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STATE OF ILLINOIS

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January 13, 2026

Via electronic mail

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Via electronic mail

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RE: FOIA Request for Review – 2023 PAC 76968; FOIA P850865-060123

Dear Ms. Matthews and Ms. Best:

This determination letter 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 Lake County Sheriff's Office (Sheriff's Office) improperly redacted a 911 call recording responsive to ProPublica's September 8, 2025, FOIA request.

On that date, Mr. Vernal Coleman, a reporter for ProPublica, submitted a FOIA request to the Sheriff's Office seeking "[d]igital copies of any/all audio recordings of phone calls to the Lake County 911 Communications Center reporting of a possibly suicidal person and subsequent car crash at Great Lakes Naval Station received fielded by a dispatcher between the

¹5 ILCS 140/9.5(f) (West 2024), as amended by Public Act 104-438, effective January 1, 2026.

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hours of 8 pm and midnight on May 4, 2025."² On September 11, 2025, the Sheriff's Office denied the request pursuant to section 7(1)(c) of FOIA,³ asserting that "[t]he family of the deceased has the right to privacy."⁴ Subsequently, Mr. Coleman and an attorney for ProPublica called the Sheriff's Office to dispute its denial, and on September 23, 2025, the Sheriff's Office issued a revised response. The Sheriff's Office disclosed the dispatchers' side of the conversation but still redacted the decedent's statements from the one recording containing them, and asserted:

The United States Supreme Court held that a deceased person's family members have a privacy interest in preventing the disclosure of details related to their family member's death. *National Archives & Records Adm'n v. Favish*, 541 U.S. 157, 168-171 (2004). The Supreme Court explained that "[f]amily members have a personal stake in honoring and mourning their dead and objecting to unwarranted public exploitation that, by intruding upon their own grief, tends to degrade the rites and respect they seek to accord to the deceased person who was once their own." *Id.* at 168, 124 S.Ct. 1570. *See also* 2010 Ill. Att'y Gen. Pub. Access Op. 10-003, at 11 the Attorney General concluded that, based on section 7(1)(c) of FOIA ("the release of the post-mortem photographs" of decedents to newspaper reporters "would constitute an unwarranted invasion of the surviving family members' personal privacy.") Under these precedents, audio of the decedent's words prior to his suicide would constitute an unwarranted invasion of surviving family members' privacy, and is therefore exempt.

In an effort to protect the deceased family members' privacy and to also provide transparency surrounding public employees performing their job duties, we have edited the requested 911 audio. Statements of the decedent remain redacted pursuant to 7(1)(c), but we have not withheld the statements of the 911 dispatchers. This reflects the appropriate balance between

²FOIA portal message from Vernal Coleman to Lake County Sheriff's Office (September 8, 2025).

³5 ILCS 140/7(1)(c) (West 2024).

⁴FOIA portal message from Stephanie Best, Administrative Clerk/FOIA Officer, Sheriff's Office, to Vernal Coleman (September 11, 2025).

public interest and privacy interests pursuant to the Illinois FOIA statute, 5 ILCS 140/7(1)(c).^[5]

On November 19, 2025, Ms. Sarah Matthews, Deputy General Counsel for ProPublica, completed the submission of a Request for Review contesting the Sheriff's Office's partial denial. Ms. Matthews argued that the 911 recordings are distinguishable from post-mortem photographs, and that any privacy interests the decedent's surviving family members have in the audio recordings are clearly outweighed by the public interest in disclosure:

[D]isclosure of the requested audio is in the utmost public interest, as evidenced by ProPublica's prior, award-winning reporting on the contents of 911 calls. [Citation.] Such records are routinely released and for good reason. Members of the public have a vested interest in access to complete information about 911 calls—including statements made by both parties to the call—so they can fully evaluate how first responders react in emergency situations. Information gleaned from actual conversations between callers and emergency response personnel provide a vital oversight tool by which the public can identify issues that may jeopardize public safety and help ensure that governments maintain an emergency system that can effectively respond when citizens need urgent assistance.^[6]

Ms. Matthews provided a link to ProPublica's reportorial series on 911 call analysis and posts about accolades the series had received.

On November 24, 2025, the Public Access Bureau sent a copy of the Request for Review to the Sheriff's Office and asked it to provide unredacted copies of the responsive recordings for this office's confidential review, and a detailed written explanation of the legal and factual bases for the redactions. In particular, this office asked the Sheriff's Office to explain why the privacy interests here outweigh the public interest in disclosure. The following day, the Sheriff's Office sent this office those materials. As its written answer, the Sheriff's Office simply stated that it had provided its explanation for the redactions in its response to the request. On December 1, 2025, Ms. Matthews replied that because the Sheriff's Office made no new arguments, ProPublica had no further reply.

⁵FOIA portal message from Stephanie Best, Administrative Clerk/FOIA Officer, Sheriff's Office, to Vernal Coleman (September 23, 2025).

⁶Letter from Sarah Matthews, Deputy General Counsel, ProPublica, to Public Access Counselor (November 5, 2025) (citing Brett Murphy, Series: *Prosecutors and Judges Push for Conviction Reviews, Ban on Junk Science of 911 Call Analysis*, ProPublica (February 24, 2023, 1:00 p.m. EST), <https://www.propublica.org/series/911-call-analysis-forensic-science-investigation>).

DETERMINATION

"All records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2 (West 2024).

Section 7(1)(c) of FOIA

Section 7(1)(c) of FOIA exempts from disclosure "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 7(1)(c) defines "unwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." Section 7(1)(c) expressly does not exempt from disclosure "information that bears on the public duties of public employees and officials."

A public body's contention that the release of information would constitute an unwarranted invasion of personal privacy is evaluated on a case-by-case basis. *Chicago Journeymen Plumbers' Local Union 130 v. Department of Public Health*, 327 Ill. App. 3d 192, 196 (2001). Illinois courts weigh the following four factors to evaluate the applicability of section 7(1)(c): "(1) the [requester's] interest in disclosure, (2) the public interest in disclosure, (3) the degree of invasion of personal privacy, and (4) the availability of alternative means of obtaining the requested information." *National Ass'n of Criminal Defense Lawyers v. Chicago Police Department*, 399 Ill. App. 3d 1, 13 (2010). The General Assembly's use of the language "*clearly unwarranted invasion of personal privacy*" evinces a "stricter standard to claim exemption" which the government agency possessing the records bears the burden of sustaining. (Emphasis in original.) *Schessler v. Department of Conservation*, 256 Ill. App. 3d 198, 202 (1994).

Under the first and second factors, ProPublica's personal interest in the records is the same as its professional journalistic interest. ProPublica has a specific interest in reviewing 911 call recordings pursuant to its extensive reporting on 911 call analysis. ProPublica's personal interest in disclosure is closely aligned with the public interest in disclosure, as ProPublica's reporting on 911 call analysis directly concerns the public interest in examining and rectifying issues surrounding the handling of 911 calls and their use in the justice system. ProPublica has asserted a strong public interest in disclosure in the interests of public safety, and it is evident that ProPublica would use the records to inform the public and policymakers about significant matters involving public health and welfare.

As to the third factor—the degree of invasion of personal privacy—the Sheriff's Office bases its argument on the alleged privacy interests of unspecified surviving family members. This office's review of the unredacted copies of the responsive 911 call recordings confirmed that one contains dialogue between a 911 caller who was later found deceased and police dispatch. The Sheriff's Office did not indicate that any family members had requested that the recording remain confidential or otherwise asserted privacy interests in the recording. Thus, the extent to which disclosure of the decedent's words in the audio recording would in fact be perceived as an inappropriate intrusion by any surviving family member is not apparent from the Sheriff's Office's response.

Assuming that the decedent has close surviving family members who would object to the disclosure of the unredacted recording, however, the Sheriff's Office has not shown that the privacy interests are so high that they outweigh any legitimate public interest in disclosure. *National Archives & Records Adm'n v. Favish* is distinguishable because although that case also concerned a reported suicide, the records were graphic death-scene photographs, the decedent's surviving family members attested to the harassment they were already receiving and their anguish over a photograph that had been leaked to the press, and the public interest in disclosure was low because law enforcement had conducted an exhaustive investigation of the matter. *Favish*, 541 U.S. at 162-67. Moreover, the court's holding was limited to recognizing "surviving family members' right to personal privacy with respect to their close relative's death-scene images." *Favish*, 541 U.S. at 170. Similarly, the binding opinion the Sheriff's Office cited (Ill. Att'y Gen. Pub. Acc. Op. 10-003, issued October 22, 2010) concerned graphic and gruesome post-mortem photographs, and the requesting parties did not assert that disclosure would "provide any information regarding the causes of death that cannot be gleaned from the documentary records" already disclosed to them. Ill. Att'y Gen. Pub. Acc. Op. 10-003, at 7, 11.

Although the Sheriff's Office did not cite this case, *New York Times Co. v. National Aeronautics & Space Administration*, 782 F. Supp. 628 (D.D.C. 1991), is somewhat more analogous to this matter in that it pertains to near-death audio recordings. There, the federal district court found that the surviving family members of the astronauts killed in the Space Shuttle Challenger disaster had a personal privacy interest in non-disclosure of the tape recordings of the astronauts' voices captured in flight that outweighed the public's interest in disclosure of the tape. *New York Times*, 782 F. Supp. at 633. NASA had disclosed a transcript of the astronauts' last words, withholding only the audio recording. *New York Times*, 782 F. Supp. at 630. The court explained that the privacy interest was in the sound of the astronauts' voices, and it was substantial because the surviving family members "may be subjected not just to a barrage of mailings and personal solicitations, but also to a panoply of telephone calls from media groups as well as a disruption of their peace of mind every time a portion of the tape is played within their hearing." *New York Times*, 782 F. Supp. at 631-32. In contrast, the court explained, the requester's claim that disclosure of the recording would shed significant light on

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NASA's operations was "extremely speculative" and unpersuasive, particularly given that the disclosed transcript revealed every word spoken on board. *New York Times*, 782 F. Supp. at 633.


Unlike the circumstances in *Favish* and *New York Times*, which (1) were high-profile matters of national interest that had already resulted in significant intrusions of close family members' personal privacy, (2) in which surrounding issues had been thoroughly investigated by government agencies, and (3) about which documentary records setting forth extensive facts had been disclosed, the information this office has received about the circumstances of this matter indicates a lower propensity to significantly invade personal privacy and a greater public interest in disclosure. While the Sheriff's Office did revise its response to disclose the dispatch side of the audio recordings, thus shedding some light on the manner in which the government employees handled the 911 call, the disclosure of the caller's portion of the recording is essential to ProPublica's public interest purpose of assessing how the caller's words and manner of speaking impacted the law enforcement response. Additionally, while close family members might find it objectionable to disclose the caller portions of the recordings given the subject matter and timing, this office's review did not identify any content of the statements or vocal tones that suggested overriding privacy interests in any particular portion of the recordings.

Lastly, this office has not received any indication that the unredacted call recordings can be obtained through any other means.

On balance, this office concludes that the Sheriff's Office did not sustain its burden of proving by clear and convincing evidence that the redacted portions of the recording are exempt from disclosure. The legitimate and significant public interest in disclosure of an unredacted copy of the recording to ProPublica outweighs the implicated privacy interests as articulated by the Sheriff's Office. Accordingly, this office asks the Sheriff's Office to provide ProPublica with an unredacted copy of the recording.

The Public Access Counselor has determined that the resolution of this matter does not require the issuance of a binding opinion. This file is closed. If you have any questions, please contact me at (773) 590-7951.

Very truly yours,



JOSHUA M. JONES
Bureau Chief
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