OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 20, 2024

Via electronic mail
[redacted]

Via electronic mail
Ms. Shannon Wahl
FOIA Administration
Will County Sheriff's Office
16911 West Laraway Road
Joliet, Illinois 60433
foia@willcosheriff.org

RE: FOIA Request for Review – 2023 PAC 78704

Dear [redacted] and Ms. Wahl:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2022), as amended by Public Act 103-069, effective January 1, 2024).

On August 27, 2023, [redacted] submitted a FOIA request to the Will County Sheriff's Office (Sheriff's Office) seeking copies of the written reports, body camera and squad car footage, and dispatch calls related to Case Number 23006018. On August 28, 2023, the Sheriff's Office denied the request pursuant to section 7(1)(d)(iii) of FOIA.[1] The Sheriff's Office asserted that the matter was the subject of an active and open court case and that release of the records would jeopardize the integrity of the court proceedings.

[1]5 ILCS 140/7(1)(d)(iii) (West 2022), as amended by Public Act 103-154, effective June 30, 2023; 103-462, effective August 4, 2023.

On October 23, 2023, this office received [redacted] Request for Review challenging the denial. [redacted] acknowledged the Sheriff's Office's concern regarding protecting the integrity of the court case, but he contended that there was a significant public interest in the case.

On October 30, 2023, this office forwarded a copy of the Request for Review to the Sheriff's Office and asked it to provide copies of the withheld records, together with a detailed explanation of the factual and legal bases for the applicability of the asserted exemption. On November 8, 2023, this office received the requested materials. In its written response, the Sheriff's Office also asserted that: (1) the recorded calls fall within the scope of section 7(1)(d)(iv) of FOIA;[2] (2) the request for videos was unduly burdensome pursuant to section 3(g) of FOIA;[3] and (3) the Juvenile Court Act of 1987[4] (JCA) applied to one of the suspects, who was a juvenile. On November 15, 2023, this office forwarded a copy of the Sheriff's Office's response to [redacted] he replied on November 26, 2023.

DETERMINATION

"All records in the custody or possession of a public body are presumed to be open to inspection or copying." 5 ILCS 140/1.2 (West 2022); *see also Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 415 (2006). A public body that withholds records "has the burden of proving by clear and convincing evidence" that the records are exempt from disclosure. 5 ILCS 140/1.2 (West 2022). The exemptions from disclosure are to be narrowly construed. *Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 407 (1997).

As noted above, the Sheriff's Office cited the JCA and stated that one of the two suspects in the case was a juvenile. Therefore, section 7.5(bb) of FOIA[5] is relevant because it exempts from disclosure "[i]nformation which is or was prohibited from disclosure by the Juvenile Court Act of 1987." Section 1-7(A) of the JCA[6] provides:

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[2]5 ILCS 140/7(1)(d)(iv) (West 2022), as amended by Public Act 103-154, effective June 30, 2023; 103-462, effective August 4, 2023.

[3]5 ILCS 140/3(g) (West 2022).

[4]705 ILCS 405/1-1 *et seq*. (West 2022).

[5]5 ILCS 140/7.5(bb) (West 2022), as amended by Public Acts 103-008, effective June 7, 2023; 103-034, effective June 9, 2023; 103-508, effective July 1, 2023.

[6]705 ILCS 405/1-7(A) (West 2022), as amended by Public Act 103-022, effective August 8, 2023.

> **All juvenile records which have not been expunged are confidential and may never be disclosed to the general public or otherwise made widely available.** Juvenile law enforcement records may be obtained only under this Section and Section 1-8 and Part 9 of Article V of this Act, when their use is needed for good cause and with an order from the juvenile court, as required by those not authorized to retain them. Inspection, copying, and disclosure of **juvenile law enforcement records** maintained by law enforcement agencies or records of municipal ordinance violations maintained by any State, local, or municipal agency that **relate to a minor who has been investigated, arrested, or taken into custody before the minor's 18th birthday shall be restricted to the following**[.] (Emphasis added.)

The classes of persons who are permitted access to records concerning the investigation, arrest, or custodial detention of minors are then enumerated, and they do not include FOIA requesters.

In its response to this office, the Sheriff's Office maintained that disclosure of the requested records would jeopardize the open criminal court case related to the incident. The Sheriff's Office further argued:

> Due to the nature of the crime, it would be impossible to present the factual allegations against the adult while preserving the rights of the minor under the Juvenile Court Act. Juveniles are entitled to significant protections under that Act, including ensuring that their law enforcement records are not made public. 705 ILCS 405/1-7(A). Those portions of the video evidence which show or reference the minor cannot simply be redacted but must be fully removed to ensure the minor's rights are protected.[7]

In reply to that answer, [redacted] argued that the Sheriff's Office routinely discloses "this type of information to the general public through newspapers and online sources as a result of FOIA requests" and that "a name, photo and details of the incident from this case was released through the Patch Newspaper on July 24 2023."[8] He also stated he could reduce the scope of his request.

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[7]Letter from S. Wahl, FOIA Administrator, Will County Sheriff's Office, to Teresa Lim, Supervising Attorney, Public Access Bureau (undated).

[8]E-mail from [redacted] to Teresa Lim (November 26, 2023).

The Attorney General has issued a binding opinion concluding that "[w]hen a single police report concerns both an adult arrestee and a minor arrestee or suspect, the plain language of the JCA does not permit disclosure of any portion of the police report to an unauthorized party, regardless of the extent to which a portion of the report focuses on an adult arrestee." Ill. Att'y Gen. Pub. Acc. Op. No. 23-010, issued July 12, 2023, at 11. Further, the opinion explained that even if there is a public interest in the incident, "the section 7.5(bb) exemption does not take the public interest in disclosure into consideration as certain other FOIA provisions do[.]" Ill. Att'y Gen. Pub. Acc. Op. No. 23-010, at 11.

This office's review of the written report and supplemental reports for the specified case confirmed that they are "juvenile law enforcement records" because they document the investigation, arrest, and charging of a minor, in addition to an adult. Based on the nature of the incident, any video or audio recordings, such as the body camera videos of the responding officers, related to the Sheriff's Office's investigation would necessarily disclose information about the minor because the adult and minor were together during the incident. Even if the Sheriff's Office has released some details to the public concerning the adult and his court case, any records concerning the arrested juvenile are subject to the strict confidentiality protections of the JCA, which requires juvenile law enforcement records to be withheld in full rather than disclosed in part with redactions. The 7.5(bb) exemption also does not take into account the public interest in disclosure, as discussed above. Accordingly, the Sheriff's Office did not improperly withhold the records pursuant to section 7.5(bb) of FOIA.[9]

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter shall serve to close this matter. If you have any questions, please contact me at the Chicago address listed on the first page of this letter.

Very truly yours,

[redacted]
TERESA LIM
Supervising Attorney
Public Access Bureau

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[9]Because this determination concludes that responsive records are exempt from disclosure pursuant to section 7.5(bb) of FOIA, we decline to address the remaining asserted exemptions.