



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

May 3, 2024

*Via electronic mail*



*Via electronic mail*

Ms. Kelsey Reid  
FOIA Administrator  
Will County Sheriff's Office  
16911 West Laraway Road, Suite 101  
Joliet, Illinois 60433  
kpaulsen@willcosheriff.org  
foia@willcosheriff.org

RE: FOIA Request for Review – 2024 PAC 80480

Dear [REDACTED] and Ms. Reid:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA).<sup>1</sup> For the reasons that follow, the Public Access Bureau concludes that the Will County Sheriff's Office (Sheriff's Office) did not improperly redact records responsive to [REDACTED] February 27, 2024, FOIA request.

On that date, [REDACTED] submitted a FOIA request to the Sheriff's Office seeking copies of:

[S]pecific email correspondences dated February 5, 2024, involving the questionnaire sent or received by personnel from the Will County Sheriff's Department. Specifically, I am interested in

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<sup>1</sup>5 ILCS 140/9.5(f) (West 2022), as amended by Public Act 103-069, effective January 1, 2024.

500 South 2nd Street  
Springfield, Illinois 62701  
(217) 782-1090 • Fax: (217) 782-7046

115 South LaSalle Street  
Chicago, Illinois 60603  
(312) 814-3000 • Fax: (312) 814-3806

1745 Innovation Drive, Suite C  
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communications related to the questionnaire sent to or received from the following individuals:

Steven Mathis  
James Eiden  
Adam Tapper  
Daniel Jungles

Please include all email correspondences, including attachments, related to the aforementioned questionnaire exchanged by the mentioned individuals on the specified date. If there are any relevant communications that involve additional personnel or are connected to the subject matter, please include those as well.<sup>[2]</sup>

On March 5, 2024, the Sheriff's Office granted ██████████ request in part and denied his request in part pursuant to section 7(1)(q) of FOIA.<sup>3</sup> The Sheriff's Office provided ██████████ with a redacted copy of the responsive e-mails and stated that it redacted all qualification test questions from the e-mails.

On March 6, 2024, ██████████ submitted the above-referenced Request for Review contesting the Sheriff's Office's partial release. ██████████ contended that the information that was redacted did not fall within the section 7(1)(q) FOIA exemption because "[t]he email subject lines explicitly label the content as a 'Leadership Form' and a 'Leadership Survey,' indicating that the purpose was not to assess the qualifications of applicants for employment."<sup>4</sup> Additionally, ██████████ stated that "the individuals mentioned in the communications are already employed by the Will County Sheriff's Department. Therefore, the information in question cannot be reasonably construed as examination data used to determine the qualifications of an applicant for a license or employment[.]"<sup>5</sup>

On March 11, 2024, this office sent a copy of the Request for Review to the Sheriff's Office and asked it to provide unredacted copies of the responsive records for this office's confidential review, together with a detailed explanation of the legal and factual bases for

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<sup>2</sup>FOIA portal message from ██████████ to Will County Sheriff's Office (February 27, 2024).

<sup>3</sup>5 ILCS 140/7(1)(q) (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.

<sup>4</sup>E-mail from ██████████ to Public Access Counselor (March 6, 2024).

<sup>5</sup>E-mail from ██████████ to Public Access Counselor (March 6, 2024).

the applicability of section 7(1)(q) of FOIA to the records. On March 18, 2024, the Sheriff's Office provided this office with those materials. Later that same day, this office forwarded a copy of the Sheriff's Office's written response to ██████████ and notified him of his right to submit a reply; he replied that day.

### 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 2022). The exemptions from disclosure are to be narrowly construed. *Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 407 (1997).

Section 7(1)(q) of FOIA exempts from disclosure "[t]est questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment." Section 7(1)(q) is intended to preserve the integrity of public bodies' hiring processes. *See Roulette v. Department of Central Management Services*, 141 Ill. App. 3d 394, 398-99 (1986) (results and evaluator's notes of public employee applicant's psychological examination are exempt under section 7(1)(q) because an applicant could use insight from such records to frustrate the public body's testing process); *see also Kopchar v. City of Chicago*, 395 Ill. App. 3d 762, 768 (2009) ("[T]he results of the physical test for admission to the fire department fall squarely within the exemption of 'other examination data' used to determine the qualifications of an applicant for license or employment.").

As an initial matter, the Public Access Bureau has determined that section 7(1)(q) applies not only to scoring information for tests given for initial employment with a public body, but also to promotional exams. *See, for instance*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 72138, issued June 15, 2022 (concluding that public body did not improperly withhold interview scoring information to determine qualifications for a promotion). As the Sheriff's Office noted, ascribing "a meaning to Section 7(1)(q) that allows two systems of confidentiality, fairness, and accuracy, depending on whether you want to be hired or advance your career, would lead to an absurd result."<sup>6</sup>

In its response to this office, the Sheriff's Office argued that the unredacted portions of the records provided to ██████████ demonstrate that it properly redacted portions of the records pursuant to section 7(1)(q) because "[t]hey clearly indicate that they are seeking information about the strengths and weaknesses of individual candidates with regards to their job

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<sup>6</sup>Letter from K. Reid, FOIA Administrator, Will County Sheriff's [O]ffice, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau (March 18, 2024), at [2].

performance."<sup>7</sup> The Sheriff's Office further argued that the unredacted portions of the e-mails make it clear that the e-mails concern the detective sergeant position, and that "any question is employment related and not a general inquiry about leadership qualities of individuals."<sup>8</sup> Additionally, the Sheriff's Office contended: "There is little case law with regard to this exemption or its predecessor, but the most recent case, *Kopchar*, does indicate that the phrase 'other examination data' can apply to any number of metrics to evaluate employees."<sup>9</sup>

In reply, [REDACTED] argued that "[d]espite potentially touching upon aspects of job performance, these documents do not inherently constitute examination data as defined by the statute."<sup>10</sup> He also contended that "[t]he term 'other examination data' must be construed within the confines of its statutory definition, which does not encompass general employment-related communications, as evidenced by the labeling of the documents in question as 'leadership form' and 'leadership survey.'"<sup>11</sup>

The Public Access Bureau has carefully reviewed the unredacted responsive records. While [REDACTED] points to the subject lines and labels of the responsive records as evidence that the records do not fall within the 7(1)(q) exemption, this office's review confirmed that the redacted portions of the records are not "general employment-related communications." The redacted portions consist of test questions, questionnaires, and other records relied upon to formulate the results of a promotional examination. The Public Access Bureau has consistently determined that such records are exempt from disclosure. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 26217, issued July 10, 2014, at 2 (concluding that "test questions, answer sheets, interviewers' notes, rating forms, and other records relied upon to formulate results" of a police sergeant's promotional examination were "within the scope of the section 7(1)(q) exemption."). Because disclosure of the records would reveal examination data used to evaluate applicants for public employment, and thereby frustrate the examination process for the detective sergeant position, the Sheriff's Office did not violate FOIA by redacting the records pursuant to section 7(1)(q).

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<sup>7</sup>Letter from K. Reid, FOIA Administrator, Will County Sheriff's [O]ffice, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau (March 18, 2024), at [1].

<sup>8</sup>Letter from K. Reid, FOIA Administrator, Will County Sheriff's [O]ffice, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau (March 18, 2024), at [1].

<sup>9</sup>Letter from K. Reid, FOIA Administrator, Will County Sheriff's [O]ffice, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau (March 18, 2024), at [1].

<sup>10</sup>E-mail from [REDACTED] to K. Reid and Katie Goldsmith (March 18, 2024).

<sup>11</sup>E-mail from [REDACTED] to K. Reid and Katie Goldsmith (March 18, 2024).

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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 letter shall serve to close this matter. If you have any questions, please contact me at [katherine.goldsmith@ilag.gov](mailto:katherine.goldsmith@ilag.gov).

Very truly yours,

[REDACTED]  
KATIE GOLDSMITH  
Assistant Attorney General  
Public Access Bureau

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