials in the rightful performance of their duties. BGA was founded in 1923 to protect the integrity of the political process in Chicago.

5. Defendant OFFICE OF THE SPECIAL PROSECUTOR DAN K. WEBB (“OSP”) is a public body located in Cook County, Illinois.

6. Defendant CHICAGO OF CHICAGO LAW DEPARTMENT (“LAW DEPARTMENT”) is a public body located in Cook County, Illinois.

7. Defendant CITY OF CHICAGO MAYOR’S OFFICE (“MAYOR’S OFFICE”) is a public body located in Cook County, Illinois.

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

VANECKO'S KILLING OF KOSCHMAN AND THE OSP PROCEEDINGS

9. Richard J. (R.J.) Vanecko is the nephew of former City of Chicago Mayor Richard M. Daley.

10. R.J. Vanecko killed David Koschman in 2004, while Richard M. Daley was the Mayor of Chicago.

11. Former Mayor Daley learned of his nephew's conduct shortly after it occurred.

12. Following media coverage of the problems with the Vanecko investigation and in response to a motion to appoint a special prosecutor, Judge Michael Toomin appointed Dan Webb special prosecutor to investigate the killing and investigation.

13. At the request of the OSP, Judge Toomin entered a protective order purporting to bar the disclosure of "all Grand Jury materials, including but not limited to subpoenas, target letters, and other correspondence related to the service of a Grand Jury subpoena, sent by the Office of the Special Prosecutor to any individual or entity in connection with this investigation." The order also purports to prohibit the recipients of Grand Jury materials from further disclosing them.

14. The OSP conducted an investigation, and following the conclusion of that investigation, the OSP agreed to a sentence of 60 days in jail, 60 days of home confinement, and a period of probation for Vanecko for killing Koschman.

15. The OSP failed to charge any City of Chicago or State's Attorney's Office officials with any crimes.

16. The OSP's report discloses select information that the OSP decided to release about the investigation, including the identity of some of the witnesses interviewed, the identity of some of the people who testified before the grand jury, and some of the evidence considered by the grand jury.

17. The OSP was paid using public funds.

BGA'S FOIA REQUESTS AND DEFENDANTS' BLANKET DENIALS

18. On January 23, 2015, BGA requested from OSP: (1) documents sufficient to show the names of everyone interviewed by Dan Webb's special prosecutors in relation to the David Koschman/Richard Vanecko case; (2) copies of any and all statements by and communications with Daley family members and their attorneys or former corporation counsel Mara Georges; and (3) copies of any and all itemized invoices and billing records for the special prosecutor's team. A true and correct copy of the request is attached as Exhibit A.

19. On January 30, 2015, OSP denied the request in full based solely on Section 7(1)(a) of FOIA, by virtue of the Illinois Criminal Code, 725 ILCS 5/112-6(a) and (c)(3). A true and correct copy of OSP's denial is attached as Exhibit B.

20. Section 7(1)(a) only exempts material "specifically prohibited disclosure by federal or State law or rules and regulations implementing federal or State law."

21. The Illinois Criminal Code does not specifically prohibit the production of information about an investigation or the payment of fees to a prosecutor or special prosecutor using public funds. This is clear from the plain text of the Criminal Code, and any contrary rule would result in a lack of public oversight of investigations undertaken by prosecutors, a result that cannot be reconciled with the text or purpose of FOIA as articulated in numerous decisions of Illinois courts and the statute itself.

22. On January 23, 2015, BGA made the following identical requests to the LAW DEPARTMENT, MAYOR'S OFFICE, and CPD ("City Defendants"): (1) copies of any and all subpoenas issued to the City Defendants in regard to the Vanecko/Koschman investigation/special prosecution; (2) any and all emails between special prosecutor Dan Webb's office and the City Defendants in regard to the Vanecko/Koschman investigation/special

prosecution; and (3) any indexes of records produced to OSP in regards to the Vanecko/Koschman investigation/special prosecution. A true and correct copy of the requests are attached as Group Exhibit C.

23. On February 6, 2015, the City Defendants denied the request on the sole basis of Section 7(1)(a) and Judge Toomin's protective order and stated that no indexes of records exists. A true and correct copy of the denial is attached as Exhibit D.

24. A court order is not "federal or State law or rules and regulations implementing federal or State law," and therefore, Section 7(1)(a) does not apply.

25. Any federal caselaw creating federal FOIA exemptions for records subject to a protective order is irrelevant under Illinois FOIA due to multiple key differences between the text of the Illinois and federal FOIA statutes, and Illinois courts do not follow federal decisions that conflict with the Illinois FOIA statute.

26. Upon information and belief, the City Defendants have not asked Judge Toomin to rescind the protective order and have not asked the OSP to seek rescission of the protective order, despite the statutory obligation of the City Defendants to produce the requested records.

COUNT I – VIOLATION OF FOIA - OSP

1. The above paragraphs are incorporated by reference.
2. OSP is a public body under FOIA.
3. The requested records exist and are not exempt under FOIA.
4. OSP has violated FOIA by failing to produce the records requested by BGA.

COUNT II – VIOLATION OF FOIA – LAW DEPARTMENT

5. The above paragraphs are incorporated by reference.
6. CITY OF CHICAGO LAW DEPARTMENT is a public body under FOIA.
7. The requested records exist and are not exempt under FOIA.

8. CITY OF CHICAGO LAW DEPARTMENT has violated FOIA by failing to produce the records requested by BGA.

COUNT III – VIOLATION OF FOIA – MAYOR’S OFFICE

9. The above paragraphs are incorporated by reference.

10. CITY OF CHICAGO MAYOR’S OFFICE is a public body under FOIA.

11. The requested records exist and are not exempt under FOIA.

12. CITY OF CHICAGO MAYOR’S OFFICE has violated FOIA by failing to produce the records requested by BGA.

COUNT IV – VIOLATION OF FOIA - CPD

13. The above paragraphs are incorporated by reference.

14. CPD is a public body under FOIA.

15. The requested records exist and are not exempt under FOIA.

16. CPD has violated FOIA by failing to produce the records requested by BGA.

WHEREFORE, BGA 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 Defendants have violated FOIA;
- iii. order Defendants to produce the requested audio record under FOIA;
- iv. enjoin Defendants from withholding non-exempt public records under FOIA;
- v. award BGA reasonable attorneys’ fees and costs;
- vi. order Defendants to pay civil penalties for willfully and intentionally violating FOIA in bad faith; and

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vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,



Attorneys for Plaintiff
BETTER GOVERNMENT ASSOCIATION

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

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From: Robert Herguth [<mailto:rherguth@bettergov.org>]
Sent: Friday, January 23, 2015 11:53 AM
To: Webb, Dan K.
Subject: FOIA request

Dear FOIA officer,

This is Bob Herguth at the Better Government Association with a request for records under the Illinois Freedom of Information Act. I am making this request of the Cook County state's attorney's office, Cook County government and special prosecutor Dan Webb.

We contend that the special prosecutor is a public body under FOIA or, in the alternative, that the special prosecutor's records are records of Cook County and/or the state's attorney's office under FOIA Section 7(2).

As such, I am requesting:

Documents sufficient to show the names of everyone interviewed by Dan Webb's special prosecutors in relation to the David Koschman/Richard Vanecko case.

Also under FOIA I am requesting copies of any and all statements by and communications with Daley family members and their attorneys.

I request the same information for Mara Georges.

Copies of any and all itemized invoices and billing records for the special prosecutor's team.

Please note this is for a possible news story. As such I ask that any fees be waived.

I ask that this information be provided electronically, to this email: rherguth@bettergov.org.

I ask that you please contact me with any questions. My direct line is (312) 821-9030.

Exhibit A

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I appreciate your consideration.

Sincerely,

Bob Herguth

Better Government Association

The contents of this message may be privileged and confidential. Therefore, if this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author.

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Office of the Special Prosecutor

Pursuant to the Order Issued by Judge Toomin on April 23, 2012
In the Matter of the Death of David Koschman

Sean G. Wieber
(312) 558-5600

35 W. Wacker Drive
Chicago, Illinois 60601

January 30, 2015

Via E-Mail

Bob Herguth
Better Government Association
rherguth@bettergov.org
(312) 821-9030

Dear Mr. Herguth:

This letter regards your January 23, 2015, Freedom of Information Act ("FOIA") request to the Office of the Special Prosecutor Dan K. Webb ("the OSP") which requested:

- (1) *Documents sufficient to show the names of everyone interviewed by Dan Webb's special prosecutors in relation to the David Koschman/Richard Vanecko case.*
- (2) *Copies of any and all statements by and communications with Daley family members and their attorneys. I request the same information for Mara Georges.*
- (3) *Copies of any and all itemized invoices and billing records for the special prosecutor's team.*

Please be advised that your request is denied for the following reasons:

The entirety of the records requested are exempt from disclosure pursuant to 5 ILCS 140/7(1)(a) of FOIA. Section 7(1)(a) exempts "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law."

The specific records requested in categories 1 and 2 comprise grand jury material that are prohibited from disclosure without a court order under section 112-6 of the Illinois Code of Criminal Procedure. See 725 ILCS 5/112-6(a), (c)(3). Because no court has ordered their disclosure, Illinois law prohibits the OSP from providing you such records.

The specific records requested in category 3 consist of two separate subcategories: (A) itemized invoices, and (B) billing records.

Office of the Special Prosecutor

Pursuant to the Order Issued by Judge Toomin on April 23, 2012
In the Matter of the Death of David Koschman

Sean G. Wieber
(312) 558-5600

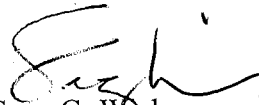
35 W. Wacker Drive
Chicago, Illinois 60601

As it relates to subcategory A (itemized invoices), those records consist of the OSP's Petitions For Cost filed with the Court, as well as the Orders related thereto entered by the Honorable Michael P. Toomin directing the Comptroller of Cook County to pay Winston & Strawn LLP the amount the Court found to be fair and reasonable for the work performed. Because the Court has not ordered their disclosure, the OSP is prohibited from providing you such records. There are, however, publically available documents related to subcategory A that are maintained by the Finance Committee of the Cook County Board of Commissioners.

As it relates to subcategory B (billing records), those records are prohibited from disclosure without a court order under the aforementioned section 112-6 of the Illinois Code of Criminal Procedure. *See* 725 ILCS 5/112-6(a), (c)(3).

Because your FOIA request has been denied, you have a right of review by the Illinois Attorney General's Public Access Counselor, who can be contacted at 500 S. Second Street, Springfield, IL 62706 or by telephone at 1-877-299-3642. You may also seek judicial review of a denial under 5 ILCS 140/11 of FOIA.

Sincerely,



Sean G. Wieber
Deputy Special Prosecutor
Office of the Special Prosecutor

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FOIA request

1 message

Robert Herguth <rherguth@bettergov.org>

Fri, Jan 23, 2015 at 11:54 AM

To: FOIA <foia@chicagopolice.org>

Dear FOIA officer,

This is Bob Herguth at the Better Government Association with a request for records under the Illinois Freedom of Information Act.

Specifically under FOIA I am requesting copies of any and all subpoenas issued to the Chicago Police Department, the Law Department and the Mayor's Office in regards to the Vanecko/Koschman investigation/special prosecution.

Also under FOIA I am requesting copies of any and all emails and other communications between special prosecutor Dan Webb's office and CPD, the Law Department and the Mayor's Office in regards to the same investigation/special prosecution.

I also am requesting copies, under FOIA, of any and all indexes of records produced by the city for Webb's office, also in regards to the Vanecko/Koschman investigation.

Please note this is for a possible news story. As such I ask that any fees be waived.

I ask that this information be provided electronically, to this email: rherguth@bettergov.org.

I ask that you please contact me with any questions. My direct line is (312) 821-9030.

I appreciate your consideration.

Sincerely,

Bob Herguth
Better Government Association

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FOIA request

1 message

Robert Herguth <rherguth@bettergov.org>

Fri, Jan 23, 2015 at 11:55 AM

To: "lawfoia@cityofchicago.org" <LAWfoia@cityofchicago.org>

Dear FOIA officer,

This is Bob Herguth at the Better Government Association with a request for records under the Illinois Freedom of Information Act.

Specifically under FOIA I am requesting copies of any and all subpoenas issued to the Chicago Police Department, the Law Department and the Mayor's Office in regards to the Vanecko/Koschman investigation/special prosecution.

Also under FOIA I am requesting copies of any and all emails and other communications between special prosecutor Dan Webb's office and CPD, the Law Department and the Mayor's Office in regards to the same investigation/special prosecution.

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I ask that you please contact me with any questions. My direct line is (312) 821-9030.

I appreciate your consideration.

Sincerely,

Bob Herguth
Better Government Association

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From: **Robert Herguth** <rherguth@bettergov.org>
Date: Fri, Jan 23, 2015 at 11:55 AM
Subject: FOIA request
To: "mofia@cityofchicago.org" <MOfoia@cityofchicago.org>

Dear FOIA officer,

This is Bob Herguth at the Better Government Association with a request for records under the Illinois Freedom of Information Act.

Specifically under FOIA I am requesting copies of any and all subpoenas issued to the Chicago Police Department, the Law Department and the Mayor's Office in regards to the Vanecko/Koschman investigation/special prosecution.

I also under FOIA I am requesting copies of any and all emails and other communications between special prosecutor Dan Webb's office and CPD, the Law Department and the Mayor's Office in regards to the same investigation/special prosecution.

I also am requesting copies, under FOIA, of any and all indexes of records produced by the city for Webb's office, also in regards to the Vanecko/Koschman investigation.

Please note this is for a possible news story. As such I ask that any fees be waived.

I ask that this information be provided electronically, to this email: rherguth@bettergov.org.

I ask that you please contact me with any questions. My direct line is (312) 821-9030.

I appreciate your consideration.

Sincerely,

Bob Herguth
Better Government Association

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PAC



DEPARTMENT OF LAW
CITY OF CHICAGO

February 6, 2015

Response by Email

Mr. Bob Herguth
Better Government Association
rherguth@bettergov.org

RE: Your FOIA request dated January 23, 2015

Dear Mr. Herguth –

The City is in receipt of three identical Freedom of Information Act (FOIA) requests you sent to the Law Department, Chicago Police Department and Mayor's Office. Those requests were received on January 23, 2015, and a timely extension was sought on January 30, 2015. The requests seek the following:

Specifically under FOIA I am requesting copies of any and all subpoenas issued to the Chicago Police Department, the Law Department and the Mayor's Office in regards to the Vanecko/Koschman investigation/special prosecution.

Also under FOIA I am requesting copies of any and all emails and other communications between special prosecutor Dan Webb's office and CPD, the Law Department and the Mayor's Office in regards to the same investigation/special prosecution.

I also am requesting copies, under FOIA, of any and all indexes of records produced by the city for Webb's office, also in regards to the Vanecko/Koschman investigation.

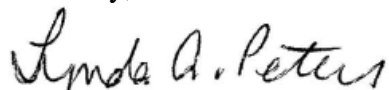
This response was prepared on behalf of all three City Departments.

The first two portions of your request are denied because the records you seek are exempt from disclosure pursuant to 5 ILCS 140/7(1)(a). Section 7(1)(a) exempts “[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.” The requested subpoenas are subject to a protective order that was entered by Judge Michael P. Toomin on June 14, 2012, and clarified by Judge Toomin on June 25, 2014. A copy of both court orders is attached. In addition, those protective orders will not allow the City

to share any emails concerning or discussing any request made of the City by the Special Prosecutor or production made by the City to the Special Prosecutor.

As to the third part of your request, to the best of my knowledge no log, list or index was compiled regarding documents produced to the Special Prosecutor, who was appointed by Judge Toomin on April 23, 2012¹. Even if such a log, list or index existed, we would be unable to provide it to you, as noted above, due to the express language of the attached protective orders that are in place in the Vanecko criminal case.

Sincerely,



Lynda A. Peters
City Prosecutor

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@atg.state.il.us

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 51LCS 140/11 by filing a lawsuit in the State Circuit Court.

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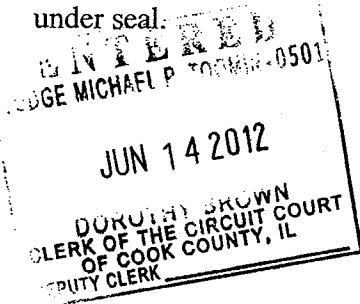
¹ "The Death of David Koschman, Report of the Special Prosecutor Dan K. Webb," p. 8, (<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCAQFjAA&url=http%3A%2F%2Fwww.law.northwestern.edu%2Flegalclinic%2Fmacarthur%2Fprojects%2Fpolice%2Fdocuments%2FSpecialProsecutorReportKoschmanSept182013Feb42014.pdf&ei=sF3KVIy0HcSeyASTzoGgDw&usg=AFQjCNG-h6S-OZHjyROEcuc1Chn7F536A&bvm=bv.84607526.d.aWw>)

3. Every individual or entity to whom Grand Jury materials are sent by the Office of the Special Prosecutor shall be advised that the material or information is being disclosed pursuant and subject to the terms of this Order.

4. All papers, documents, and transcripts containing or revealing Grand Jury materials shall be filed under seal.

IT IS FURTHER ORDERED that this order and related motion be entered in this matter

under seal.



ENTERED:

A handwritten signature in black ink, appearing to read "Michael P. Toomin".

Michael P. Toomin,
Judge of the
Circuit Court of Cook County

DATE: _____

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In the wake of the findings of the PAC, the City's motion reiterates its resistance to making the disclosures sought by Mr. Novak. This is borne out by the prayer for relief contained in the motion seeking clarification:

“Therefore, the City requests that this court conclusively state that the records the City produced pursuant to the grand jury subpoenas are covered by the June 14, 2012, Protective Order and cannot be produced.”

Having carefully considered the protective order, the initiating FOIA request, the findings of the PAC, the City's present motion, and the Sun-Times response, it is evident that the request for clarification has substantial merit.

As a starting point, consideration is directed to Mr. Novak's FOIA request setting the stage for this controversy. That request read:

“Under the Illinois Freedom of Information Act, we are seeking:

1. copies of all subpoenas city officials received from the Officer [*sic*] of the Special Prosecutor Dan K. Webb in the investigation of David Koschman's death.
2. all documents and records the city provided to the Office of the Special Prosecutor in the Koschman case.”

Notably, the City and the PAC are in agreement insofar as the grand jury subpoenas are concerned. Specifically, they are not obtainable by way of a FOIA request such as the one submitted by Mr. Novak.* Taking that conclusion a step further, the City asserts that providing the documents tendered to the Office of the Special Prosecutor pursuant to grand jury subpoenas

* Although the Sun-Times challenges the PAC's determination that the subpoenas issued by the Special Prosecutor are not subject to disclosure, the efficacy of that ruling is not before this Court and is more properly cognizable on administrative review.

would, in effect, violate the scope of the protective order by disclosing matters before the Special Grand Jury.

Concededly, the documents tendered to the Office of the Special Prosecutor in response to its subpoena remain within the possession of the City or the CPD. That a grand jury subpoena was issued for them did not change the character or intrinsic value of those documents. As observed in *Board of Education v. Verisario*, “The mere fact that a particular document is reviewed by a grand jury does not convert it into a matter occurring before the grand jury within the meaning of section 112-6(b).” 143 Ill. App. 3d 1000, 1007 (2nd Dist. 1986). Rather, the character of those documents was altered only upon being produced to the Office of the Special Prosecutor. Upon such production, they were subsumed within the broader universe of grand jury material and impliedly became subject to the statutory provisions governing grand jury materials and the protective order.

Importantly, “if a document is sought for its own sake, for its intrinsic value in the furtherance of a lawful investigation, rather than to learn what took place before the grand jury, and if the disclosure will not seriously compromise the secrecy of the grand jury investigation, disclosure is not prohibited.” *Verisario*, 143 Ill. App. 3d at 1008. Here, however, Mr. Novak’s request is tied by its very terms to the subpoenas issued by the Office of the Special Prosecutor and essentially seeks to learn what took place before the Special Grand Jury. As such, if the City complied with the request in its present format, doing so would violate this Court’s protective order.

A similar result obtained in *In re: Matter of Special February, 1975 Grand Jury; Appeal of James E. Baggot*, 662 F.2d 1232 (1981), where the Internal Revenue Service sought disclosure

of “certain evidence generated by the grand jury investigation” to further its determination of Baggot’s tax liability. *Baggot*, 662 F.2d at 1233. There, the Court of Appeals for the Seventh Circuit found Baggot’s statement to the grand jury, made as part of a plea agreement with the government after Baggot received a grand jury subpoena, was “too grand jury related to be artificially distinguished from the transcript of its reading to the grand jury.” *Baggot*, 662 F.2d at 1237-38. Consequently, the court held the statement was governed by Rule 6(e) of the Federal Rules of Criminal Procedure, which governs the recording and disclosing of grand jury proceedings in the federal criminal system. *Baggot*, 662 F.2d at 1238.

Here, as in *Versario* and *Baggot*, the relevant documents in the possession of the City or the CPD, appear to be sought for their own sake, but remain obtainable through other channels. However, those items cannot be identified as grand jury materials without compromising the intrinsic provisions of the protective order. If some or all the documents related to the death of David Koschman and subsequent investigations were sought via FOIA request or subpoena in a matter not connected with the work of the Special Prosecutor, such documents could be produced by the City or the CPD, subject to any other applicable restrictions or prohibitions. What the City or CPD, as custodians of those records, cannot do is to identify or characterize any of those documents as materials provided to the Office of the Special Prosecutor.

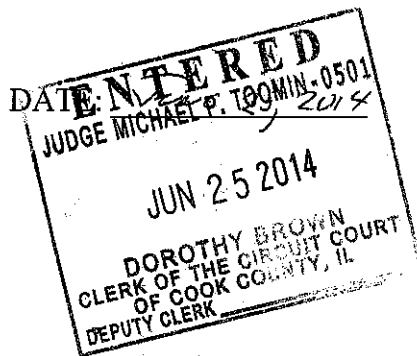
In summary, although this Court does not question Mr. Novak’s entitlement to production of the documents that may have become grand jury materials, he is not entitled to know what documents and materials in the possession of the City and CPD were tendered pursuant to grand jury subpoena. The protective order was implemented as a means to protect the sanctity of the investigation of the Office of the Special Prosecutor and the work of the special grand jury. Mr.

Novak cannot make an end-run around the terms and purpose of the order by drafting his FOIA request in a manner calculated to reveal what took place before the Special Grand Jury.

Accordingly, this Court clarifies the scope of the protective order to include the identification or characterization of documents obtained through grand jury subpoena and, therefore, not subject to disclosure as such.

IT IS THEREFORE ORDERED that the City of Chicago's motion is **GRANTED** insofar as it calls upon this Court to clarify the terms of the June 14, 2012, protective order to prohibit the identification and characterization of documents disseminated to the Office of the Special Prosecutor in furtherance of its investigation into the death of David Koschman. The June 14, 2012, protective order, which remains in full force and effect, limits only the identification of any documents or other records as being grand jury materials.

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ENTERED

A handwritten signature in black ink, appearing to read "Michael P. Toomin".

Michael P. Toomin,
Judge of the
Circuit Court of Cook County