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Office of the Attorney General of the State of Delaware

Attorney General Opinion No. 26-IB58

October 5, 2026

Via Email

Ryan Connell
rpconnel@gmail.com

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

Dear Ryan Connell:

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 19, 2026, you submitted a FOIA request to the DSP seeking any document, report, memo or other record that supports the placement of a Flock Safety camera in a specified neighborhood.¹ On September 3, 2026, the DSP denied this request pursuant to 29 *Del. C.* § 10002(o)(3), which exempts investigatory file records for criminal law enforcement purposes and 29 *Del. C.* § 10002(o)(5), which exempts intelligence files compiled for a law enforcement purpose. This Petition followed.

In the Petition, you contend that the DSP improperly denied your request under FOIA. You allege that it is “odd that the police don’t have any generally public documents that would support

¹ Petition.

placing a spy camera in a residential neighborhood.”² You also assert it is doubtful that the camera was ordered as a part of a particular criminal investigation; you note that it is a low crime neighborhood and you believe cameras require DelDOT permitting. You contend that the security exemption should be inapplicable because, in your opinion, the security exemption exists so that individuals cannot hack sensitive computer systems or receive plans for prisons or other secure facilities. You assert that the interest in knowing why this police agency is installing cameras in low crime middle class neighborhoods is a compelling public interest.

On September 18, 2026, the DSP, through its legal counsel, replied to the Petition (“Response”). The DSP argues that the information you requested falls within the investigatory and intelligence files exemptions. The DSP asserts that this particular camera was, in fact, placed in this location as part of a criminal investigation and to gather intelligence. The DSP attached the affidavit of its Community Relations Officer, who serves as the FOIA coordinator to support this assertion. The Community Relations Officer states, under oath, that the Officer contacted the Automatic License Plate Reader Administrator for DSP who provided confirmation that the camera was placed at this location in connection with a criminal investigation and to gather intelligence. Finally, the DSP points out that your beliefs, suppositions, and speculation in the Petition are not legal argument; the submission fails to show that the DSP violated FOIA.

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.”³ 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 and child custody and adoption files where there is no criminal complaint at issue.” “[T]he investigatory exemption attaches as soon as an agency is first made aware of a potential issue.”⁷

² *Id.*

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

⁴ 29 Del. C. § 10003(a).

⁵ 29 Del. C. § 10005(c).

⁶ *Judicial Watch, Inc.*, 267 A.3d at 1012.

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

This exemption is not limited to pending investigations and continues to apply after an investigation is closed.⁸ Here, the DSP provided sworn statements that the camera that is the subject of your request was placed in this neighborhood as part of a criminal investigation.⁹ Thus, the requested records that support the placement of this license plate reader camera are considered part of law enforcement investigatory files and are 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 records.

Very truly yours,



Daniel Logan
Chief Deputy Attorney General

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

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 Response.