OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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January 24, 2025

Via electronic mail
Mr. Daniel T. Ryan
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Via electronic mail
Ms. Rhiann M. Martynowski
Illinois State Police
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RE: FOIA Request for Review – 2024 PAC 83830

Dear Mr. Ryan and Ms. Martynowski:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2023 Supp.)). For the reasons stated below, the Public Access Bureau concludes that the Illinois State Police (ISP) improperly denied Mr. Daniel T. Ryan's October 24, 2024, FOIA request as unduly burdensome under section 3(g) of FOIA (5 ILCS 140/3(g) (West 2022)).

On that date, Mr. Ryan's law firm, on behalf of a client, submitted a FOIA request to ISP seeking records related to ISP report 24-40681400630. On October 31, 2024, ISP extended its time to respond by five business days pursuant to section 3(e) of FOIA (5 ILCS 140/3(e) (West 2022)). On November 8, 2024, ISP responded by asserting that the request was unduly burdensome under section 3(g) of FOIA (5 ILCS 140/3(g) (West 2022)) and extending

Mr. Ryan the opportunity to narrow his request. On that same date, Mr. Ryan submitted the above-referenced Request for Review contesting ISP's response.

On November 18, 2024, this office forwarded a copy of the Request for Review to ISP and asked it to provide a detailed written explanation of the factual and legal bases for the assertion that fulfilling the request would unduly burden its operations, including an estimate of the volume of responsive records and of the time that it would take ISP to provide Mr. Ryan with the responsive records. Having received no response, this office sent an additional letter to ISP on December 4, 2024, enclosing the November 18, 2024, letter and an additional copy of the Request for Review. As of the date of this determination, this office has received no response from ISP in this matter.

DETERMINATION

Under section 1.2 of FOIA (5 ILCS 140/1.2 (West 2022)), "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying." A public body "has the burden of proving by clear and convincing evidence" that a record is exempt from disclosure. 5 ILCS 140/1.2 (West 2022). Section 3(g) of FOIA provides, in pertinent part:

> Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information. Before invoking this exemption, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any public body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information.

Section 3(g) necessarily involves a case-by-case analysis in which it is incumbent upon the public body to demonstrate the extent of the burden that compliance would have upon its operations and that the burden outweighs the public interest in disclosure. *Sargent Shriver National Center on Poverty Law, Inc. v. Board of Education of City of Chicago*, 2018 IL App (1st) 171846, ¶ 38 ("What constitutes a clear and convincing showing of undue burden will

likely vary from case to case, depending on the broadness of the request, the level of detail provided in the public body's response, and the nature of the parties' exchange.")

In response to Mr. Ryan's request, ISP stated:

> ISP is unable to provide any records without disproportionately burdening our operations. Continuing to search for, compile, and redact records in response to this request would be unduly burdensome, pursuant to Section 3(g) of FOIA. The time required for this request would result in delays for other FOIA requests. ISP is extending you the opportunity to narrow the scope and reduce your request to manageable proportions.[1]

ISP provided Mr. Ryan with only a conclusory statement that did not specify the reasons why the request would be unduly burdensome or explain the extent to which compliance would burden its operations. In particular, ISP did not provide even an initial estimate of the number of responsive records or describe the types of records it maintained pertaining to the specified case. Furthermore, ISP failed to provide this office with an explanation for the applicability of section 3(g).[2] Because this office has no basis to conclude that the burden of fulfilling the request outweighs the public interest in disclosure of the records, ISP failed to demonstrate that it properly denied Mr. Ryan's request as unduly burdensome.

In accordance with the conclusions expressed in this determination, this office requests that ISP promptly provide Mr. Ryan with copies of the requested records, subject only to permissible redactions under section 7 of FOIA (5 ILCS 140/7 (West 2023 Supp.), as amended by Public Act 103-605, effective July 1, 2024). If any information is redacted, FOIA requires ISP to provide a written notice of denial that includes "a detailed factual basis for the application of any exemption claimed[.]" 5 ILCS 140/9(a) (West 2022).

[1]Letter from Sarah Wheeler, Illinois State Police, Freedom of Information Officer, to Dan Ryan, [Holland Injury Law, LLC] (November 8, 2024).

[2]Section 9.5(c) of FOIA (5 ILCS 140/9.5(c) (West 2023 Supp.)) provides, in pertinent part: "Within 7 business days after receipt of the request for review, the public body shall provide copies of records requested and **shall otherwise fully cooperate with the Public Access Counselor.**" (Emphasis added.)

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This file is closed. If you have any questions, please contact me at benjamin.silver@ilag.gov or (773) 590-7878.

Very truly yours,

[redacted]

BENJAMIN J. SILVER
Supervising Attorney
Public Access Bureau

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