



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 23, 2026

Via electronic mail



Via electronic mail

The Honorable Clayton T. Whelan
Sheriff
Lee County Sheriff's Office
240 East Progress Drive
Dixon, Illinois 61021
cwhelan@countyoflee.org

RE: FOIA Request for Review – 2024 PAC 83705

Dear [REDACTED] and Sheriff Whelan:

This determination letter is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2024), as amended by Public Act 104-438, effective January 1, 2026). For the reasons that follow, the Public Access Bureau concludes that the Lee County Sheriff's Office (Sheriff's Office) violated the requirements of FOIA by improperly withholding records responsive to [REDACTED] October 18, 2024, FOIA request.

BACKGROUND

On that date, [REDACTED] submitted an e-mail to the Sheriff's Office with an attached FOIA request seeking copies of records concerning the "[c]ost of and lease time period of the 14 Flock License Plate Camera[s] being used by Lee County Illinois[]" and the "[s]pecific

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location of all License Plate Cameras in use by Lee County Illinois."¹ On October 25, 2024, the Sheriff's Office provided copies of records reflecting the cost and leasing period of the cameras but withheld in their entirety records identifying the cameras' locations pursuant to sections 7(1)(d-7) and 7(1)(v) of FOIA (5 ILCS 140/7(1)(d-7), (1)(v) (West 2023 Supp.), as amended by Public Act 103-605, effective July 1, 2024). On October 28, 2024 [REDACTED] submitted this Request for Review contesting the Sheriff's Office's denial.

On November 7, 2024, the Public Access Bureau sent a copy of the Request for Review to the Sheriff's Office. The Public Access Bureau also sent the Sheriff's Office a letter asking for unredacted copies of the requested records for this office's confidential review, together with a detailed explanation of the legal and factual bases for the applicability of the asserted exemptions.

On November 12, 2024, the Sheriff's Office provided this office with unredacted copies of the requested records and its written answer. Later that same day, this office forwarded a copy of the Sheriff's Office's answer to [REDACTED] and notified him of his opportunity to reply. On November 13, 2024, [REDACTED] submitted a reply and, later that same morning, supplemented his reply. Having been copied on [REDACTED] replies to this office, the Sheriff's Office submitted another response shortly thereafter. Later that same day, [REDACTED] replied to the Sheriff's Office's supplemental response.

On January 22, 2025, the Sheriff's Office sent an additional e-mail to this office stating that an ALPR camera had been vandalized and that disclosing the locations of the cameras could lead to further vandalism and damage.

DETERMINATION

Section 1 of FOIA (5 ILCS 140/1 (West 2024)) "declares that it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government." Under FOIA, "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2 (West 2024). The Illinois Supreme Court has "on several occasions, held that the exceptions to disclosure set forth in the FOIA are to be read narrowly so as not to defeat the FOIA's intended purpose." *Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 416 (2006).

¹Lee County Freedom of Information Act Request Form submitted by [REDACTED] (October 18, 2024).

Section 7(1)(d-7) of FOIA

The records at issue in this matter concern Automated License Plate Readers (ALPRs) used by the Sheriff's Office. Through the enactment of Public Act 103-540, effective January 1, 2024, the General Assembly recently amended FOIA to add the section 7(1)(d-7) exemption that applies to "[i]nformation **gathered** or records **created** from the use of automatic license plate readers in connection with Section 2-130 of the Illinois Vehicle Code." (Emphasis added.) Section 2-130(a) of the Illinois Vehicle Code (625 ILCS 5/2-130(a) (West 2024)) defines "Automated license plate reader" or "ALPR" as:

an electronic device that is mounted on a law enforcement vehicle or positioned in a stationary location and that is capable of recording data on or taking a photograph of a vehicle or its license plate and comparing the collected data and photographs to existing law enforcement databases for investigative purposes. "ALPR" includes a device that is owned or operated by a person or an entity other than a law enforcement agency to the extent that data collected by the reader is shared with a law enforcement agency.

Pursuant to section 2-130(a) of the Code, "information gathered by an ALPR or created from the analysis of data generated by an ALPR," is defined as "ALPR information." Sections 2-130(b) through 2-130(d) of the Code restrict access to and sharing of ALPR information.

In its written answer to this office, the Sheriff's Office asserted that Public Act 103-540 requires ALPR information to "be held confidentially to the fullest extent permitted by law."² In his reply, [REDACTED] contended that the Sheriff's Office improperly relied on Public Act 103-540, stating:

When read in its entirety the section regarding ALPR is referencing the **DATA** the ALPR collects and not the physical location of the ALPR. The data is uploaded to a central server and is not maintained on the camera itself. So knowledge of the location of the camera in no way compromises or puts the data at risk.^[3] (Emphasis in original.)

²E-mail from Clayton T. Whelan – Sheriff, Lee County Sheriff's Office, to Christopher Boggs, [Deputy Public Access Counselor, Public Access Bureau, Office of the Attorney General] (November 12, 2024).

³E-mail from [REDACTED] to Christopher Boggs, [Deputy Public Access Counselor, Public Access Bureau, Office of the Illinois Attorney General] (November 13, 2024), at 6:38 a.m.

In construing a statute, the primary objective "is to ascertain and give effect to the intent of the General Assembly." *Southern Illinoisan*, 218 Ill. 2d at 415. "[T]he surest and most reliable indicator of" legislative intent "is the statutory language itself, given its plain and ordinary meaning." *Board of Education of Springfield School District No. 186 v. Attorney General of Illinois*, 2017 IL 120343, ¶ 24. Where the language of a statute is clear and unambiguous, a reviewing body "may not depart from the plain language by reading into the statute exceptions, limitations, or conditions that the legislature did not express." *Hayashi v. Illinois Department of Financial & Professional Regulation*, 2014 IL 116023, ¶ 16. "[W]hen a statute defines the very terms it uses, those terms must be construed according to the definitions contained in the statute." *People v. Chenoweth*, 2015 IL 116898, ¶ 21.

The plain language of section 7(1)(d-7) of FOIA exempts from disclosure "[i]nformation gathered or records created from the use of" ALPRs "in connection with Section 2-130 of the Illinois Vehicle Code." The Illinois Vehicle Code limits dissemination only of "ALPR information," which it similarly defines as (1) information gathered by ALPRs or (2) information created from the analysis of data generated by ALPRs. Records identifying the locations of ALPRs are neither form of information. The Sheriff's Office's expansive reading of section 7(1)(d-7) as authorizing public bodies to also withhold the locations of ALPRs is contrary to the plain language of the exemption. Because records identifying the locations of ALPRs were neither gathered nor created from the use of the ALPRs, the Sheriff's Office has not sustained its burden of demonstrating that those records are exempt from disclosure pursuant to section 7(1)(d-7) of FOIA.⁴

Section 7(1)(v) of FOIA

Section 7(1)(v) of FOIA exempts from disclosure:

Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, but only to the

⁴In addition to creating the 7(1)(d-7) exemption, Public Act 103-540 added section 2-130 of the Illinois Vehicle Code (*see* 625 ILCS 5/2-130 (West 2024)), which prohibits ALPR users from selling, sharing or allowing access to ALPR data to investigate or enforce a law that interferes with a person's right to choose or obtain reproductive health care services or detain or investigate a person based on their immigration status. During the House floor debate on House Bill 3326, which as enacted became Public Act 103-540, Representative Ann Williams explained that the bill would "prohibit out-of-state law enforcement from utilizing [ALPR] data gathered in Illinois to prosecute people seeking legal reproductive health care or to detain people based on their immigration status[]" and that the bill was "limited to the sharing of ALPR data with law enforcement from other states." It is thus apparent from the legislative history of the bill that it was designed to limit access to ALPR information and how that information may be used by law enforcement.

extent that disclosure could reasonably be expected to expose the vulnerability or jeopardize the effectiveness of the measures, policies, or plans, or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, to cybersecurity vulnerabilities, or to tactical operations. (Emphasis added.)

By its plain language, section 7(1)(v) applies to records that meet three requirements. First, section 7(1)(v) applies to vulnerability assessments, security measures, and response policies or plans. Second, the vulnerability assessment, security measure, or response policy or plan must be created for the purpose of identifying, preventing, or responding to potential attacks on a community or its infrastructure. Finally, the disclosure of the vulnerability assessment, security measure, or response policy or plan could reasonably be expected to expose the vulnerability or jeopardize the effectiveness of the measures, policies, or plans, or the safety of the personnel who implement them or the public. Ill. Att'y Gen. Pub. Acc. Op. No. 24-008, issued June 21, 2024, at 4.

In its response to this office, the Sheriff's Office asserted that it withheld the requested ALPR locations "due to vulnerability assessment information under 5 ILCS 140/7(1)(v) that could jeopardize the publication of ALPR locations on travel apps such as Waze. The confirmation of these locations does nothing but hinder law enforcement efforts to keep the lawful citizens safe when a violent crime occurs."⁵

FOIA does not define "vulnerability assessment." "Vulnerable" is defined as "[s]usceptible to physical injury." The American Heritage Dictionary 1356 (2d coll. ed. 1985). "Assessment" is defined as a "[d]etermination of the rate or amount of something." Black's Law Dictionary 144 (11th ed. 2019). The Public Access Bureau has previously determined that a vulnerability assessment for purposes of section 7(1)(v) is an analysis that identifies safety risks or weaknesses such as those that can be exploited by bad actors. Ill. Att'y Gen. PAC Req. Rev. Ltr. 53388, issued November 26, 2018, at 2-3 (concluding that a police department's "after action report/improvement plan" concerning active shooter drills at public schools was exempt from disclosure under section 7(1)(v) because it identified specific areas for improvement and provided recommendations). The location of ALPRs is strictly factual information, and the Sheriff's Office has not shown that it uses ALPRs to assess any vulnerability in Lee County. Therefore, records reflecting the locations of ALPRs do not constitute vulnerability assessments within the scope of section 7(1)(v) of FOIA.

⁵E-mail from Clayton T. Whelan – Sheriff, Lee County Sheriff's Office, to Christopher Boggs, [Deputy Public Access Counselor, Public Access Bureau, Office of the Illinois Attorney General] (November 12, 2024).

Section 7(1)(v) also applies to "security measures, * * * that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations[.]" In its initial response to the FOIA request, the Sheriff's Office argued that ALPRs "provide security measures to identify and respond to attacks and other criminal activity occurring against citizens. The technology is used in law enforcement investigations to detect and apprehend those individuals involved in shootings and attacks to prevent further attacks and other criminal activity."⁶ The Sheriff's Office provided no additional information in support of this argument in its responses to this office.

By its plain language, section 7(1)(v) applies only to vulnerability assessments, security measures, or response plans or policies that have a particular purpose. If "a statute lists several classes of persons or things but provides that the list is not exhaustive, the class of unarticulated persons or things will be interpreted as those 'others such like' the named persons or things." *Board of Trustees of Southern Illinois University v. Illinois Department of Human Rights*, 159 Ill. 2d 206, 211 (1994). In other words, the listed terms are examples of what the General Assembly intended the statute to cover. *See Duffy v. Illinois Department of Human Rights*, 354 Ill. App. 3d 236, 239 (2004).

Section 7(1)(v) lists "details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, to cybersecurity vulnerabilities, or to tactical operations[]" as examples of the type of information encompassed by the exemption. Such details are distinguishable from the locations of ALPRs used for routine law enforcement activities. Moreover, the legislative history behind section 7(1)(v) demonstrates that the exemption was intended to apply to measures such as counterterrorism. Representative James H. Meyer, one of the House sponsors of the bill that added the exemption, stated during legislative debate that the bill "exempts documents prepared for emergency and security procedures from being disclosed from homeland security where that would be compromised." Remarks of Rep. Meyer, May 31, 2003, House Debate on House Bill No. 954 (which as Public Act 93-422, effective August 5, 2003, created the section 7(1)(v) exemption), at 107.

Even if ALPRs constitute "security measures," the Sheriff's Office has not provided any information indicating that it uses ALPRs for measures such as counterterrorism that are designed to prevent or respond to attacks on Lee County's population or infrastructure. Instead, in its response to [REDACTED] FOIA request, the Sheriff's Office simply asserted that law enforcement use ALPR technology "to detect and apprehend those individuals involved in

⁶Letter from Clayton T. Whelan, Lee County Sheriff, Lee County Sheriff's Office, to [REDACTED] (October 25, 2024).

[REDACTED]
The Honorable Clayton T. Whelan
April 23, 2026
Page 7

shootings and attacks to prevent further attacks and other criminal activity."⁷ In response to this office's letter of inquiry, the Sheriff's Office provided no additional details on how it could use the information gathered by ALPRs to identify, prevent, or respond to potential attacks upon the community's population or systems, facilities, or installations. In contrast, in *Chicago Sun-Times v. Chicago Transit Authority*, 2021 IL App (1st) 192028, the Illinois Appellate Court held that the Chicago Transit Authority (CTA) demonstrated that its rail station surveillance camera network was installed with the support of federal grants to help protect "the nation's critical transportation infrastructure against acts of terrorism and other large-scale events." 2021 IL App (1st) 192028, ¶ 48. Based on that showing, the court held that CTA met its burden under section 7(1)(v) to withhold video recordings made by that system. *Chicago Sun-Times*, 2021 IL App (1st) 192028, ¶ 48.

The use of ALPRs for routine law enforcement activities such as responding to crimes and collecting evidence do not constitute "security measures, * * * that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations[.]"⁸ Accordingly, this office concludes that the Sheriff's Office has not sustained its burden of demonstrating by clear and convincing evidence that records reflecting the locations of ALPRs are exempt from disclosure pursuant to section 7(1)(v) of FOIA.

In accordance with the conclusions expressed above, this office requests that the Sheriff's Office provide [REDACTED] with copies of the requested records. The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This file is closed. If you have any questions, please contact me at Christopher.Boggs@ilag.gov.

Very truly yours,

[REDACTED]
CHRISTOPHER R. BOGGS
Deputy Public Access Counselor
Public Access Bureau

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⁷Letter from Clayton T. Whelan, Lee County Sheriff, Lee County Sheriff's Office, to [REDACTED] (October 25, 2024).

⁸It is therefore unnecessary to address the Sheriff's Office's argument that disclosing the locations of ALPRs would undermine their effectiveness.