OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

January 6, 2025

Via electronic mail
[redacted]

RE: FOIA Request for Review – 2024 PAC 84528

Dear [redacted]:

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2023 Supp.)). For the reasons set forth below, the Public Access Bureau has determined that this Request for Review is unfounded.

On December 17, 2024, you submitted a FOIA request to the Village of Libertyville (Village) Police Department (Police Department) seeking copies of body camera recordings for Officer Manninen from October 17, 2024. On December 24, 2024, the Deputy Village Administrator responded to you that you had already been provided the body camera footage from the officer in which you are the subject, and that the unflagged footage in which you are not the subject is not allowed to be disclosed to you under the Law Enforcement Officer-Worn Body Camera Act (Body Camera Act)[1] pursuant to section 7.5(cc) of FOIA.[2] On December 26, 2024, you submitted the above-referenced Request for Review contesting the Village's response. You argued that the Village abused its power because your request was directed to the Police Department, but the Village responded to your request. You also argued that you were not provided the body camera footage from when you were the subject of the encounter captured on the recording.

[1]50 ILCS 706/10-20 (West 2022).

[2]5 ILCS 140/7.5(cc) (West 2023 Supp.), as amended by Public Acts 103-592, effective June 7, 2024; 103-605, effective July 1, 2024; 103-636, effective July 1, 2024; 103-786, effective August 7, 2024; 103-859, effective August 9, 2024; 103-991, effective August 9, 2024; 103-1049, effective August 9, 2024.

As an initial matter, the Police Department is an entity of the Village, and FOIA does not prohibit a municipality such as the Village from responding on behalf of its police department. Accordingly, the fact that the Deputy Village Administrator responded to your request rather than an employee of the Police Department has no bearing on the validity of that response.

Section 7.5(cc) of FOIA exempts from disclosure "[r]ecordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act." Section 10-20(b) of the Body Camera Act provides, in relevant part:

> Recordings made with the use of an officer-worn body camera are not subject to disclosure under the Freedom of Information Act, except that:
>
> (1) if the subject of the encounter has a reasonable expectation of privacy, at the time of the recording, any recording which is flagged, due to the filing of a complaint, discharge of a firearm, use of force, arrest or detention, or resulting death or bodily harm, shall be disclosed in accordance with the Freedom of Information Act if:
>
> (A) the subject of the encounter captured on the recording is a victim or witness; and
>
> (B) the law enforcement agency obtains written permission of the subject or the subject's legal representative;
>
> (2) except as provided in paragraph (1) of this subsection (b), any recording which is flagged due to the filing of a complaint, discharge of a firearm, use of force, arrest or detention, or resulting death or bodily harm shall be disclosed in accordance with the Freedom of Information Act; and
>
> (3) upon request, the law enforcement agency shall disclose, **in accordance with the Freedom of Information Act, the recording to the subject of the encounter captured on the recording** or to the subject's attorney, or the officer or his or her legal representative. (Emphasis added.)

Under these provisions of the Body Camera Act, "the subject of the encounter captured on the recording" may obtain a copy of a non-flagged officer worn body camera recording, to the extent that the footage is not otherwise exempt from disclosure under a FOIA exemption. Ill. Att'y Gen. Pub. Acc. Op. No 19-001, issued January 9, 2019, at 10. The Public Access Bureau has previously determined that "the subject of the encounter" means a person who appeared in the recording and "interacted with a law enforcement officer in the course of a law enforcement activity."[3]

On December 30, 2024, to clarify the context underlying your FOIA request, the Assistant Attorney General (AAG) in the Public Access Bureau assigned to the matter contacted the Village attorney, who informed the AAG that you already received all of the body camera footage in which you were the subject of the recording from the date in question. The Village attorney also advised that Officer Manninen has no other flagged footage from that date. The AAG asked the Village attorney for copies of the recordings you received for this office's review; she provided copies of those recordings that same day. On January 2, 2025, the AAG asked the Village to provide copies of the correspondence in which it sent you copies of the recordings; that same day, the Village provided correspondence from four separate, but related, FOIA requests in which you collectively sought, among other things, the body camera footage from your encounters with law enforcement on the specified date in this request. On January 3, 2025, you stated in an e-mail to the AAG that you "only received a **partial recording** of the Officer's Manninen BWC[.]"[4] (Emphasis in original.)

Based on this office's review of the information provided, you submitted a FOIA request on Village letterhead on October 28, 2024, seeking the body worn camera footage for the officers (including Officer Manninen) associated with a specific police report on October 17, 2024.[5] You were provided with three links to copies of the responsive footage on October 30, 2024.[6] This office has reviewed the footage you were provided that day: it appears that you were provided with *all* of the footage in which you were interacting with law enforcement. In the December 30, 2024, telephone conversation, the Village attorney noted there were two discrete portions of the recordings that were redacted because one portion was of officers talking to each other and the other portion was where an officer was doing administrative work. However, because neither of those portions depict you interacting with law enforcement officers in the course of law-enforcement activities, you were not the subject of the encounter captured

[3]Ill. Att'y Gen. PAC Req. Rev. Ltr. 48793, issued August 31, 2017, at 4.

[4]E-mail from [redacted] to Katherine Goldsmith (January 3, 2025).

[5]Village of Libertyville Freedom of Information Act (FOIA) Request Form submitted by [redacted] (October 28, 2024).

[6]E-mail from Vanessa Wells, Police Records, Libertyville Police Department, to [redacted] (October 30, 2024).

on those redacted portions. Accordingly, those portions are not subject to disclosure under the Body Camera Act.[7]

This office has no basis to conclude that the Village improperly withheld any body camera footage in which you were the subject of the encounter from the specified date in your FOIA request. With respect to your assertion that the Police Department's records office rather than the Village Deputy Administrator should have responded to your request, FOIA permits the Police Department to delegate the responsibility for responding to requests and it is not uncommon for village officials to respond to FOIA requests on behalf of their police departments. *See* 5 ILCS 140/3.5(a) (West 2022) ("Freedom of Information officers, **or their designees**, shall receive requests submitted to the public body under this Act, ensure that the public body responds to requests in a timely fashion, and issue responses under this Act." (Emphasis added.)). Therefore, this office has determined that the Village's response to your request did not violate FOIA.

This letter serves to close this file. If you have questions, please contact me at the Chicago address on the bottom of the first page of this letter.

Very truly yours,

[redacted]

KATIE GOLDSMITH
Assistant Attorney General
Public Access Bureau

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[7]The Body Camera Act defines "law enforcement-related encounters or activities" as any "instance in which the officer is enforcing the laws of the municipality, county, or State. * * * [but] does not include when the officer is completing paperwork alone, is participating in training in a classroom setting, or is only in the presence of another law enforcement officer." 50 ILCS 706/10-10 (West 2022).

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