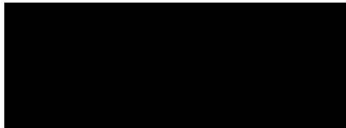




OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

July 29, 2025



RE: FOIA Request for Review – 2025 PAC 87818

Dear 


This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2024)). For the reasons explained below, the Public Access Bureau has determined that this Request for Review is unfounded.

On February 3, 2025, you submitted a FOIA request to the Fairfield Police Department (Department) seeking, in relevant part, body camera footage related to an incident that occurred on December 28, 2024. On February 6, 2025, the Department denied the body camera footage in the entirety pursuant to section 10-20(b) of the Law Enforcement Officer-Worn Body Camera Act (Body Camera Act).<sup>1</sup> On March 24, 2025, you submitted a Request for Review to the Public Access Bureau (2025 PAC 86131) contesting the Department's denial. After this office contacted the Department, on May 9, 2025, this office received confirmation that the Department provided you with a supplemental response that included a copy of the portions of the recording that depicted you as the subject of the encounter. The Department's supplemental response indicated that it redacted portions of the body camera footage pursuant section 7.5(cc) of FOIA<sup>2</sup> and explained that "[y]ou have been provided the portions of the encounter that your subject to. However, the portions involving the other subject have been redacted[.]"<sup>3</sup>

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<sup>1</sup>50 ILCS 706/10-20(b) (West 2024).

<sup>2</sup>5 ILCS 140/7.5 (West 2024), as amended by Public Act 104-010, effective June 16, 2025; 104-018, effective June 30, 2025.

<sup>3</sup>Letter from Keith A. Colclasure, Chief of Police, Fairfield Police Department, to  (May 2, 2025).

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On June 26, 2025, you submitted this Request for Review contesting the Department's denial of the portions of body camera videos that do not depict you. Specifically, you stated:

I am requesting all police officer's body camera recordings, both audio and video. I believe I am well within my rights to have them. I believe I have the right to know what was said since I am the one who called the police for help. I was across the street when the police officers were talking to the other party, they were outside, in open view where audio and video is allowed by the public, they were not inside the privacy of their house.<sup>[4]</sup>

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

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<sup>4</sup>Letter from ██████████ to Public Access Counselor, Office of the Attorney General (June 26, 2025).

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.)

Based on this law, the Department is required to disclose, pursuant to FOIA, body camera recordings from law enforcement officer worn body cameras only if the recordings are (1) flagged for any of the reasons specified in section 10-20(b)(2) of the Body Camera Act, or (2) if they are requested by the subject of the encounter captured on the recording or the subject's attorneys. The Public Access Bureau has consistently concluded that the "subject of the encounter" in section 10-20(b)(3) of the Body Camera Act means the person who appeared in the recording and "interacted with a law enforcement officer in the course of a law enforcement activity." Ill. Att'y Gen. PAC Req. Rev. Ltr. 48793, issued August 31, 2017, at 4; Ill. Att'y Gen. PAC Req. Rev. Ltr. 76458, issued June 26, 2023, at 3-4.

On July 15, 2025, in a telephone conversation with an Assistant Attorney General (AAG) in the Public Access Bureau, you stated that you called the police because your neighbor's dogs were running at large. You stated that you are seeking body camera footage that includes the entire discussion the responding police officers held with your neighbor. You explained that you received the footage that depicted your interactions with the police, but that you are seeking footage of the entire encounter. You stated that although your neighbor was not taken into custody, he was issued a Notice to Appear in court (NTA) for an ordinance violation of dogs running at large. You also stated that you should be entitled to footage of the entire encounter because all the events took place in the open.

The location of where an encounter occurred is not the determinative factor for whether a body-worn camera recording can be disclosed. As described above, a recording is subject to disclosure under section 10-20(b)(2) of the Body Camera Act only if it was **flagged** for any of the enumerated reasons, including "due to \* \* \* arrest or detention." A recording flagged due to arrest or detention is further discussed elsewhere in the Body Camera Act as meaning that "the encounter resulted in a detention or arrest, excluding traffic stops which resulted in only a minor traffic offense or a business offense[.]"<sup>5</sup>

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<sup>5</sup>50 ILCS 706/10-20(a)(7)(B)(iv) (West 2024).

The Code of Criminal Procedure of 1963 (Code) expressly distinguishes an arrest from the issuance of a NTA by providing: "Whenever a peace officer is authorized to arrest a person without a warrant he may instead issue to such person a notice to appear." 725 ILCS 5/107-12 (West 2024). The Code defines "notice to appear"<sup>6</sup> as "a written request issued by a peace officer that a person appear before a court at a stated time and place." In opinion No. S-1395 issued October 5, 1978 (1978 Ill. Att'y Gen. Op. S-1395 at 3-4), Attorney General Scott opined that "[t]he person who is given a [NTA] **is not taken into custody**; nor is he, in any way, restrained. \* \* \* "A [NTA] is an alternative to arrest, and thus, by definition, **a person who is given a [NTA] is not under arrest.**" (Emphasis added.) Thus, a person who is given a NTA is not the subject of an arrest. "Detention" is not defined in the Body Camera Act or in the Code, but is generally defined as "the act or an instance of holding a person in custody[.]" Black's Law Dictionary 563 (11th ed. 2019).

On June 15, 2025, the AAG contacted the FOIA officer with the Department to clarify whether the encounter resulted in an arrest. The FOIA officer confirmed in a telephone conversation with the AAG that a NTA for a violation of a local ordinance was issued for dogs running at large. He also explained that the Department had provided you with the portions of the footage in which you are the subject and redacted portions which would disclose the identity of other parties to the encounter. The Department also shared copies of the contested footage with this office.

This office's review of the footage confirmed that an NTA was issued, but the subject was not arrested or subjected to a detention by being taken into custody. Because the information this office has received reflects that the body camera footage has not been flagged for any reason set forth under section 10-20(b)(2) of the Body Camera Act, you are not authorized to obtain footage of the other subject captured on the recordings. The Body Camera Act prohibits disclosure of unflagged recordings depicting events that occur in public settings unless the person who requests the recording is the subject of the encounter with law enforcement or their attorney. The Department provided you with the portions that depicted you as the subject of the encounter, and redacted only the portions capturing other parties. Accordingly, this office concludes that the Department did not improperly redact the footage pursuant to section 7.5(cc) of FOIA.

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<sup>6</sup>725 ILCS 5/107-1 (West 2024).

July 29, 2025

Page 5

Therefore, the Public Access Bureau concludes that this Request for Review is unfounded. This file is closed. If you have any questions, please contact me at [matthew.goodman@ilag.gov](mailto:matthew.goodman@ilag.gov).

Very truly yours,

  
MATT GOODMAN  
Assistant Attorney General  
Public Access Bureau

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cc: *Via electronic mail*  
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