

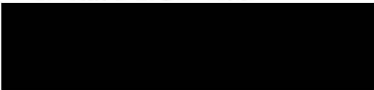


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

July 21, 2026

Via electronic mail



Via electronic mail

Mr. Vaughn C. Ganiyu
Assistant General Counsel
Chicago Police Department
Office of Legal Affairs
3510 South Michigan Avenue
Chicago, Illinois 60653
pacola@chicagopolice.org

RE: FOIA Request for Review – 2026 PAC 91704; CPD no. P122867-120125

Dear Mr. [REDACTED] and Mr. Ganiyu:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA).¹ For the reasons that follow, the Public Access Bureau concludes that the Chicago Police Department (CPD) did not improperly withhold records responsive to Mr. [REDACTED] November 30, 2025, FOIA request.

On that date, [REDACTED] submitted a FOIA request to CPD seeking copies of the body camera footage as well as transcripts of the body camera footage for two officers from a specific interaction with a named person in a CPD parking lot. On January 7, 2026, CPD denied the request pursuant to section 7.5(cc) of FOIA² in connection with section 10-20(b) of the Law

¹5 ILCS 140/9.5(f) (West 2025 Supp.).

²5 ILCS 140/7.5(cc) (West 2025 Supp.).

Enforcement Officer-Worn Body Camera Act (Body Camera Act).³ In its denial, CPD explained that [REDACTED] was not depicted on the recordings and therefore was not the subject of the encounter, and that he was arrested in connection with the events documented in the recordings after the date the recordings were made. On January 13, 2026, [REDACTED] submitted the above-referenced Request for Review challenging CPD's denial of the request.

On April 14, 2026, this office forwarded a copy of the Request for Review to CPD and asked it to provide copies of the withheld recordings for this office's confidential review as well as a detailed written explanation of the factual and legal bases for the applicability of any FOIA exemptions to the recordings, including section 7.5(cc) of FOIA. This office also asked CPD to address whether it possesses the requested transcripts. On May 27, 2026, CPD provided this office with the requested materials. On May 28, 2026, this office forwarded a copy of CPD's written response to [REDACTED] and notified him of his opportunity to reply; he did not reply.

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 2024); *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 2024).

As an initial matter, CPD confirmed in its response to this office's inquiry letter that it does not possess transcripts of the body camera recordings. A public body does not violate FOIA when it does not disclose a record that it does not possess. *Workmann v. Illinois State Board of Education*, 229 Ill. App. 3d 459, 463-64 (1992); *see also Yeager v. Drug Enforcement Administration*, 678 F.2d 315, 321 (D.C. Cir. 1982) ("[a] requester is entitled only to records that an agency has in fact chosen to create and retain."). This office has not received any information to suggest that CPD possesses the requested transcripts. In the future, when CPD responds to FOIA requests that seek multiple records, CPD should respond in a manner that allows the requester to understand which parts it is granting, which parts it is denying, and which parts seek records it does not possess.

As for the body camera recordings, 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:

³50 ILCS 706/10-20(b) (West 2024).

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 an 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 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."⁴ Ill.

⁴The 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

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Att'y Gen. PAC Req. Rev. Ltr. 48793, issued August 31, 2017, at 4 (concluding that police officer who was discussed in, but not depicted in, body camera recordings was not authorized to receive copies of the recordings under section 10-20(b)(3) of the Body Camera Act).

In its response to this office's inquiry letter, CPD reiterated that ██████████ was subsequently arrested and convicted for the activity described in the police report but was not a subject of the encounter that occurred on March 29, 2022. This office has reviewed CPD's responses to the request and inquiry letter as well as the two recordings. ██████████ was not depicted in the recordings and therefore was not a subject of the encounter. Accordingly, ██████████ is not entitled to obtain the recordings under section 10-20(b)(3) of the Body Camera Act.

Additionally, the recordings are not flagged for one of the reasons discussed in sections 10-20(b)(1) or 10-20(b)(2) of the Body Camera Act. The recordings were made on March 29, 2022, and document conversations between an individual and CPD officers in which the individual describes a violent encounter that they have just experienced. The recordings do not depict the arrest or detention of any suspects, and no arrest was made on that date. CPD explained to this office that ██████████ was subsequently arrested on May 13, 2022, in connection with the March 29, 2022, incident. This office has previously determined that an officer-worn body camera recording of an encounter with a witness that did not result in an arrest on the same day as the encounter with the witness is not flagged "due to * * * arrest or detention," even if the recording is related to an incident or investigation in which someone was previously or later arrested. *See Ill. Att'y Gen. PAC Req. Rev. Ltr. 82424*, issued September 26, 2024, at 3. Here, given that the recordings neither document ██████████ arrest nor were they made during the same encounter in which ██████████ was arrested, the withheld recordings were not flagged due to an arrest.⁵ Finally, there is no indication that the recordings were flagged for any other reasons listed in sections 10-20(b)(1) or 10-20(b)(2) of the Body Camera Act. Under these circumstances, CPD did not improperly withhold the requested body camera recordings pursuant to section 7.5(cc) of FOIA.

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 2024).

⁵ ██████████ Request for Review alleges that CPD improperly failed to obtain permission from the subject to disclose the recordings, but as this office has determined the recordings were not "flagged," the subject's consent to disclosure is not relevant.


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The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This file is closed. Please contact me at katherine.goldsmith@ilag.gov if you have questions or would like to discuss this matter.

Very truly yours,


KATIE GOLDSMITH
Assistant Attorney General
Public Access Bureau

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