

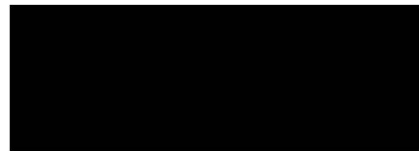


OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

September 23, 2024

*Via electronic mail*



*Via electronic mail*

Ms. Rhiann M. Martynowski  
Illinois State Police  
801 South Seventh Street, Suite 1000-S  
Springfield, Illinois 62703  
Rhiann.Martynowski@illinois.gov  
isp.foia.officer@illinois.gov

RE: FOIA Request for Review – 2024 PAC 81194

Dear [REDACTED] and Ms. Martynowski:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2023 Supp.)). For the reasons stated below, the Public Access Bureau concludes that the Illinois State Police (ISP) did not improperly deny [REDACTED]'s February 22, 2024, FOIA request.

On that date, [REDACTED] submitted a FOIA request to ISP seeking videos associated with report number 23-40371600043 regarding the death of [REDACTED] at Peoria County Jail. On March 1, 2024, ISP extended its time to respond pursuant to section 3(e) of FOIA (5 ILCS 140/3(e) (West 2022)). On March 8, 2024, ISP responded by asserting that compliance with the request would be unduly burdensome pursuant to section 3(g) of FOIA (5 ILCS 140/3(g) (West 2022)) and offering [REDACTED] an opportunity to narrow her request. On April 22, 2024, ISP provided [REDACTED] with a supplemental response granting the request for recordings of the jail lobby area but denying videos of other areas in the jail pursuant to sections

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7(1)(d)(iv) and 7(1)(e) of FOIA (5 ILCS 140/7(1)(d)(iv), (1)(e) (West 2022), as amended by Public Acts 103-154, effective June 30, 2023; 103-423, effective January 1, 2024; 103-462, effective August 4, 2023; 103-446, effective August 4, 2023; 103-540, effective January 1, 2024; 103-554, effective January 1, 2024). On that same date, ██████████ clarified in an e-mail to ISP that she wished to obtain "video that shows the cell where ██████████ was housed in."<sup>1</sup> On April 25, 2024, ISP responded that video footage depicting the cell was exempt pursuant to section 7(1)(e) of FOIA. On that same date, ██████████ submitted the above-referenced Request for Review contesting ISP's denial of video depicting the cell.

On April 26, 2024, this office sent a copy of the Request for Review to ISP and asked it to provide unredacted copies of the withheld videos for our confidential review, together with a detailed explanation of the factual and legal bases for the applicability of the asserted exemptions. Having received no response, this office sent additional correspondence to ISP on May 16, 2024, again asking it to respond. On May 24, 2024, this office received the requested materials. On May 30, 2024, this office forwarded a copy of ISP's written response to ██████████; she 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 2022); *see also Southern Illinoisan v. Illinois Dep't 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 2022).

Section 7(1)(e) of FOIA exempts from disclosure "[r]ecords that relate to or affect the security of correctional institutions and detention facilities." In *Glynn v. Dep't of Corrections*, the Illinois Appellate Court held that this exemption "applies to records that could jeopardize the security of a correctional center or detention facility if disclosed, rather than any records merely pertaining to security in any manner whatsoever."<sup>2</sup> Therefore, when a public body withholds records under section 7(1)(e), it carries the burden of demonstrating "that disclosure of a requested record could pose a potential security risk to a correctional facility."<sup>3</sup> The court further explained that it did "not doubt that many prison surveillance camera footage will be found to be exempt under this court's interpretation of section 7(1)(e)," but that determination requires consideration of variables such as "the type of room filmed, the contents

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<sup>1</sup>E-mail from Marcia Morris to [ISP FOIA Officer] (April 22, 2024).

<sup>2</sup>*Glynn v. Dep't of Corrections*, 2023 IL App (1st) 211657, ¶ 34.

<sup>3</sup>*Glynn*, 2023 IL App (1st) 211657, ¶ 34.

of the footage; whether the recording is of most, but not all, of the room; and whether the agency demonstrates that disclosure of the footage would pose a potential security risk to a correctional institution or detention facility."<sup>4</sup> Because the trial court had not reviewed the footage to confirm the Illinois Department of Corrections' vague assertion that disclosure would reveal blind spots that jeopardize prison security, the appellate court remanded the case for an *in camera* review of the footage. *Glynn*, 2023 IL App (1st) 211657, ¶¶ 47-48.

Referencing this office's previous determinations,<sup>5</sup> ISP argued in its response to this office that the footage at issue likewise posed a security threat if released. Specifically, ISP argued that "video depicting the Peoria County Jail corridors, inmate common area, and employee restricted areas were withheld for security purposes as it affects the security of the Jail's employees and inmates."<sup>6</sup> ISP noted that such video could reveal blind spots that could be exploited by detainees.

Although ISP's justification for withholding the footage was somewhat vague and conclusory, this office's review of the footage confirms that its disclosure could pose a potential security risk to the facility. The footage responsive to ██████████'s request for "video that shows the cell" depicts a jail common area that includes the doorway of the cell, rather than merely that cell or its interior.<sup>7</sup> This footage would reveal most, but not all, of the common area, including significant blind spots that potentially could be exploited by inmates to evade detection of dangerous or impermissible conduct. Under these circumstances, this office concludes that ISP did not improperly withhold the contested footage under section 7(1)(e).

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<sup>4</sup>*Glynn*, 2023 IL App (1st) 211657, ¶ 51.

<sup>5</sup>Although ISP did not provide citation to specific determinations, it appears to reference several of this office's non-binding determinations before the Appellate Court's decision in *Glynn*. The Public Access Bureau previously determined in certain circumstances that the disclosure of video footage of the holding or booking area of a detention facility would pose a security threat by enabling the viewer to determine the range of the security cameras or by revealing blind spots that detainees could exploit to harm others while evading detection. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 40573, issued August 17, 2016 (video footage depicting police department's jail cell and booking area exempt from disclosure because it revealed blind spots and police activity such as shift changes that could be used to undermine jail security); Ill. Att'y Gen. PAC Req. Rev. Ltr. 36649, issued November 28, 2018 (disclosure of surveillance footage of a jail's booking bullpen, sally port, hallways, and other internal areas would enable the viewer to determine blind spots and exits that could be exploited to undermine jail security).

<sup>6</sup>E-mail from Rhiann M. Martynowski, FOIA Appeals Manager, Freedom of Information Act Office, Illinois State Police, to [Benjamin J. Silver], [Assistant Attorney General], [Public Access Bureau] (May 24, 2024).

<sup>7</sup>Because it appears that ██████████ wished to obtain footage depicting what transpired inside the cell, this office notes that the interior of the cell is not visible in the footage.

[REDACTED]  
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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. If you have any questions, please contact me at [benjamin.silver@ilag.gov](mailto:benjamin.silver@ilag.gov) or (773) 590-7878.

Very truly yours,

[REDACTED]  
BENJAMIN J. SILVER  
Assistant Attorney General  
Public Access Bureau

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