

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

BEN BAKER,)
)
Plaintiff,)
)
v.)
)
FEDERAL BUREAU OF INVESTIGATION)
)
Defendant.)

COMPLAINT

1. Plaintiff Ben Baker brings this suit to overturn Defendant FBI’s refusal to produce records concerning FBI’s widely and self-publicized investigation of now-incarcerated corrupt Chicago police officer Ronald Watts on the alleged basis of his personal privacy.

PARTIES

2. The Plaintiff in this case is Ben Baker.

3. Defendant FBI is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552, with an office in Chicago, Illinois.

JURISDICTION AND VENUE

4. This case is brought under 5 U.S.C. § 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court.

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B) because the records at issue in this case are FBI records concerning an investigation that occurred in the Northern District of Illinois, and upon information and belief, some or all of the records at issue are located in this district.

BAKER'S FOIA REQUEST

6. On January 31, 2014, BAKER requested under FOIA records concerning FBI's investigation of Ronald Watts. A true and correct copy of BAKER's January 31 request is attached as Exhibit A.

BACKGROUND ON RONALD WATTS

7. At the time of FBI's investigation, Mr. Watts was a not a private citizen, but a Chicago police officer, and FBI's investigation into Mr. Watts pertained to illegal activities he engaged in his capacity as a Chicago police officer.

8. More specifically, Mr. Watts was a police sergeant who pled guilty in 2013 to stealing thousands of dollars from a purported drug courier who was actually an informant for the FBI in an undercover sting.

9. Watts regularly demanded protection payoffs from drug dealers for multiple years in the Ida B. Wells public housing complex in Chicago, but Watts was only charged with a single count of stealing money belonging to the United States.

10. In its response to Watts' Sentencing Memorandum, the United States described "years" of illegal corruption by Watts and the tremendous harm as it caused, while at the same time acclaiming FBI's role in bringing "so many" such criminals to justice:

As a Chicago Police officer, defendant Ronald Watts took an oath to serve and protect the residents of Chicago from crime. He swore to bring criminals to justice. He swore to act with honor and integrity. He swore to play by the rules and enforce the rule of law to guarantee that the constitutional and civil rights of Chicagoans were protected. For years, however, the defendant used his badge and his position as a sergeant with the Chicago Police Department to shield his own criminal activity from law enforcement scrutiny. He recruited another CPD officer into his crimes, stealing drug money and extorting protection payments from the drug dealers who terrorized the community that he, the defendant, had sworn to protect. Ultimately, he was brought to justice in the same way as so

many other criminals who come before this Court – in an FBI undercover sting operation.

A true and correct copy of the response brief is attached as Exhibit B.

11. The United States emphasized the harm that Watts' corruption caused to vulnerable residents living in public housing:

As set forth in the government's version of the offense and admitted by co-defendant Kallatt Mohammed, beginning no later than December 11, 2007, through at least May 22, 2008, the defendant and Watts covered the Ida B. Wells public housing complex as part of the duties with the Chicago Police Department. Like so many other housing projects, crime, drug dealing, and gang activity plagued the residents living in that community. The defendant, a sergeant working out of the Chicago Police Department's 2nd District, and Mohammed, a junior CPD officer, worked together, seemingly to protect the residents of the complex. Instead, however, they protected the heroin and crack cocaine dealers, extorting protection payments from them in exchange for agreeing not to arrest them. Mohammed estimated that he picked up between \$20,000 and \$25,000 in these protection payments for the defendant and at the defendant's direction.

12. In describing Watts' corruption, the United States noted that "by virtue of his badge, his rank, and his authority as an officer with the Chicago Police Department, [Watts] thought himself untouchable for the crimes that he was committing."

13. The United States still further highlighted the distrust of law enforcement that Watts' conduct caused and Watts' breach of the trust given to him as a police officer:

By many accounts, the defendant is a loving father and a good friend. He successfully performed some of his duties as a law enforcement officer, receiving the awards and recognition offered by the defendant with his sentencing memorandum. None of these qualities, however, explains why the defendant chose to betray his oath as a police officer and the people he swore to protect with years of crime. Despite his years of service in the military and the Chicago Police Department, where the qualities of honor, integrity, and honesty are esteemed and expected, the defendant chose to support those very criminals he was expected to bring to justice. He chose to turn a blind eye to the drug trafficking and crime in order to enrich himself with the drug money that he extorted from

the drug dealers and stole from their couriers. The good qualities from which those closest to him benefitted are the same qualities that should have prevented him from engaging in the crimes that bring him before the Court for sentencing. ***

With his crimes, the defendant not only enriched himself with the drug money that was earned by the drug dealers who peddled poison – heroin and crack cocaine – into the community, he undermined the criminal justice system. Sworn law enforcement officers are held to a higher standard of conduct, not only because of the authority that they enjoy, but because society relies on their trustworthiness, their honor, and their integrity in upholding and enforcing the laws that protect the community.

Every time the defendant chose to take cash from the drug dealers, to turn a blind eye to their crimes, and to risk the safety of a homeless man who purportedly carried bags of cash for drug dealers, the defendant gave the community reason to doubt law enforcement, reason to challenge its authority, reason to believe that law enforcement cannot be trusted. He supported the criminal activities in the same community that he had sworn to protect. With his crimes, the defendant gave the community reason to doubt all other law enforcement officers, to challenge their truthfulness in court and in their administration of their duties, and to challenge the legitimacy of warrants, prosecutions, and convictions in the criminal justice system. His sentence should speak to all of that. ***

The defendant's sentence should account not only for his crimes but should send a message to the law enforcement community -- to good cops and bad cops alike -- that they will be prosecuted and punished to the fullest extent of the law when they use their position to commit crimes. In doing so, it helps to restore the legitimacy of the criminal justice system that was tarnished by the defendant's crimes.

14. According to media accounts, at his sentencing, the court described Watts' conduct as a betrayal of his community and "unconscionable," stating: "You betrayed your community: the law enforcement community, the African-American community and the South Side community."

15. Consistent with the United States' claim that Watts engaged in this deplorable criminal conduct "for years," according to media accounts, the court described Watts' unconscionable criminal conduct as "ongoing."

16. The Watts case was widely reported in Chicago and national media. True and correct copies of news articles about Watts are attached as Exhibit C; Exhibit D; Exhibit E; Exhibit F.

17. The FBI itself promoted its arrest of Ronald Watts to the media. A true and correct copy of the press release is attached as Exhibit G.

FBI'S IMPROPER DENIAL OF BAKER'S FOIA REQUEST

18. Despite the obvious public interest in the disclosure of this information, on March 27, 2014, in response to BAKER's request, FBI asked BAKER to provide documentation showing the public interest in disclosure. A true and correct copy of FBI's March 27 letter is attached as Exhibit H.

19. BAKER did not respond to FBI's request by the deadline, but on June 5, 2014, through his attorneys, BAKER provided information about Mr. Watts' lack of privacy interest in the records and the public interest in disclosure. A true and correct copy of BAKER's June 5 letter is attached as Exhibit I.

20. On September 29, 2014, FBI denied BAKER's appeal, prioritizing the alleged privacy interest of a corrupt law enforcement officer engaged in "years" of "betraying" his community over the public's interest in disclosure of information about this corruption and FBI's efforts to combat it, and did so even though the FBI itself had used the Watts case to promote FBI's anti-corruption work to the media. A true and correct copy of FBI's September 29 letter is attached as Exhibit J.

21. On October 15, 2014, through his attorneys, BAKER provided further information and evidence in support of his position regarding the public interest in disclosure of the records, but on October 22, 2014, FBI affirmed its denial. A true and correct copy of the October 15 email and a true and correct copy of FBI's October 22 response are attached as Exhibits K and L.

22. Under Illinois law, Illinois police officers and public officials have no expectation of privacy with regard to their official conduct. Therefore, the records simply cannot be exempt on privacy grounds because there is no privacy interest to protect.

23. Even if a corrupt Illinois police officer had some privacy interest in FBI records showing investigations into that corruption, the public interest in disclosure far outweighs that alleged privacy interest.

24. There is a known problem with public corruption in Illinois. The then-head of FBI in Chicago truthfully stated in 2008: "If [Illinois] isn't the most corrupt state in the United States, it's certainly one hell of a competitor."

25. There is a significant public interest in the disclosure of information about public corruption, as indicated at least by the media coverage and FBI's press release of the Watts case and public corruption more generally, the strongly worded condemnations of Watts' conduct by the United States, and the principle underlying our democratic society that no person is above the law.

26. There is also a significant public interest in the disclosure of information that would show how vigorously FBI investigates corruption in the Chicago Police Department and FBI's substantive law enforcement policy regarding public corruption.

27. FBI promotes in the media and through its website arrests involving public corruption.

28. FBI states on its Public Corruption webpage: “It’s our top priority among criminal investigations—and for good reason. Public corruption poses a fundamental threat to our national security and way of life. It impacts everything from how well our borders are secured and our neighborhoods protected...to verdicts handed down in courts...to the quality of our roads, schools, and other government services. And it takes a significant toll on our pocketbooks, wasting billions in tax dollars every year. The FBI is singularly situated to combat this corruption, with the skills and capabilities to run complex undercover operations and surveillance.” A true and correct copy of the webpage is attached as Exhibit M.

29. This public interest is especially acute in Watts’ case: according to the United States, Watts engaged in this criminal conduct “for years,” yet he was charged only with stealing \$5200 in funds belonging to the United States on a single occasion.

30. Because an Illinois public official has no privacy interest in information related to official conduct, and because there is a strong public interest in the disclosure of information that would inform the public about public corruption in Illinois and the veracity of FBI’s efforts to combat that corruption, the requested records are not exempt and must be produced.

COUNT I – VIOLATION OF FOIA

31. The above paragraphs are incorporated herein.
32. Defendant FBI is an agency subject to FOIA.
33. The requested records are not exempt under FOIA.
34. Defendant FBI has refused to produce the requested records.

WHEREFORE, BAKER asks the Court to:

- i. Order FBI to produce the requested records;
- ii. Award BAKER attorney fees and costs; and
- iii. Enter any other relief the Court deems appropriate.

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

Attorneys for Plaintiff
BEN BAKER

Matthew Topic
LOEVY & LOEVY
312 North May St., Suite 100
Chicago, IL 60607
(312) 243-5900
matt@loevy.com