

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

October 21, 2024

Via electronic mail



RE: FOIA Request for Review – 2024 PAC 83380

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 September 26, 2024, you submitted a FOIA request to the Village of Bolingbrook (Village) seeking a copy of body camera footage of an incident you had reported earlier that same day. On October 7, 2024, the Village denied your request pursuant to the Illinois Law Enforcement Officer-Worn Body Camera Act,¹ asserting that the footage was withheld because you are not the subject of the encounter captured on the recording. On October 10, 2024, you submitted this complete Request for Review contesting the Village's response. You generally stated that, although you are not the subject of the recording, you reported the incident in question and the public interests of transparency and government accountability necessitate the disclosure of the requested footage.

While not specifically raised in the Village's response, section 7.5(cc) of FOIA² exempts from disclosure "[r]ecordings made under the Law Enforcement Officer-Worn Body

¹50 ILCS 706/10-1 *et seq.* (West 2022).

²5 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.

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Camera Act, except to the extent authorized under that Act." Section 10-20(b) of the Body Camera Act³ 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.)

Thus, the Body Camera Act prohibits the disclosure of body camera footage pursuant to a FOIA request, unless one of the three above-described exceptions apply.

On October 17, 2024, the Deputy Public Access Counselor contacted the Village's FOIA Officer regarding the body camera footage you requested. The FOIA Officer explained that the Village withheld the footage because you are not the subject of the encounter it depicts

³50 ILCS 706/10-20(b) (West 2022).


October 21, 2024

Page 3

and because the footage was not flagged for any of the reasons in section 10-20(b)(2) of the Body Camera Act.

Because you are not authorized to obtain the requested body camera footage under any of the exceptions that permit disclosure in section 10-20(b) of the Body Camera Act, the Village did not improperly withhold the footage pursuant to section 7.5(cc) of FOIA. Unlike certain other provisions of FOIA, the public interest in disclosure of body camera footage is not relevant to the applicability of section 7.5(cc) of FOIA.⁴ Accordingly, this office has determined that this Request for Review is unfounded.

This file is closed. If you have questions, please contact me at the Springfield address on the bottom of the first page of this letter.

Very truly yours,



CHRISTOPHER R. BOGGS
Deputy Public Access Counselor
Public Access Bureau

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cc: *Via electronic mail*
Fran Miller
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⁴*E.g.*, 5 ILCS 140/3(g) (West 2022) (permitting a public body to deny a request as unduly burdensome only if the burden of compliance with the request outweighs the public interest in disclosure).