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OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

Attorney General Opinion No. 25-IB52

October 20, 2025

VIA EMAIL

Renee Edge
edgetoedge7479@gmail.com

RE: FOIA Petition Regarding the Delaware State Police, Department of Safety and Homeland Security

Dear Renee Edge:

We write in response to your correspondence alleging that the Delaware State Police, Department of Safety and Homeland Security (“DSP”) violated Delaware’s Freedom of Information Act, 29 *Del. C.* §§ 10001-10008 (“FOIA”). We treat your correspondence as a Petition for a determination pursuant to 29 *Del. C.* § 10005 of whether a violation of FOIA has occurred or is about to occur. For the reasons set forth below, we determine that the DSP did not violate FOIA by denying access to the requested records.

BACKGROUND

On August 24, 2025, you submitted a FOIA request to the DSP for records “pertaining to calls for service, reports, or other records involving” a certain property address from January 1, 2008 to the present.¹ The request includes calls for service reports and CAD logs, incident reports or officer response reports, records identifying individuals who contacted the DSP regarding this address, and 911 call recordings or transcripts of such calls. You also sought any records indicating that this property had been designated as a nuisance property or has been the subject of any nuisance-related proceedings or adjudications by the DSP.

¹ Petition.

The DSP denied this request, citing the exemptions for investigatory file records for criminal law enforcement purposes under 29 *Del. C.* § 10002(o)(3); criminal records under 29 *Del. C.* § 10002(o)(4); records exempt from disclosure by statute or common law under 29 *Del. C.* § 10002(o)(6), to include the right of privacy and Title 11, Chapters 85 and 86 of the Delaware Code, and security records under 29 *Del. C.* § 10002(o)(17). This Petition followed.

In the Petition, you contend that the DSP’s denial of the entirety of the request was overbroad. You state that while you understand personal identifiers or certain investigatory records may be exempt, public bodies are required to release nonexempt portions of records whenever reasonably possible. You seek, at a minimum, that the DSP produce “CAD logs, or call summaries showing the number, dates, and general nature of calls for service to this property, with personal identifying information of complainants, witnesses, or victims removed.”²

On July 11, 2025, the DSP, through its legal counsel, replied to the Petition (“Response”). The DSP argues that the investigatory files exemption applies, as the request is “related to law enforcement incidents initiated from phone calls (from which call sheets are generated), placed by individuals and involving the specified address.”³ The DSP further contends that because this request involves reports related to criminal incidents, it triggers the criminal and confidential record exceptions pursuant to 29 *Del. C.* § 10002(o)(4) and § 10002(o)(6), including 11 *Del. C.* Chapters 85 and 86. Finally, the DSP argues that the security records exemption in 29 *Del. C.* § 10002(o)(17) is applicable, as the request for records indicating the property has been flagged as a nuisance refers to information maintained in the 911 records to aid law enforcement in calls for service.

DISCUSSION

FOIA requires that citizens be provided reasonable access to and reasonable facilities for the copying of public records.⁴ The public body has the burden of proof to justify its denial of access to records.⁵ In certain circumstances, a sworn affidavit may be required to meet that burden.⁶

Section 10002(o)(3) exempts “[i]nvestigatory files compiled for civil or criminal law-enforcement purposes including pending investigative files, pretrial and presentence investigations

² *Id.*

³ Response.

⁴ 29 *Del. C.* § 10003(a).

⁵ 29 *Del. C.* § 10005(c).

⁶ *Judicial Watch, Inc. v. Univ. of Del.*, 267 A.3d 996 (Del. 2021).

and child custody and adoption files where there is no criminal complaint at issue.” In this Petition, you allege that CAD logs or call summaries should be produced with redaction of the personal identifying information of complainants, witnesses, or victims. “[F]or purposes of FOIA, the investigatory exemption attaches as soon as an agency is first made aware of a potential issue.”⁷ This exemption is not limited to pending investigations and continues to apply after an investigation is closed.⁸ This request seeks the call records with the number, date, and type of calls for service to the DSP from a particular property; such calls, on their face, would initiate police investigation for civil or criminal law enforcement purposes.⁹ Thus, the requested call records are part of investigatory files and fully exempt from disclosure pursuant to 29 *Del. C.* § 10002(o)(3).

CONCLUSION

For the foregoing reasons, we conclude that the DSP did not violate FOIA by denying access to the requested logs and call summaries.

Very truly yours,



Daniel Logan
Chief Deputy Attorney General

cc: Joseph C. Handlon, Deputy Attorney General
Dorey L. Cole, Deputy Attorney General

⁷ *Del. Op. Att’y Gen.* 17-IB05, 2017 WL 1317847, at *3 (March 10, 2017).

⁸ *News-Journal Co. v. Billingsley*, 1980 WL 3043, at *2-3 (Del. Ch. Nov. 20, 1980) (determining that the investigatory files exemption attaches as soon as a public body is made aware of a potential issue and the exemption survives after the investigation is completed); *see also Del. Op. Att’y Gen.* 17-IB47, 2017 WL 4652343, at *1 (Sept. 22, 2017); *Del. Op. Att’y Gen.* 05-IB16, 2005 WL 2334345, at *2 (Jun. 22, 2005); *Del. Op. Att’y Gen.* 98-IB13, 1998 WL 910199, at *1 (Dec. 8, 1998).

⁹ *Del. Op. Att’y Gen.* 25-IB14, 2025 WL 818783, at *2 (Feb. 28, 2025) (“The DSP’s denial of these photographs and video footage under the investigatory files exemption is proper, as these records involve a law enforcement encounter precipitating a police investigation.”); *Del. Op. Att’y Gen.* 24-IB11, 2024 WL 1132324, at *2 (Feb. 23, 2024) (“This request seeks information regarding the date and type of calls for service to the DSP from a particular residence, which on its face, would initiate police investigation. Thus, the requested records are exempt from disclosure pursuant to 29 *Del. C.* § 10002(o)(3).”).