



KATHLEEN JENNINGS
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
820 NORTH FRENCH STREET
WILMINGTON, DELAWARE 19801

CIVIL DIVISION: (302) 577-8400
CRIMINAL DIVISION: (302) 577-8500
FAMILY DIVISION: (302) 577-8400
FRAUD DIVISION: (302) 577-8600
DIVISION OF CIVIL RIGHTS & PUBLIC TRUST: (302) 577-5400
FAX: (302) 577-2610

Office of the Attorney General of the State of Delaware

Attorney General Opinion No. 26-IB41

July 23, 2026

Via Email

Jordan Howell
jordanm.howell@gmail.com

Re: FOIA Petition Regarding the Delaware Department of Correction

Dear Jordan Howell:

We write in response to your correspondence alleging that the Delaware Department of Correction (“DOC”) violated Delaware’s Freedom of Information Act, 29 *Del. C.* §§ 10001-10008 (“FOIA”). We treat this 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. As discussed more fully herein, we determine that the DOC violated FOIA by failing to respond to this request within the requisite timeframe.

Background

You submitted a FOIA request to the DOC on April 28, 2026 seeking “all documents related to the events of January 30 and January 31 at Sussex Correctional Institution Georgetown, including unedited media (security, body-worn camera, audio, smartphone, photographs), incident reports, investigations, and emails of Chief of Communications and Community Relations Jason Miller as it related to the incident, transfer requests for [certain inmates], as well as correspondence from and to warden William Oettel and deputy warden Travis Lowe related to the incident, if any.”¹ You then filed this Petition, alleging that the fifteen business days for a response expired, but the DOC has not responded to this request. The DOC was asked to respond to this Petition but did not do so.

¹ Petition.

Discussion

Delaware's FOIA law "was enacted to ensure governmental accountability by providing Delaware's citizens access to open meetings and meeting records of governmental or public bodies, as well as access to the public records of those entities."² FOIA requires that citizens be provided reasonable access to and reasonable facilities for the copying of public records.³ The public body has the burden of proof to justify its denial of access to records.⁴ In certain circumstances, a sworn affidavit may be required to meet that burden.⁵

A public body is required to "respond to a FOIA request as soon as possible, but in any event within 15 business days after the receipt thereof."⁶ Section 10003(h)(1) permits a public body to inform a requestor that a response will take more than the requisite fifteen days if the request is for voluminous records, requires legal advice, or a record is in storage or archived.⁷ The public body must inform the requesting party of the authorized reason for the extension and give a good faith estimate of how much additional time is needed to fulfill the request.⁸ If allowable processing fees are expected to be incurred, the public body must provide a cost estimate to the requesting party in advance, and the requesting party may then decide to proceed with, cancel, or modify the request.⁹

In this case, the DOC did not provide evidence of complying with FOIA and therefore did not meet its burden of proof. As such, we must find a violation of FOIA and recommend that the DOC provide a response to your request in accordance with Section 10003, as stated above.

² *Judicial Watch, Inc. v. Univ. of Del.*, 267 A.3d 996, 1004 (Del. 2021).

³ 29 Del. C. § 10003(a).

⁴ 29 Del. C. § 10005(c).

⁵ *See Judicial Watch, Inc.*, 267 A.3d at 1008-1012.

⁶ 29 Del. C. § 10003(h)(1).

⁷ *Id.*

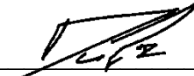
⁸ *Id.*

⁹ 29 Del. C. § 10003.

Conclusion

For the reasons set forth above, we conclude that the DOC violated FOIA by failing to respond to the request within the requisite timeframe.

Very truly yours,

A handwritten signature in black ink, appearing to read 'DL', is written over a horizontal line.

Daniel Logan
Chief Deputy Attorney General

cc: Michael J. Gordon, Deputy Attorney General
Dorey L. Cole, Deputy Attorney General