



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

August 24, 2021

Via electronic mail



Via electronic mail

Ms. Wendy Flowers
FOIA Officer
Sandwich Police Department
308 East College Street
Sandwich, Illinois 60548
wflowers@sandwich.il.us

RE: FOIA Request for Review – 2021 PAC 66759

Dear [REDACTED] and Ms. Flowers:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2020)). For the reasons that follow, the Public Access Bureau concludes that the Sandwich Police Department (Department) improperly withheld certain portions of the records responsive to [REDACTED] January 27, 2021, FOIA request.

On that date, [REDACTED] submitted a FOIA request to the Department seeking copies of all police reports, complaints, and other records related to any criminal complaints, arrests, or police calls involving the Edgebrook Golf Course between September 15, 2020, and September 21, 2020. On January 28, 2021, the Department responded that it had identified Incident 2020-00614 as responsive to the request. The Department denied the request, however, citing section 7.5(bb) of FOIA, which exempts from disclosure "[i]nformation which is or was

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prohibited from disclosure by the Juvenile Court Act of 1987 [(JCA)]."¹ The Department asserted that three juvenile suspects were investigated in connection with the incident.

On January 28, 2021, this office received [REDACTED] Request for Review contesting the Department's denial. He asserted that he was the parent of one of the juveniles involved in the incident at issue and therefore the exception to the JCA permitting parents of juvenile suspects access to law enforcement records concerning their child authorized him to have copies of the records. He noted that the Department could redact any personal information concerning the other juveniles.

On February 4, 2021, this office forwarded a copy of the Request for Review to the Department and asked it to provide copies of the withheld records for this office's confidential review, together with a detailed explanation of the legal and factual bases for the applicability of the asserted exemption. On February 4, 2021, and February 10, 2021, this office received the requested materials. On February 17, 2021, this office forwarded a copy of the Department's answer to [REDACTED]; he submitted a reply that same day.

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 2020); *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 2020). 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, section 7.5(bb) of FOIA exempts from disclosure "[i]nformation which is or was prohibited from disclosure by the" JCA. Section 1-7(A) of the JCA (705 ILCS 405/1-7(A) (West 2020)) provides:

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

¹5 ILCS 140/7.5(bb) (West 2020).

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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 his or her 18th birthday shall be restricted to the following[.]** (Emphasis added.)

This provision then enumerates the classes of persons permitted access to juvenile law enforcement records. Among those classes, the JCA authorizes access to "the minor who is the subject of the juvenile law enforcement record, **his or her parents**, guardian, and counsel." (Emphasis added.) 705 ILCS 405/1-7(A)(0.05) (West 2020). In accordance with that JCA provision, the Public Access Bureau has previously determined that "records that relate to minors who have been investigated, arrested, or taken into custody are confidential and generally cannot be disclosed without an order from a juvenile court unless the individual requesting the records is among the classes of persons specifically listed as being permitted access to those records." Ill. Att'y Gen. PAC Req. Rev. Ltr. 58545, issued June 26, 2019, at 2.

In its response to this office, the Department maintained that the JCA prohibited it from disclosing the responsive records because the incident involved minors under the age of the 18 who were investigated for certain alleged crimes. In particular, the Department stated that the investigation involved alleged criminal damage to property and underage drinking. The Department contended that although [REDACTED] son was involved in the incident, "there are two (2) other juveniles on the report that were investigated."²

In reply to that answer, [REDACTED] maintained that, as a parent of one of the juveniles, the JCA expressly permitted him access to the incident report. He questioned the Department's interpretation of the JCA's confidentiality provision: "Under their logic, all the public body has to do is name more than one juvenile in a report and a parent of one of the subject juveniles can never see it?"³ [REDACTED] expressed skepticism that "that's what the legislature had in mind when they wrote this section."⁴

It is a fundamental principle of statutory construction that different sections of the same statute should be read together and construed harmoniously. *Collinsville Community Unit*

²E-mail from Wendy Flowers, Supervisor Support Services, Sandwich Police Department, to Teresa [Lim] (February 10, 2021).

³E-mail from [REDACTED] to [Teresa] Lim (February 17, 2021).

⁴E-mail from [REDACTED] to [Teresa] Lim (February 17, 2021).

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School District No. 10 v. Regional Board of School Trustees of St. Clair County, 218 Ill. 2d 175, 185-86 (2006). "Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous." *People v. Gutman*, 2011 IL 110338, ¶12, 959 N.E.2d 621, 624 (2011). "When a general statutory provision and a more specific one relate to the same subject, we will presume that the legislature intended the more specific statute to govern." *Abruzzo v. City of Park Ridge*, 231 Ill. 2d 324, 346 (2008). In construing a statute, the primary goal is to ascertain and give effect to the intent of the General Assembly. *Wisnasky-Bettorf v. Pierce*, 2012 IL 111253, ¶16, 965 N.E.2d 1103, 1106 (2012).

The intent of the JCA is "to protect the privacy of minors and allow them to lead responsible and productive lives unencumbered by public records of their criminal conduct." *NBC Subsidiary (WMAQ-TV) LLC v. Chicago Police Dep't*, 2019 IL App (1st) 181426, ¶30, 145 N.E.3d 70, 79 (2019). Section 1-7(A) effectuates this intent by generally prohibiting disclosure of juvenile law enforcement law records, subject to a number of specific exceptions. As discussed above, section 1-7(A)(0.05) of the JCA specifically permits the parents of minors who are the subjects of the juvenile law enforcement records to access those records. This provision does not exclude parents from accessing juvenile law enforcement records because the subjects include minors in addition to their own children. Construing the JCA as a whole, sections 1-7(A) and 1-7(A)(0.05) may be read harmoniously to permit parents of minor subjects of juvenile law enforcement investigations to access portions of the records that concern their own children with redactions of the names and identifying information of other minor subjects.

Having reviewed the withheld incident report, together with the Department's response, this office has confirmed that the Department investigated an incident involving three juvenile suspects, one of whom was [REDACTED] minor son. Most of the report focuses on the other two juveniles, and a limited part of the report discusses all three juveniles. Construing the JCA as a whole and in light of the intent of the Act, this office has determined that disclosure of these portions of the report would necessarily reveal details concerning the Department's investigation of the other two juveniles. Therefore, the JCA prohibits the disclosure to [REDACTED] of these portions of the report.

However, this office also has determined that certain parts of the incident report center on the Department's investigation of [REDACTED] son. Further, the case supplemental report documents the Department's interaction with [REDACTED], not any juveniles. As discussed above, the JCA permits parents of a juvenile who is being investigated to access records concerning that juvenile. The Department has not demonstrated that the report cannot be redacted to protect the confidentiality of the other minor subjects while disclosing the portions that pertain directly to [REDACTED] and his son. Accordingly, this office concludes that the Department has not sustained its burden of showing by clear and convincing evidence that the incident report is exempt from disclosure in its entirety pursuant to section 7.5(bb) of FOIA.

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This office requests that the Department provide [REDACTED] with a copy of the incident report that discloses the following information in the narrative:

- First two paragraphs and the last three sentences on page 5;
- Fourth and last two paragraphs on page 6; and
- Page 7.

This office also requests that the Department provide [REDACTED] with copies of the case supplemental report and photos. Pursuant to section 7(1)(d)(iv) of FOIA,⁵ the Department may redact from the incident and case supplemental reports the names and other identifying information of any individuals who provided information to the Department. It may also redact the names and other identifying information of the other two juveniles pursuant to section 7.5(bb). The remaining documents that the Department provided for this office's confidential review may be withheld pursuant to section 7.5(bb).

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
Assistant Attorney General
Public Access Bureau

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⁵5 ILCS 140/7(1)(d)(iv) (West 2020).