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-IB69

October 29, 2026

Via Email

Precious Wilson
loveprep16@gmail.com

RE: FOIA Petition Regarding the City of Milford

Dear Precious Wilson:

We write in response to your correspondence alleging that the City of Milford 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 City did not violate FOIA by withholding access to the requested records.

Background

On September 17, 2026, you submitted a FOIA request to the City seeking "copies of any available dash camera footage, video recordings, and audio recordings from August 22, 2026 traffic stop, between 12:30 PM and 1:30 PM, in connection with" a certain ticket.[1] The City denied this request, stating that the requested records were exempt pursuant to Section 10002(o)(3) for investigatory files. The City stated that "[d]ash camera and audio recordings captured during law enforcement activities, including a traffic stop and the subsequent issuance of a citation, are legally recognized as part of a law enforcement investigatory file."[2] This Petition followed.

[1] Petition.

[2] *Id.*

The Petition requested a review of whether the requested records fall within the cited investigatory files exemption and whether any portion of the requested records are reasonably segregable and required to be disclosed. You state that you dispute the allegations regarding the traffic stop and you have "requested the recordings so that [you] could review the interaction and determine whether the allegation reflected in the citation is supported by the available recordings."[3]

The City, through its legal counsel, responded to the Petition ("Response"). In the affidavit enclosed with the Response, the Chief of Police attests that all the statements of fact in the Response are true and correct to the best of her knowledge. The Police Chief further attests that she reviewed the requested footage and confirmed it pertains to a police officer activating their body worn camera for a traffic stop and is part of the City's investigatory file. The City also asserts that because the issued ticket was paid, it did not, in good faith, invoke the litigation exemption at the time of the initial response, because the matter appeared to be resolved. The Police Chief attests that the City now believes the litigation exemption applies to this request due to the statements in your Petition that you dispute the basis of the stop and seek the recordings in connection with that dispute. The City states it is clear that you are attempting to impermissibly utilize FOIA for purposes of discovery in the litigation, and it is asserting the litigation exemption in Section 10002(o)(9) as an additional basis precluding disclosure.

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."[4] FOIA requires that citizens be provided reasonable access to and reasonable facilities for the copying of public records.[5] The public body has the burden of proof to justify its denial of access to records.[6] In certain circumstances, a sworn affidavit may be required to meet that burden.[7]

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."[8]

---

3 *Id.*

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

5 29 *Del. C.* § 10003(a).

6 29 *Del. C.* § 10005(c).

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

8 *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.[9] Here, this request seeks records related to a law enforcement encounter during a traffic stop; such records, on their face, pertain to an investigation for civil or criminal law enforcement purposes.[10] The City also presented the sworn statements of its Police Chief to support that this exemption applies. Thus, the requested records 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 City did not violate FOIA by withholding access to the requested records.

Very truly yours,

/s/ Dorey L. Cole

_____

Dorey L. Cole
Deputy Attorney General

Approved:

/s/ Patricia A. Davis

_____

Patricia A. Davis
State Solicitor

cc: Gregory A. Morris, City Solicitor

---

[9] *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).

[10] *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).").