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**AUGUST 9, 2025**

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## **2025 BINDING PAC OPINIONS**

**#1). PUBLIC ACCESS OPINION 25-001.** (RFR #2024 PAC 83751) **DATE:** February 11 , 2025.

**FREEDOM OF INFORMATION ACT:** Duty to Furnish Records in the Electronic Format Specified by the Requester if Feasible.

**PUBLIC BODY:** The Housing Authority of DeKalb County (The Authority).

**REQUEST:** The Requester submitted a FOIA request to the Authority seeking copies of the "FY24 and FY 25 Excel workbooks[]" for the Authority's budgets, including the workbook links for supporting files.

**RESPONSE:** The Authority e-mailed the Requester copies of locked (password protected) versions of the Excel workbooks.

**REQUEST FOR REVIEW:** Requester filed a Request For Review in which he argued that the password-protected Excel workbooks "effectively redacts information" because the locked workbooks hide certain information and restrict the functionality of the records in comparison to the unlocked versions used by the Authority. The Requester stated that "the password prevents the cell contents from being examined for additional information like formulas or notes. The password also prevents the unhiding of hidden columns."

**PUBLIC BODY RFR RESPONSE:** The Authority's Executive Director replied by stating: "Our position is that we have fulfilled the request."

**ISSUE:** Did the Authority improperly respond to this FOIA request by providing password-protected workbooks? **(Yes).**

**FINDINGS:** 1). Section 6(a) of FOIA provides: "When a person requests a copy of a record maintained in an electronic format, the public body shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the public body shall furnish it in the format in which it is maintained by the public body, or in paper format at the option of the requester."

2). The Requester's request specified that it sought records in Excel format.

3). When nonexempt records are requested in an electronic format such as Excel, section 6(a) of FOIA requires a public body to provide an unlocked version of the records that allows the requester to fully access and exercise the functions of the software program unless it is not feasible to provide the records in that manner.

4). The Authority did not demonstrate that providing unlocked copies of the records was not feasible or that the unlocked copies were exempt from disclosure.

**CONCLUSIONS:** Therefore, it was the opinion of the Attorney General that the Housing Authority of the County of DeKalb improperly denied the Requester's Freedom of Information Act request by refusing to provide him with copies of responsive records in the format he specified. Accordingly, the Authority was directed to take immediate and appropriate action to comply with this opinion by providing the Requester with unlocked copies of the Excel workbooks.

**#2). PUBLIC ACCESS OPINION 25-002.** (Request for Review 2025 PAC 85063) March 28 , 2025.

**FREEDOM OF INFORMATION ACT:** Basis for Withholding Records Related to the Resignation or Termination of a Public Employee.

**PUBLIC BODY:** City of Chester Police Department (The Department).

**REQUEST:** The Requester submitted a FOIA request to the Department seeking "copies of resignation and/or termination paperwork for any Chester police officers from the months of December 2024 and January 2025[,]" as well as the Department's payroll history for those months.'

**RESPONSE:** The Department provided the requested payroll history but denied the request for resignation or termination paperwork pursuant to sections 7(1)(d)(i), 7(1)(d)(ii), 7(1)(d)(iii), and 7(1)(d-6) of FOIA (5 ILCS 140/7(1)(d)(i), (1)(d)(ii), (1)(d)(iii), (1)(d-6).

**REQUEST FOR REVIEW:** The Requester files a Request for Review.

**FINDINGS:** 1) Section 7(1)(d)(i) of FOIA exempts from disclosure records in the possession of a law enforcement agency for law enforcement purposes only to the extent that their disclosure would "interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request[.]" Section 7(1)(d)(ii) of FOIA exempts from disclosure records created in the course of administrative enforcement proceedings only to the extent that their disclosure would "interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request[.]"

2) The Department stated that it withheld one record (labeled Exhibit A) pursuant to sections 7(1)(d)(i) and 7(1)(d)(ii). The Department did not explain with any specificity how disclosure of the record would interfere with any pending or contemplated law enforcement proceeding. The Department also did not identify an active administrative enforcement proceeding or demonstrate how disclosure of the record would interfere with such a proceeding. Further, the record was not created in the course of an administrative enforcement proceeding. Accordingly, the Department has not proven by clear and convincing evidence that the record is exempt from disclosure under sections 7(1)(d)(i) or 7(1)(d)(ii) of FOIA.

3) Section 7(1)(d)(iii) of FOIA exempts from disclosure law enforcement records when their disclosure would "create a substantial likelihood that a person will be deprived of a fair trial or impartial hearing[.]"

4) The Department did not demonstrate that a trial or adjudication related to the record identified as Exhibit A was imminent at the time of Mr. Lott's request, and the Department did not explain how or why disclosure of the record would deprive anyone of a fair trial or impartial hearing. Accordingly, the Department has not sustained its burden of demonstrating that the record is exempt from disclosure under section 7(1)(d)(iii) of FOIA.

5) Section 7(1)(d-6) of FOIA exempts from disclosure "[r]ecords contained in the Officer Professional Conduct Database under Section 9.2 of the Illinois Police Training Act except to the extent authorized under that Section."

6) Section 9.2(c) of the Illinois Police Training Act provides that "[t]he database, documents, materials, or other information in the possession or control of the Board that are obtained by or disclosed to the Board under this subsection shall be confidential by law and privileged[.]"

7) Section 9.2(g) of the Illinois Police Training Act provides that "[n]othing in this Section shall exempt a law enforcement agency from which the Board has obtained data, documents, materials, or other information or that has disclosed data, documents, materials, or other information to the Board from disclosing public records in accordance with the Freedom of Information Act."

8) The plain language of section 9.2(g) of the Illinois Police Training Act provides that the confidentiality provisions in section 9.2(c) do not exempt a law enforcement agency that provided records to the Board from disclosing its own public records in accordance with FOIA.

9) The Department withheld two records (labeled Exhibits A and B) responsive to the Requester's request for resignation or termination paperwork pursuant to section 7(1)(d-6) of FOIA.

10) Because those two records are the Department's own public records rather than records in the possession or control of the Board, section 9.2(g) of the Illinois Police Training Act provides that they are not subject to the confidentiality provisions of section 9.2(c) of the Act. Accordingly, the Department has not sustained its burden of demonstrating that the records are exempt from disclosure under section 7(1)(d-6) of FOIA.

**CONCLUSIONS:** Therefore, it is the opinion of the Attorney General that the City of Chester Police Department improperly withheld two records in response to the Requester's Freedom of Information Act request for resignation or termination paperwork for police officers. Accordingly, the Department is hereby directed to take immediate and appropriate action to comply with this opinion by providing the Requester with copies of the withheld records, labeled Exhibits A and B.

**#3). PUBLIC ACCESS OPINION 25-003.** (Request for Review 2025 PAC 85533) April 29, 2025

**FREEDOM OF INFORMATION ACT:** Duty to Respond to FOIA Requests.

**PUBLIC BODY:** Chicago Transit Authority.

**REQUEST:** The Requester submitted a FOIA request to the CTA seeking copies of the various records concerning the CTA's contract with Action K-9 Security and related records.

**RESPONSE:** The CTA never responded.

**REQUEST FOR REVIEW:** The Requester submitted a Request for Review. PAC forwarded the RFR to the CTA and, again, the CTA never responded.

**FINDINGS:** As of the date of the issuance of this binding opinion, PAC has received no information indicating that CTA had responded to the Requester's FOIA request seeking copies of certain records relating to CTA's contract with Action K-9 Security, Inc.

**CONCLUSIONS:** Therefore, it is the opinion of the Attorney General that CTA has violated section 3(d) of FOIA by failing, within the statutory time period for responding to the Requester's request, to provide copies of the requested records or to deny the request in writing in whole or in part. Accordingly, CTA was directed to take immediate and appropriate action to comply with this opinion by providing the Requester with copies of all records responsive to his, request, subject only to permissible redactions, if any, under section 7 of FOIA (5 ILCS 140/7). Because the CTA did not comply with the statutory requirements for responding to the Requester's FOIA request, the CTA was precluded from treating the request as unduly burdensome or imposing copying fees for the responsive records. 5 ILCS 140/3(d).

**#4). PUBLIC ACCESS OPINION 25-004** (Request for Review 2025 PAC 85201). May 19 , 2025.

**FREEDOM OF INFORMATION ACT:** Evidentiary Records Obtained During Investigation Not Exempt as Records Relating to an Adjudication.

**PUBLIC BODY:** Burr Ridge Police Department.

**REQUEST:** The Requester submitted a FOIA request to the Department seeking a copy of "[a]ny video from former Deputy Chief Ryan Husarik's DUI arrest in Virginia in April 2024."

**RESPONSE:** The Department denied the request in its entirety pursuant to section 7(1)(n) of FOIA. The Department asserted: "This exemption applies to records **relating to a public body's adjudication of employee grievances or disciplinary cases**. It specifies that records concerning the adjudication process are exempt from disclosure, except for the final outcome of the case. The intent is to protect sensitive information related to internal personnel matters while still ensuring transparency regarding the ultimate resolution." (Emphasis in original.)

**REQUEST FOR REVIEW:** The Requester submitted a Request for Review contesting that denial. He contended that "[a]s has been made clear in repeated Appellate Court decisions and PAC opinions [citation], 7(1)(n) only applies to records generated within the adjudicative process - not records considered during the adjudication of discipline, or records relating to a case that later resulted in an adjudicatory proceeding. The exemption is entirely inapplicable."

**FINDINGS:** 1) Section 7(1)(n) of FOIA exempts from disclosure "[r]ecords relating to a public body's adjudication of employee grievances or disciplinary cases[.]"

2) The Department did not demonstrate that the responsive video recording is a record "relating to" its adjudication of Officer Husarik's disciplinary case. Rather, the video recording plainly pre-dated and existed independently of the adjudication. Such records are not retroactively cloaked from public scrutiny by virtue of being used as evidence in a subsequent adjudicatory proceeding. Accordingly, PAC concluded that the Department did not meet its burden of proving that the withheld video recording is exempt from disclosure under section 7(1)(n) of FOIA.

**CONCLUSIONS:** Therefore, PAC concluded that the Village of Burr Ridge Police Department violated FOIA by withholding video footage responsive to the Requester's Freedom of Information Act request. Accordingly, the Department was directed to take immediate and appropriate action to comply with this opinion by providing the Requester with a copy of the video.

**#5). PUBLIC ACCESS OPINION 25-005.** (Request for Review 2025 PAC 86057). June 6, 2025.

**FREEDOM OF INFORMATION ACT:** Duty to Respond to FOIA Requests.

**PUBLIC BODY:** Village of Lynwood.

**REQUEST:** The Requester sought production of various public records relating to the Village Mayor's salary increases.

**RESPONSE:** The Village never responded.

**REQUEST FOR REVIEW:** The Requester submitted a Request for Review. PAC forwarded the RFR to the Village and, again, the Village never responded.

**FINDINGS:** As of the date of the issuance of this binding opinion, PAC has received no information indicating that the Village had responded to the Requester's FOIA request.

**CONCLUSIONS:** Therefore, it is the opinion of the Attorney General that the Village violated section 3(d) of FOIA by failing, within the statutory time period for responding to the Requester's request, to provide copies of the requested records or to deny the request in writing in whole or in part. Accordingly, the Village was directed to take immediate and appropriate action to comply with this opinion by providing the Requester with copies of all records responsive to his, request, subject only to permissible redactions, if any, under section 7 of FOIA (5 ILCS 140/7). Because the Village did not comply with the statutory requirements for responding to the Requester's FOIA request, the Village was precluded from treating the request as unduly burdensome or imposing copying fees for the responsive records. 5 ILCS 140/3(d).

**#6. PUBLIC ACCESS OPINION 25-006.** (Request for Review 2025 PAC 85693). June 18, 2025.

**FREEDOM OF INFORMATION ACT:** Basis for Withholding Records Related to Settlement Agreement.

**PUBLIC BODY:** City of Chicago Department of Finance.

**REQUEST:** The Requester submitted a FOIA request to the Department seeking "'A copy of the record of the \$87,500 payment to Alderman Gardiner\* \* \* AND documents sufficient to show the nature and extent of the 'settlement' \* \* \* AND documents sufficient to show the definition of a 'Contribution Claim.'"

**RESPONSE:** The Department granted the request in part and denied it in part pursuant to sections 7(1)(b), 7(1)(c), 7(1)(m), and 7(1)(kk) of FOIA (5 ILCS 140/7(1)(b), (1)(c), (1)(m), (1)(kk)).

**REQUEST FOR REVIEW:** The Requester filed a Request for Review challenging the Department's response.

**FINDINGS:** **1)** The one record withheld by the Department pursuant to the section 7(1)(m) exemption consists of a document concerning the settlement of a class action lawsuit that had been filed against Alderman Gardiner and the City. The City had been dismissed from the case, but the plaintiffs obtained summary judgment against Alderman Gardiner.

**2)** Section 7(1)(m) of FOIA exempts from disclosure "[c]ommunications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil, or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies."

**3)** The record at issue did not reflect Alderman Gardner seeking legal advice or a City attorney rendering legal advice. The City did not demonstrate that it had an attorney-client relationship with Alderman Gardiner in connection with the withheld record. That record was a document concerning the settlement which was signed by Alderman Gardiner and an attorney with the City's Law Department. Accordingly, PAC concluded that the Department had not met its burden of proving that the withheld record was exempt from disclosure under section 7(1)(m) of FOIA.

**CONCLUSIONS:** Therefore, PAC concluded that the City of Chicago Department of Law improperly withheld the contested record in response to the Requester's Freedom of Information Act. Accordingly, the Department was directed to take immediate and appropriate action to comply with this opinion by providing the Requester with a copy of the withheld record.

**#7. PUBLIC ACCESS OPINION 25-008.** (RFR: 2025 PAC 86098)

DATE: July 15, 2025

**FREEDOM OF INFORMATION ACT:** Basis for Withholding Communication From Former Attorney

**PUBLIC BODY:** Hinsdale Township High School District 86.

**REQUEST:** The Requester sought "the Robbins Schwartz attachment" to a December 9, 2024, e-mail sent from Catherine Greenspon, the president of the District's Board of Education (Board), to the rest of the Board's members and the attachment to another specified e-mail.

**RESPONSE:** The District denied the FOIA request pursuant to sections 7(1)(a), 7(1)(f), 7(1)(m), and 7.5(r) of FOIA.

**REQUEST FOR REVIEW:** The Requester submitted a Request for Review contesting the District's denial of the attachment to the December 9, 2024, e-mail.

**PUBLIC BODY RFR RESPONSE:** In its response, the District clarified that the District asserted the e-mail attachment was exempt from disclosure pursuant to sections 7(1)(a), 7(1)(f), and 7(1)(m) of FOIA and that section 7.5(r) of FOIA applied only to portions of the other record, which is not at issue in this matter.

**ISSUE:** Did the District violate FOIA by improperly withholding the requested record?

**FINDINGS:**

- 1) The record at issue in this Request for Review is a communication from the District's former attorney at Robbins Schwartz to the District's Board of Education. The correspondence was attached to a December 9, 2024, e-mail with the subject line, "Follow up - Invoices for Legal Services[.]"
- 2) Section 7(1)(m) of FOIA exempts from disclosure "[c]ommunications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil, or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies."
- 3) The record at issue does not contain or reference any legal advice sought by or given to the District by the District's former attorney or otherwise reveal substantive details of any legal work performed for the District. Accordingly, PAC concluded that the District had not met its burden of proving that the withheld record was exempt from disclosure under section 7(1)(m) of FOIA.
- 4) Section 7(1)(a) exempts from disclosure "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law."
- 5) Rules 1.4, 1.6, and 1.9 of the Illinois Supreme Court Rules of Professional Conduct do not contain any specific prohibitions on the disclosure of records by an attorney's client or former client. Because the District is the former client and recipient of the request, the District had not met its burden of proving that the withheld record was exempt from disclosure under section 7(1)(a) of FOIA.
- 6) Section 7(1)(f) of FOIA exempts from inspection and copying, in relevant part, "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or

actions are formulated[.]” For the exemption to extend to a third party hired by a public body, the third party must represent the interest of the public body and not its own interest or that of another client.

7) The record at issue reflected the interests of the District's former attorney. Those interests were independent of the District's interests in the content of the communication.

Accordingly, PAC concluded that the District had not met its burden of proving that the withheld record was exempt from disclosure under section 7(1)(f) of FOIA.

### **CONCLUSIONS:**

Therefore, PAC concluded that Hinsdale Township High School District 86 improperly withheld the contested record in response to the Requester’s request. Accordingly, the District was directed to take immediate and appropriate action to comply with this opinion by providing the Requester

## **2025 FOIA CASE LAW**

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1). **Mohammed Abuharba v. the St. Clair County State's Attorney's Office, 2025 IL App (5th) 240270-U, February 14, 2025. ISSUE: FOIA EXCEPTIONS (On-Going Investigations):** Did the State’s Attorney’s Office err in arguing that the requested files were exempt from disclosing because the release of the public records would interfere with an ongoing criminal investigation? (No).

2). **Joel W. Tynis v. The McHenry County Sheriff’s Department, 2025 IL App (2d) 240488-U, May 13, 2025. ISSUE: FOIA EXCEPTIONS (Personal Information):** Did the Sheriff’s Office err in arguing that parts of the requested files were exempt from disclosing because the release of the public records would constitute an unwarranted invasion of personal privacy and interfere with plans for an investigation? (No).

3). **Jamal Taylor, The Cook County State’s Attorney’s Office, 2025 IL App (1st) 231135, June 20, 2025. ISSUE: FOIA EXCEPTIONS (Blanket Exemptions):** Did the SA’s Office err in applying a blanket exemption to the records requested by the plaintiff? (Yes).

4). **NBC Subsidiary (WMAQ-TV) LLC v. the Chicago Police Department (CPD) and the Office of Emergency Management and Communications (OEMC), 2025 IL App (1st) 240629, July 7, 2025. ISSUE: FOIA EXCEPTIONS (On-going Investigation):** Did the affidavit the CPD submitted properly support their argument that the release of the requested records would interfere with an ongoing investigation? (Yes).

### **CASE ANALYSIS**

1). **Mohammed Abuharba v. the St. Clair County State's Attorney's Office, 2025 IL App (5th) 240270-U, February 14, 2025.**

**ISSUE: FOIA EXCEPTIONS (On-Going Investigations):** Did the State’s Attorney’s Office err in arguing that the requested files were exempt from disclosing because the release of the public records would interfere with an ongoing criminal investigation? (No).



**FACTS:** Abuharba is an incarcerated individual who filed a FOIA request against defendant, seeking all records pertaining to St. Clair County case No. 14-CF-215, a case in which he was convicted of first degree murder. He further sought all communications made between the SA Office and several individuals, including but not limited to a judge, St. Clair County jail inmates, St. Clair County Sheriff's Department staff, and all individuals employed by a law enforcement agency. The defendant denied his request pursuant to the following disclosure exemptions under section 7(1) of FOIA: 7(1)(b), 7(1)(c), 7(1)(d)(i), 7(1)(d)(vii), and 7(1)(f) (5 ILCS 140/7(1)(b), (c), (d)(i), (d)(vii), (f)).

Thereafter, Abuharba filed a pro se complaint against the defendant seeking relief under FOIA for the allegedly improper denial of his request. He specifically contended that (1) the fulfillment of his request created no "threat, harm, or privacy issues"; (2) there was a "systematic problem and/or conspiracy" of the defendant ignoring prisoners' requests for public records; and (3) he required these records to adequately prepare and support a postconviction petition, habeas corpus petition, and/or executive clemency petition.

The SA Office filed a motion to dismiss the complaint, arguing that it had advised plaintiff that the requested records pertained to an ongoing prosecution and active case. The Office noted that there was an upcoming court appearance scheduled in the case, supporting its position that the matter was still active. Therefore, the SA Office concluded, plaintiff's request was properly denied pursuant to section 7(1)(d) of FOIA.

Following a hearing, the circuit court granted the SA Office's motion and dismissed Abuharba's complaint with prejudice. Abuharba appealed from the dismissal of his complaint and argued that the law enforcement proceedings and ongoing investigations exceptions did not apply to his request because exceptions to FOIA are to be narrowly construed and public records are presumed to be open and accessible. He contended that the SA Office failed to provide a sufficient explanation as to how disclosure of the records would have interfered with or obstructed an active case, providing merely a sweeping generality as the basis for its denial.

**FINDINGS:** The circuit court did not err in granting the SA Office's motion to dismiss plaintiff's complaint challenging the denial of his Freedom of Information Act request. The record shows that the records requested pertained to an active, ongoing criminal proceeding and furthermore, all relevant information had previously been tendered to plaintiff through discovery in the criminal case at issue in his request.

**RESULT:** The judgment of the circuit court was affirmed.

**2). Joel W. Tynis v. The McHenry County Sheriff's Department, 2025 IL App (2d) 240488-U, May 13, 2025.**

**ISSUE: FOIA EXCEPTIONS (Personal Information):** Did the Sheriff's Office err in arguing that parts of the requested files were exempt from disclosing because the release of the public records would constitute an unwarranted invasion of personal privacy and interfere with plans for an investigation? (No).

**FACTS:** Tynis, was an inmate at the McHenry County Jail, awaiting trial on a charge of drug-induced homicide. He filed a FOIA request in which he sought copies of text messages and e-mails related to his case. Citing various FOIA exceptions and Administrative Rules concerning LEADS information, the Sheriff's Officer denied the FOIA request.

Tynis then filed this action wherein he challenged the denied of his FOIA request. Therein, Tynis sought, inter alia, (1) "an order by the court requiring the defendant[ ] to produce the requested records with any exempted material redacted" and (2) an award of fees, costs, and penalties against defendant for its violations of the FOIA, which plaintiff alleged were in bad faith.

The Sheriff's Office moved to dismiss the complaint and cited section 7(1)(f) of the FOIA (5 ILCS 140/7(1)(f)), which exempts "[p]reliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body."

The trial court granted the motion to dismiss. Tynis then brought this appeal.

**FINDINGS:** The Sheriff's redactions of the FOIA responses were consistent with the FOIA's exemptions for personal information and plans for investigation. (2) An award of fees, costs, or expenses under the FOIA was not appropriate where plaintiff did not prevail in his action to compel FOIA responses and the sheriff did not act willfully or in bad faith by relying on a supreme court rule to decline FOIA requests.

**3). Jamal Taylor, The Cook County State's Attorney's Office, 2025 IL App (1st) 231135, June 20, 2025.**

**ISSUE: FOIA EXCEPTIONS (Blanket Exemptions):** Did the SA's Office err in applying a blanket exemption to the records requested by the plaintiff? (Yes).

**FACTS:** In 2006, following a jury trial, the circuit court convicted Taylor of, inter alia, one count of first degree murder and sentenced him to 55 years imprisonment. On February 21, 2019, Taylor filed, with the circuit court, a motion to file a successive postconviction petition. The circuit court granted the motion and proceeded with Taylor's petition. On May 22, 2022, Taylor submitted two FOIA requests to CCSAO, seeking (1) "any and all subpoenas and warrants" and (2) "the entire case file" for case No. 04-CR-01554-01. On June 9, 2022, CCSAO denied both requests, stating the records requested were exempt under FOIA section 7(1)(d)(ii) as they "interfere with active administrative enforcement proceedings." Taylor then filed an action to enforce the provision of FOIA. The circuit court granted the CCSAO's motion for summary judgment and denied Taylor's motion. This appeal followed.

**AGUMENTS:** On appeal, Taylor argued that section 7(1)(d)(i) does not allow for a categorical withholding of his case file.

**FINDINGS:** In response to this argument, the appellate court held that while a public body may prefer to claim exemptions over their entire files, rather than sift through thousands of documents to redact exempt matters, section 7(1)(d) does not authorize this approach. In a situation such as this, a public body could raise an "undue burden" exemption under FOIA section 3(g) (5 ILCS 140/3(g)) or "be prepared to make

the extensive redactions required by section 7(1)(d).” Here, the CCSAO claimed the entirety of Taylor’s requests were exempt under section 7(1)(d)(i). Yet, Section 7(1)(d)(i) does not allow for generic exemptions over an entire file. The CCSAO did not produce any documents to the circuit court for in camera inspection and chose to rely on an affidavit to meet their burden. The affidavit did not detail which records in Taylor’s case file were exempt from disclosure. Furthermore, the affidavit did not establish why the records were exempt, beyond noting they were under review due to a pending postconviction proceeding. While affidavits are accorded a presumption of good faith, they are insufficient if the public body presents claims that are conclusory. While a public body may meet its burden to show an exemption exists via affidavit, affidavits will not suffice to excuse the need for in camera inspection if the claims are conclusory, merely recite statutory standards, or are too vague or sweeping. Consequently, the appellate court found that the CCSAO failed to meet their burden to show the documents Taylor requested were exempt under FOIA section 7(1)(d)(i).

**RESULT:** The appellate court reversed the circuit court’s order. On remand, the appellate court ordered the CCSAO to comply with their burden under FOIA to produce the requested documents or justify application of section 7(1)(d)(i) by preparing an index and detailed affidavit explaining why disclosure of each document would interfere with pending or reasonably contemplated law enforcement proceedings.

**4). NBC Subsidiary (WMAQ-TV) LLC v. the Chicago Police Department (CPD) and the Office of Emergency Management and Communications (OEMC), 2025 IL App (1st) 240629, July 7, 2025.**

**ISSUE: FOIA EXCEPTIONS (On-going Investigation):** Did the affidavit the CPD submitted properly support their argument that the release of the requested records would interfere with an ongoing investigation? (Yes).

**FACTS:** An investigative producer working for NBC submitted a FOIA request to CPD, seeking “any and all documentation related to the fatal hit-and-run crash that occurred on [August 26, 2021,] at 300 N. Central Park Ave. (RD# JE350872), including any surveillance video, incident reports, witness statements and any other materials related to the crash.” The CPD responded and denied the plaintiff’s FOIA request. In summary, the CPD’s response stated that (1) the major accident investigation unit’s reports and the traffic crash report were available through non-FOIA means, (2) the responsive body camera video footage had been identified, but it was not subject to disclosure under FOIA pursuant to section 10-20(b) of the Law Enforcement Officer-Worn Body Camera Act (Body Camera Act) (50 ILCS 706/10-20(b)), and (3) additional responsive records were exempt on the grounds that disclosure of them would interfere with pending or anticipated law enforcement proceedings or would obstruct an ongoing criminal investigation, pursuant to section 7(1)(d)(i) and (vii) of FOIA (5 ILCS 140/7(1)(d)(i), (vii)). NBC thereafter obtained an unredacted copy of the traffic crash report for this collision.

Thereafter, NBC submitted a FOIA request to OEMC requesting “any and all video recorded via POD [(police observation device)] cameras or surveillance cameras between 3:30 p.m. and 5:30 p.m. on [August 26, 2021], in the area of the fatal hit-and-run crash that occurred at 300 N. Central Park Ave (RD# JE350872).” On January 18, 2022, OEMC responded and denied the plaintiff’s FOIA request. OEMC’s response cited section 7(1)(d)(i) of FOIA (id. § 7(1)(d)(i)) as its basis for denial. It stated that releasing the requested information would impede CPD’s open investigation into the incident and give those involved insight into the direction of that investigation and an ability to threaten witnesses or destroy evidence.

NBC then filed the present cause of action against the defendants seeking to enforce compliance with the two FOIA requests above. Once the parties were at issue on the pleadings, cross-motions for summary judgment were filed and briefed. As part of that briefing, the defendants filed an index of records that were responsive to the plaintiff's request but withheld as exempt from disclosure. See *id.* § 11(e). According to that index, the withheld records in this case comprise (1) footage from five police officers' body-worn cameras, which show the victim and witnesses and which record witnesses' statements concerning the suspect, the suspect's vehicle, and the witnesses' personal information (i.e., names, phone numbers, and birth dates); (2) records obtained from T-Mobile in response to a search warrant for the suspect's cell phone records (described as call log, data sessions, and interpretations of call log, subscribers, and time stamp); (3) footage from three POD cameras in the area at the time of the collision; and (4) a PowerPoint presentation that CPD prepared on the progress of the investigation (as of a date not disclosed), including an analysis of the T-Mobile records and POD footage. The defendants argued in their motion for summary judgment that all of the records above were exempt from disclosure under section 7(1)(d)(i) of FOIA (*id.* § 7(1)(d)(i)), which exempts records in the possession of any law enforcement agency for law enforcement purposes, "but only to the extent that disclosure would \*\*\* interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement \*\*\* agency that is the recipient of the request." In support of their assertion that disclosure of the above records would interfere with CPD's then-ongoing investigation into the hit-and-run collision at issue, the defendants submitted an affidavit.

**TRIAL COURT FINDINGS:** The trial court entered two orders in this case that are the subject of appeal. By these orders, it granted the defendants' cross-motion for summary judgment, denied the plaintiff's motion for partial summary judgment, and denied the plaintiff's motion to reconsider those summary judgment rulings. NBC appealed from the trial court's entry of summary judgment in favor of the CPD and OEMC, on the NBC's complaint seeking to enforce compliance with a request for records under the Freedom of Information Act (FOIA) (5 ILCS 140/1 et seq.).

**ARGUMENTS:** In this appeal, the heart of NBC's argument is that the affidavit was insufficient to satisfy the defendants' burden of proving by clear and convincing evidence that release of all the withheld records would interfere with pending or reasonably contemplated law enforcement proceedings. NBC argued that the affidavit was simply a repetition of the affidavit statements that this appellate court had found sufficient in a prior case, without any meaningful independent application to the records of this case. As such, NBC argued, the statements in it upon which the defendants rely are generic, vague, and untethered to any specific records actually being withheld in this instance. NBC also characterized the defendants as improperly claiming a "blanket" exemption over all responsive records, instead of reviewing them all to determine what information within them can be disclosed, at least in redacted form. NBC further contended that the defendants have voluntarily made public much of the information sought here, such as the witnesses' full names and contact information included in the traffic crash report and the still photos and license plate number of the suspect vehicle included in a community alert issued the day after the collision. NBC argued that the extent of information that the defendants have voluntarily disclosed undermined their argument that disclosing much of the same information through a FOIA request would interfere with an ongoing investigation.

In response, the defendants argue that they met their burden of showing that all the responsive records were properly withheld as exempt from disclosure under section 7(1)(d)(i), because the affidavit set forth in detail how disclosing the responsive records at issue would have interfered with CPD's ongoing investigation into this particular hit-and-run collision. They contended that NBC was grossly misrepresenting the extent of case-specific detail included in the affidavit, and they asserted that the

affidavit goes beyond what the court had previously held sufficient. They argued that this was not a case in which a blanket exemption was asserted over all records without any meaningful review of them to determine whether anything within them needed to be disclosed in redacted form, and nothing supported the argument that the defendants undertook an inadequate review of records here. Finally, they argued that the information made public in the traffic crash report, or the community alert was far less detailed than the records requested by the plaintiff here, which include extensive video footage and details about the crash and ensuing police investigation.

**RESULT:** The appellate court agreed with the defendants' arguments and affirmed the judgment of the circuit court.