

IN THE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ELAINE THIEL and MIANNA RUIZ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:23-cv-01959
)	
CITY OF INDIANAPOLIS, INDIANA, and the)	
DEPUTY DIRECTOR OF INDIANAPOLIS)	
ANIMAL CARE SERVICES, in her official)	
capacity,)	
)	
Defendant.)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Introductory Statement

1. Elaine Thiel and Mianna Ruiz are among the hundreds of individuals who volunteer their time and energy caring for animals at the animal shelter operated by Indianapolis Animal Care Services (“IACS”), a subagency of the City of Indianapolis. Although they both find the experience rewarding and they care deeply about the animals they serve, these animals often live in crowded, substandard conditions and, far too often, do not leave the shelter alive. Ms. Thiel and Ms. Ruiz recognize that many of the challenges at the shelter lie outside of IACS’s control, although they have also come to believe that the shelter—and, more importantly, the animals housed at the shelter—also suffers from mismanagement and from the absence of a long-term plan to end the perpetual crises facing the shelter. In their personal capacities and on their own time, they have therefore been outspoken about the issues confronting the shelter and, in advocating for the health and safety of the animals they serve, have been critical of IACS and its leadership. Their expressive activity, however, has been determined by IACS to be violative of IACS’s Volunteer

Code of Conduct and its Volunteer Communications & Social Media Policy, and Ms. Thiel and Ms. Ruiz have therefore been threatened with termination from their volunteer positions if they continue to offer critical commentary. The attempts by IACS to restrain its volunteers' speech, and various provisions of these policies, violate the First Amendment to the United States Constitution.

2. Appropriate declaratory and injunctive relief should issue against the City of Indianapolis, Indiana and the Deputy Director of Indianapolis Animal Care Services, who serves as the head of that subagency.

Jurisdiction, Venue, and Cause of Action

3. This Court has jurisdiction of this case pursuant to 28 U.S.C. §§ 1331 and 1343.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

5. Declaratory relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and by 28 U.S.C. §§ 2201 and 2202.

6. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution and laws of the United States.

Parties

7. Elaine Thiel is an adult resident of Marion County, Indiana

8. Mianna Ruiz is an adult resident of Marion County, Indiana

9. The City of Indianapolis, Indiana is a municipality located in central Indiana.

10. The Deputy Director of Indianapolis Animal Care Services is the official in charge of that subagency of the City of Indianapolis. She is sued in her official capacity.

Factual Allegations

11. Indianapolis Animal Care Services ("IACS") is a subagency of the City of Indianapolis

(“the City”) that is responsible for operating the City’s animal shelter and for enforcing within the City statutes and ordinances relating to the care, treatment, and control of animals. It has been established by Section 226-511 of the Indianapolis-Marion County Code of Ordinances.

12. The Deputy Director of IACS serves as the head of that subagency.

13. For years the animal shelter operated by IACS has been in a perpetual state of crisis. The shelter has been on “emergency intake status”—meaning that the shelter will only accept animals in emergency situations and all surrendered animals will be at high risk for euthanasia—since February 2022. The dog kennels have been at or over capacity throughout 2022 and 2023, with dogs often living in temporary crates lining the shelter’s hallways or in offices within the shelter. And the “live release rate” for dogs is depressingly low, such that many animals who enter the shelter will not leave the shelter alive.

14. To operate the City’s animal shelter, IACS relies on the time, energy, and commitment of hundreds of volunteers. Without compensation, these volunteers care for animals in the shelter (many of whom have significant medical or behavioral needs), clean the shelter’s kennels, provide companionship to the animals, walk the animals, administer medication to the animals, ensure that the animals are receiving and taking their food, and perform a host of other responsibilities necessary to the operation of the shelter.

15. As a condition of volunteering at the shelter operated by IACS, an individual must sign a “Volunteer Agreement” that provides, among other things, that the individual “agree[s] to comply with the IACS ‘Volunteers’ Code of Conduct.” A true and correct copy of this Volunteer Agreement is attached and incorporated herein as **Exhibit 1**, and a true and correct copy of the Volunteer Code of Conduct is attached and incorporated herein as **Exhibit 2**.

16. Additionally, all volunteers must abide by a “Volunteer Communications & Social Media

Policy” (“Social Media Policy”), a true and correct copy of which is attached and incorporated herein as **Exhibit 3**.

17. As is relevant here, the Volunteer Code of Conduct imposes the following terms on the shelter’s volunteers (emphasis in original):

- Volunteers should not publish or publicly make any **derogatory statements about IACS** or individuals at any time.
- Ideas, constructive comments, suggestions, & criticisms should be shared directly with the **volunteer coordinator** or other supervisor assigned by the volunteer coordinator.
- Volunteers should **direct all media requests to the chief communications officer & public information officer**.

The Volunteer Code of Conduct further provides that a “[b]reach of the listed code of conduct terms may result in the loss of ability to volunteer for IACS” and that “**IACS reserves the right to release any volunteer who is in conflict with the goals of IACS.**”

18. The Social Media Policy also provides, as is relevant here, as follows:

In general, IACS respects the right of volunteers to use online forums on their personal time as a medium of self-expression, and it is not our intent to police the online activity of our staff and volunteers. However, IACS reserves the right to monitor and regulate volunteer postings/activities of any online forums when it relates to our organization’s interests.

If you choose to public or post content related to IACS on any online forum, we ask that staff and volunteers observe the following rules:

- Using personal online communications to undermine IACS programs or philosophies, our clients, our donors, staff, or other volunteers isn’t professional and damages our mission of saving lives. If you have suggestions for improvements at IACS, please go through the proper channels to convey your concerns and share your suggestions.

Similar to the Volunteer Code of Conduct, the Social Media Policy also provides that volunteers should “send all media inquiries directly to the chief communications officer and public information officer.”

19. Elaine Thiel and Mianna Ruiz are both passionate about animal welfare and, in order to assist animals in need, volunteer at the shelter operated by IACS. Ms. Thiel has been volunteering at the shelter since July 2021 and Ms. Ruiz has been volunteering at the shelter since May 2022. On average, Ms. Thiel volunteers a little over eight hours each week at the shelter and Ms. Ruiz volunteers approximately five hours each week.

20. Ms. Thiel and Ms. Ruiz find volunteering at the shelter to be extremely rewarding but also heartbreaking. They are constantly forced to observe animals that they care for living in substandard conditions injurious to the animals' physical and mental health and, all too often, animals they have bonded with are euthanized. Despite the strong emotions that these experiences engender, however, they intend to continue volunteering into the indefinite future, for they feel that they are offering vital assistance to animals in need.

21. Ms. Thiel and Ms. Ruiz recognize that many of the challenges faced by IACS—such as staffing shortages, an aging facility, and increased numbers of animals surrendered to the shelter—are largely beyond its control. However, they also believe strongly that many of the issues plaguing the shelter have been caused or exacerbated by mismanagement or by an apparent lack of urgency from IACS's leadership.

22. In order to express their opinions about the dire state of the shelter operated by IACS and to attempt to bring attention to an issue of profound importance to the animals in that shelter and everyone who cares about those animals, on or about July 25, 2023 Ms. Thiel and Ms. Ruiz—and ninety-five other past or present employees and volunteers of IACS—signed a letter concerning the crisis at IACS. This letter was sent to Mayor Joe Hogsett, the members of the Indianapolis City-County Council, the members of IACS's advisory board, and the Director of the City's Department of Business and Neighborhood Services (which oversees IACS). A true and correct

copy of this letter is attached and incorporated herein as **Exhibit 4**.

23. Following the delivery of this letter, local media published multiple articles regarding the concerns voiced by Ms. Thiel, Ms. Ruiz, and others and regarding the general state of the shelter operated by IACS. Ms. Thiel and Ms. Ruiz both provided comment to the media on the issues plaguing IACS and they shared with the media some of their experiences volunteering at the shelter. Other volunteers commented on the record as well.

24. At no point did Ms. Thiel or Ms. Ruiz state or imply that they were speaking on behalf of IACS itself, nor would any reasonable person viewing their comments conclude that they were speaking on behalf of IACS. Rather, they commented on their own time, on their own behalf, and about their own experiences and concerns. They were certainly not speaking pursuant to any of their official duties as volunteers for IACS. None of their comments were obscene, profane, threatening, or otherwise inappropriate in any way.

25. Nonetheless, the day after one of the articles about IACS's shelter was published, Ms. Ruiz was called into a meeting with IACS's Administrator of Policy Planning. At IACS, the Administrator of Policy Planning has significant managerial responsibilities and supervises the agency's Volunteer Coordinator.

26. During this meeting, the Administrator of Policy Planning informed Mr. Ruiz that some IACS staff and volunteers had become "uncomfortable" with the advocacy that she (and others) had engaged in and that, if she did not change her approach to communications, she would have to "separate [her] volunteer relationship" with IACS. The Administrator of Policy Planning further informed Ms. Ruiz that her comments were in violation of the provision of IACS's Volunteer Code of Conduct that prohibits volunteers from making any "derogatory statements" about IACS.

27. In follow up communications, the Administrator of Policy Planning further implied that

Ms. Ruiz's comments violated a provision of the Volunteer Code of Conduct stating generally that volunteers should "be mindful that what [they] say as a volunteer reflects on IACS as a whole."

She also provided the following "recap" of the "reminders and requirements for volunteering [at the shelter]":

- That concerns are to be brought to the Volunteer Coordinator (via email or reach out for a meeting to discuss in person). The Volunteer Coordinator should be allowed time to review and respond. If that does not happen, preferably after a follow up, then the concern should be brought to my attention. . . .
- Media inquiries and requests are to go to [IACS's Public Information Officer].
- That we need everyone to work as a team and create a positive environment to help us get through this together and improve.
- That the policies would need to be resigned to again reinforce your understanding and agreement.
- That any subsequent actions that go against the above will result in us having to sever the volunteer relationship.

In other words, among other things the Administrator of Policy Planning reiterated the provisions of both the Volunteer Code of Conduct and the Social Media Policy requiring volunteers to send all media inquiries to specific members of IACS's staff.

28. In these follow-up communications, the Administrator of Policy Planning further reiterated the provision of the Social Media Policy prohibiting volunteers from "[u]sing personal online communications to undermine IACS programs or philosophies, our clients, our donors, staff, or other volunteers" and requiring that "suggestions for improvements" be made "through proper channels." She also reiterated the provisions of both the Volunteer Code of Conduct and the Social Media Policy" prohibiting volunteers from engaging in "disrespectful" behavior or making "disrespectful" comments.

29. A week or so after Ms. Ruiz was called into a meeting with IACS's Administrator of Policy

Planning, Ms. Thiel was called into a meeting with the same individual. During this meeting, Ms. Thiel was informed that she should “apologize to staff” for her comments critical of IACS and its management. She was also informed that if her public comments had “negative outcomes,” she would be fired from her volunteer position.

30. It does not appear that Ms. Thiel and Ms. Ruiz are alone in receiving threats of termination if they speak publicly regarding the state of IACS’s shelter. During a “listening session” regarding Indianapolis’s animal-welfare crisis conducted by Jefferson Shreve (a candidate for Indianapolis mayor) in early October, and attended by many IACS volunteers, Mr. Shreve inquired as to whether any persons present had been instructed not to speak with the media. When numerous persons indicated that they had been, he inquired as to the consequences if they disregarded this instruction. Several persons indicated out loud that they would be terminated from their volunteer positions.

31. Both Ms. Thiel and Ms. Ruiz want to continue speaking publicly—on social media, to the actual media, and elsewhere—about the current state of IACS’s shelter and about their concerns related to the management of the shelter. They are prohibited from doing so, however, by the Volunteer Code of Conduct and the Social Media Policy, and if they do so they are subject to termination from their volunteer positions.

32. The issues on which Ms. Thiel and Ms. Ruiz wish to speak are, quite clearly, matters of public concern.

33. IACS has no interest in suppressing this speech merely because it is critical of IACS and its operations, and the speech in no way threatens IACS’s ability to operate an efficient workplace. Even if IACS did have an interest in suppressing this speech, however, this interest is greatly outweighed by the interests of Ms. Thiel and Ms. Ruiz as well as by the interests of both potential

audiences and other current and future IACS volunteers subject to the Volunteer Code of Conduct and the Social Media Policy.

34. As a result of IACS's enforcement of its Volunteer Code of Conduct and its Social Media Policy, Ms. Thiel and Ms. Ruiz are suffering irreparable harm for which there is no adequate remedy at law.

35. Both the Volunteer Code of Conduct and the Social Media Policy represent policies or practice attributable to the defendants and for which the defendants are liable.

36. At all times, the defendants have acted or refused to act under color of state law.

Legal Claim

37. IACS's Volunteer Code of Conduct and its Social Media Policy violate the First Amendment to the United States Constitution.

Request for Relief

WHEREFORE, the plaintiffs request that this Court do the following:

1. Accept jurisdiction of this cause and set it for hearing.
2. Declare that the defendants have violated the rights of the plaintiffs for the reason described above.
3. Issue a preliminary injunction, later to be made permanent, enjoining the enforcement of IACS's Volunteer Code of Conduct and its Social Media Policy to the extent that those policies prohibit the plaintiffs from speaking in their personal capacities on issues of public concern.
4. Award the plaintiffs their costs and attorneys' fees pursuant to 42 U.S.C. § 1988.
5. Award all other proper relief.

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