



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

December 3, 2025

PUBLIC ACCESS OPINION 25-014
(Request for Review 2025 PAC 88767)

FREEDOM OF INFORMATION ACT:
Improper Basis for Assessing Fees for
Copies of Video Footage Maintained in an
Electronic Format

Mr. Nicholas T. Diener
212 West Jefferson Street
Arcola, Illinois 61910

Mr. Daniel C. Jones
City Attorney
Smith, Pappas & Jones Ltd.
622 Jackson Avenue
Charleston, Illinois 61920

Dear Mr. Diener and Mr. Jones:

This binding opinion is issued by the Attorney General pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2024)). For the reasons discussed below, this office concludes that the Mattoon Police Department (Department) assessed an improper fee in response to Mr. Nicholas T. Diener's August 13, 2025, FOIA request.

BACKGROUND

On August 13, 2025, Mr. Diener submitted a FOIA request to the Department seeking records concerning an incident on July 1, 2025, in which he was involved, including

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copies of all "body-worn camera footage and dashboard camera footage[.]"¹ On August 18, 2025, the Department e-mailed Mr. Diener to inform him that the responsive video recordings consist of approximately four to five hours of footage "that must have redactions made[]"² to certain portions before disclosure. The Department informed Mr. Diener that "[t]his will be costly, but we must follow FOIA guidelines on exemptions. Prior to making redactions to the footage, we require pre-payment."³ The Department asked Mr. Diener if he preferred to narrow his request to a specific portion of the footage to reduce the cost.⁴ Mr. Diener replied by requesting "a written itemized estimate of any fees the [D]epartment intends to charge for the production of these records, including a breakdown of labor, material, and any other claimed costs."⁵ Mr. Diener's e-mail to the Department indicated that he "wish[ed] to proceed with my original request, pending review of the detailed cost estimate."⁶

In an August 20, 2025, letter, the Department responded that the "video requests total 4.5 hours of video[.]" or 270 minutes, and that it charges "\$2.58 per minute to redact."⁷ The Department informed Mr. Diener that pursuant to section 6(b) of FOIA (5 ILCS 140/6(b) (West 2024)), he was required to pay a fee of \$696.60 to obtain the requested video footage.⁸ On August 21, 2025, Mr. Diener submitted a Request for Review to the Public Access Counselor contesting that fee.⁹ Mr. Diener argued that the Department's "demand [for fees] is based entirely on redaction costs, which are non-chargeable by statute."¹⁰

¹E-mail from Nicholas T. Diener to FOIA Officer, [Mattoon Police Department] (August 13, 2025).

²E-mail from Heather Smith, Administrative Assistant, Mattoon Police Department, to [Nicholas T. Diener] (August 18, 2025).

³E-mail from Heather Smith, Administrative Assistant, Mattoon Police Department, to [Nicholas T. Diener] (August 18, 2025).

⁴E-mail from Heather Smith, Administrative Assistant, Mattoon Police Department, to [Nicholas T. Diener] (August 18, 2025).

⁵E-mail from Nicholas Diener to [Heather] Smith (undated).

⁶E-mail from Nicholas Diener to [Heather] Smith (undated).

⁷Letter from Ryan Hurst, Deputy Chief of Police, Mattoon Police Department, to Nicholas T. Diener (August 20, 2025).

⁸Letter from Ryan Hurst, Deputy Chief of Police, Mattoon Police Department, to Nicholas T. Diener (August 20, 2025).

⁹E-mail from Nicholas T Diener to Public Access Counselor (August 21, 2025).

¹⁰E-mail from Nicholas T Diener to Public Access Counselor (August 21, 2025).

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On September 8, 2025, the Public Access Bureau sent a copy of the Request for Review to the Department.¹¹ The Public Access Bureau also e-mailed the Department a letter requesting a detailed written explanation of the legal and factual bases for assessing the \$696.60 fee for the requested video recordings.¹²

On September 11, 2025, the Department's legal counsel provided a written answer to the Public Access Bureau.¹³ On September 18, 2025, this office forwarded a copy of the Department's answer to Mr. Diener and notified him of his opportunity to reply in writing.¹⁴ He did not submit a written reply.

On October 20, 2025, this office extended the time for issuing a binding opinion by 30 business days, to December 3, 2025, pursuant to section 9.5(f) of FOIA.¹⁵

ANALYSIS

"It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act." 5 ILCS 140/1 (West 2024). FOIA should be "liberally construe[d] * * * in favor of ease of access to public records on the part of any interested citizen." *Sage Information Services v. Humm*, 2012 IL App (5th) 110580, ¶ 19.

Section 3(b) of FOIA (5 ILCS 140/3(b) (West 2024)) provides: "Subject to the fee provisions of Section 6 of this Act, each public body shall promptly provide, to any person who submits a request, a copy of any public record required to be disclosed by subsection (a) of this Section and shall certify such copy if so requested."

¹¹E-mail from Shannon Barnaby, Senior Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General, to [Ryan] Hurst, [Deputy Chief of Police, Mattoon Police Department] (September 8, 2025).

¹²Letter from Shannon Barnaby, Senior Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Ryan Hurst, Deputy Chief of Police, Mattoon Police Department (September 8, 2025), at 2.

¹³Letter from Daniel C. Jones, City Attorney, [City of Mattoon], Smith, Pappas & Jones, Ltd., to [Shannon] Barnaby, [Senior Assistant Attorney General, Public Access Bureau, Office of the Attorney General] (undated).

¹⁴Letter from Shannon Barnaby, Senior Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Nicholas T. Diener (September 18, 2025).

¹⁵Letter from Shannon Barnaby, Senior Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Nicholas T. Diener and Daniel C. Jones, City Attorney, [City of Mattoon], Smith, Pappas & Jones, Ltd. (October 20, 2025), at 1.

Section 6(a) of FOIA (5 ILCS 140/6(a) (West 2024)) provides:

When a person requests a copy of a record maintained in an electronic format, the public body shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the public body shall furnish it in the format in which it is maintained by the public body, or in paper format at the option of the requester. **A public body may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium.** If a request is not a request for a commercial purpose or a voluminous request, a public body may not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records. **Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of public records when furnished in a paper format shall not be applicable to those records when furnished in an electronic format.** (Emphasis added.)

Section 6(b) of FOIA provides, in pertinent part:

Except when a fee is otherwise fixed by statute, **each public body may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the public body to copy records.** No fees shall be charged for the first 50 pages of black and white, letter or legal sized copies requested by a requester. The fee for black and white, letter or legal sized copies shall not exceed 15 cents per page. **If a public body provides copies in color or in a size other than letter or legal, the public body may not charge more than its actual cost for reproducing the records.** In calculating its actual cost for reproducing records or for the use of the equipment of the public body to reproduce records, a public body shall not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records, except for commercial requests as provided in subsection (f) of this Section. (Emphasis added.)

The Department's answer to this office contended that it properly assessed Mr. Diener a fee of \$696.60 pursuant to section 6(b) of FOIA.¹⁶ The Department asserted that it is "required to redact certain parts of the body camera footage per FOIA guidelines" and that to "make these redactions, the Police Department was required to purchase redaction software through Veritone."¹⁷ In the "Veritone Redaction Fees" schedule provided to Mr. Diener, the Department stated that the "Annual cost to [the Department] for 24 hours of redaction is \$3,741[.]"¹⁸ The fee schedule then states that the fees are \$155.87 per hour and \$2.58 per minute.¹⁹ The Department acknowledged in its response to this office that its evidence coordinator applies the relevant redactions, but it argued that it is not charging Mr. Diener for the personnel costs associated with that task. Instead, the Department asserted that it was "simply charging him for the 'actual costs' incurred by the [Department] for the use of this required software. All charges are for expenses that have been reasonably calculated to reimburse the [Department] for its 'actual cost' in complying with the FOIA request."²⁰

In construing a statute, the primary objective is to ascertain and give effect to the intent of the General Assembly. *Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 415 (2006). "[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. "A fundamental principle of statutory construction is to view all provisions of a statutory enactment as a whole. Accordingly, words and phrases should not be construed in isolation, but must be interpreted in light of other relevant provisions of the statute." *Southern Illinoisan*, 218 Ill. 2d at 415. "Moreover, statutory provisions should be read so that no term is rendered superfluous or meaningless." *Chapman v. Chicago Department of Finance*, 2023 IL 128300, ¶ 29.

In *Sage Information Services*, 2012 IL App (5th) 110580, the Illinois Appellate Court analyzed whether fees for an electronic copy of real property assessment records were limited to the cost of the recording medium under section 6(a) of FOIA rather than the

¹⁶Letter from Daniel C. Jones, City Attorney, [City of Mattoon], Smith, Pappas & Jones, Ltd., to [Shannon] Barnaby, [Senior Assistant Attorney General, Public Access Bureau, Office of the Attorney General] (undated).

¹⁷Letter from Daniel C. Jones, City Attorney, [City of Mattoon], Smith, Pappas & Jones, Ltd., to [Shannon] Barnaby, [Senior Assistant Attorney General, Public Access Bureau, Office of the Attorney General] (undated), at [1].

¹⁸Mattoon Police Department, Veritone Redaction Fees (undated).

¹⁹Mattoon Police Department, Veritone Redaction Fees (undated).

²⁰Letter from Daniel C. Jones, City Attorney, [City of Mattoon], Smith, Pappas & Jones, Ltd., to [Shannon] Barnaby, [Senior Assistant Attorney General, Public Access Bureau, Office of the Attorney General] (undated), at [1].

substantially greater fees for paper records set forth in section 9-20 of the Property Tax Code.²¹ In doing so, the court noted that a legislative overhaul of FOIA in 2010²² included amendments to section 6 of FOIA which created a clear distinction between fees for electronic records and fees for paper records. *Sage Information Services*, 2012 IL App (5th) 110580, ¶¶ 15-18. The previous version of section 6(a) of FOIA,²³ which did not differentiate between the two formats, merely provided:

Each public body may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the public body to copy records. Such fees shall exclude the costs of any search for and review of the record, and shall not exceed the actual cost of reproduction and certification, unless otherwise provided by State statute. Such fees shall be imposed according to a standard scale of fees, established and made public by the body imposing them.

Public Act 96-542, effective January 1, 2010, amended section 6 of FOIA to, among other things, add entirely new language to section 6(a) and move the language that was previously in section 6(a) to section 6(b), with amendments. In addition to adding the language above in section 6(a) of FOIA that is specific to electronic records—most notably that "[a] public body may charge the requester for the actual cost of purchasing the recording medium[]"—the General Assembly amended section 6(b) to establish fees that may be charged for providing copies of paper records. The amended version of section 6(b) of FOIA provided that no fees can be charged for copies of the first fifty pages and that no more than fifteen cents per page thereafter can be charged for copies of black and white, letter, or legal-size documents. Because of the changes in statutory language, the court stated: "[B]y its own terms, the current version of section 6 of the FOIA does not allow a fee in excess of the cost of the electronic medium for the reproduction of electronic records" and noted that "[s]ection 6(b) of the current version of the FOIA applies to the production of *paper* records[.]" (Emphasis in original.) *Sage Information Services*, 2012 IL App (5th) 110580, ¶ 18.

In reaching its conclusion that fees for the requested electronic records may not exceed the cost of the recording medium under section 6(a) of FOIA, the court explained:

In so holding, we are guided by the expressed legislative intent and the public policy sought to be effected by the FOIA.

²¹35 ILCS 200/9-20 (2006).

²²Public Act 96-542, effective January 1, 2010.

²³5 ILCS 140/6(a) (West 2006).

Section 1 of the FOIA states that restraints on access to information are not to be permitted except as very limited exceptions and that the FOIA should be construed in accordance with this principle. [Citation]. **A substantial fee constitutes a restraint on access to information in contravention of the expressed legislative intent.** Section 1 also makes clear that providing public records to citizens is a primary duty of public bodies and that the FOIA should be construed to this end, **fiscal obligations notwithstanding.** [Citation]. It is our duty to liberally construe the FOIA in favor of ease of access to public records on the part of any interested citizen. We have done so here. (Emphasis added.) *Sage Information Services*, 2012 IL App (5th) 110580, ¶ 19.²⁴

Even though the requested video recordings are electronic records, the Department argues that it may charge fees for the use of its redaction software pursuant to section 6(b) of FOIA. The General Assembly, however, expressly amended section 6 of FOIA to draw a distinction between records kept in electronic format and those kept in paper format. The plain language of the current version of section 6(a) of FOIA requires a public body to provide records maintained in an electronic format to the requester in the "electronic format specified by the requester, if feasible[.]" and limits the fees that a public body may charge to the actual cost the public body pays to purchase the recording medium, such as a USB flash drive or compact disc. Conversely, the current version of section 6(b) of FOIA details the fee provisions that apply to requests for paper copies of records, such as permitting a public body to charge "its actual cost for reproducing" records that are "in color or in a size other than letter or legal[.]" This provision pertains to documents such as blueprints, building plans, or engineering drawings, for which standard office equipment cannot be used to make letter or legal sized copies and that may require, for example, the use of specialized wide-format scanners and printers.

The Department argued that it is necessary to charge Mr. Diener the per-minute redaction fees because "[i]f the City does not receive reimbursement for its 'actual costs' related to this mandatory software, it will become a burden for the City of Mattoon and its taxpayers. * * *. The City is only trying to recoup the 'actual costs' associated with this necessary

²⁴In *Sage Information Services v. Suhr*, 2014 IL App (2d) 130708, ¶¶ 14-15, the court elaborated that the plain language of section 6(a) of FOIA does not permit a public body to charge more than the actual cost of the recording medium for electronic records unless a statute other than FOIA that fixes fees for paper records expressly states that those fees also apply to records in electronic format. Because section 9-20 of the Property Tax Code authorized "assessors to charge reasonable fees" but did not "expressly authorize" those fees for records in electronic format, the court held that an assessor's office was unable "to escape the cost-only rule for electronic records." (Emphasis in original.) *Suhr*, 2014 IL App (2d) 130708, ¶ 17.

software[.]”²⁵ Nevertheless, section 1 of FOIA (5 ILCS 140/1 (West 2024)) explicitly states that “[t]he General Assembly recognizes that this Act imposes **fiscal obligations on public bodies to provide** adequate staff and **equipment to comply with its requirements.**” (Emphasis added.) In addition, the General Assembly expressly contemplated that “technology may advance at a rate that outpaces its ability to address those advances legislatively[.]” and therefore declared that FOIA should be “interpreted to further the declared policy of this Act that public records shall be made available upon request except when denial of access furthers the public policy underlying a specific exemption.” 5 ILCS 140/1 (West 2024).

Further, the General Assembly anticipated circumstances in which a public body would make redactions to documents before disclosing the remaining information. Section 7(1) of FOIA (5 ILCS 140/7(1) (West 2024)) provides:

When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. **The public body shall make the remaining information available for inspection and copying.** (Emphasis added.)

If the General Assembly had intended to allow a public body to charge fees to reimburse the actual cost it incurred to make redactions to copies of records in electronic format, it would have expressly authorized such a fee in section 6(a) of FOIA. Requiring a requester to reimburse a public body for expenses such as the cost of using redaction software cannot be reconciled with the plain language of sections 6(a) and 6(b) of FOIA and constitutes a restraint on access to information that contradicts the intent of FOIA. Therefore, this office concludes that the Department improperly assessed Mr. Diener \$696.60 to obtain the video footage that he requested.

FINDINGS AND CONCLUSIONS

After full examination and giving due consideration to the information submitted, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

1) On August 13, 2025, Mr. Nicholas T. Diener submitted a FOIA request to the Mattoon Police Department seeking copies of video recordings pertaining to an incident involving himself and police officers.

²⁵Letter from Daniel C. Jones, City Attorney, [City of Mattoon], Smith, Pappas & Jones, Ltd., to [Shannon] Barnaby, [Senior Assistant Attorney General, Public Access Bureau, Office of the Attorney General] (undated), at [2].

2) On August 18, 2025, the Department informed Mr. Diener that it had approximately four to five hours of responsive footage, portions of which were subject to redactions under FOIA. The Department told Mr. Diener he would need to pre-pay the costs for those redactions before the footage would be disclosed to him. The Department asked Mr. Diener if he preferred to narrow his request to specific portions of the footage to reduce the cost. Mr. Diener declined to limit the scope of his request at that time and asked the Department to provide a full accounting of the estimated fees.

3) On August 20, 2025, the Department assessed Mr. Diener \$696.60 to obtain the requested video footage, based on a per-minute fee of \$2.58 to perform the redactions to four and one-half hours of responsive footage.

4) On August 21, 2025, Mr. Diener submitted a Request for Review asserting that the Department constructively denied his request by improperly assessing fees associated with the redactions. The Request for Review was timely filed and otherwise complies with the requirements of section 9.5(a) of FOIA (5 ILCS 140/9.5(a) (West 2024)).

5) On September 8, 2025, the Public Access Bureau forwarded a copy of the Request for Review to the Department and requested a detailed explanation of the Department's legal and factual bases for the fee it assessed to Mr. Diener.

6) On September 11, 2025, the Department provided this office with its written explanation.

7) On September 18, 2025, the Public Access Bureau forwarded a copy of that answer to Mr. Diener and notified him of his opportunity to reply. Mr. Diener did not submit a reply.

8) On October 20, 2025, this office extended the time for issuing a binding opinion by 30 business days, to December 3, 2025, pursuant to section 9.5(f) of FOIA. Accordingly, the Attorney General may properly issue a binding opinion with respect to this matter.

9) Section 6(a) of FOIA, which governs fees for copies of electronic records, provides that a public body may only charge a requester "for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium[.]" unless "the General Assembly expressly provides[]" otherwise.

10) Section 6(b) of FOIA, which governs fees for copies of records maintained in paper format, permits a public body to "charge fees reasonably calculated to reimburse its actual cost for reproducing the records[.]" such as "copies in color or in a size other than letter or legal[.]"

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11) Because the Department maintains the requested video footage in electronic format, section 6(a) of FOIA limits the copying fee to the actual cost of the recording medium.

Therefore, it is the opinion of the Attorney General that the Mattoon Police Department assessed an improper fee in response to Mr. Nicholas T. Diener's August 13, 2025, Freedom of Information Act request. Accordingly, the Department is hereby directed to take immediate and appropriate action to comply with this opinion by providing Mr. Diener with a copy of the withheld video footage, subject to appropriate redactions, and assessing him a fee of no more than the actual cost of purchasing a recording medium.

This opinion shall be considered a final decision of an administrative agency for the purposes of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2024). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review with the Circuit Court of Cook County or Sangamon County within 35 days of the date of this decision naming the Attorney General of Illinois and Mr. Nicholas T. Diener as defendants. *See* 5 ILCS 140/11.5 (West 2024).

Sincerely,

KWAME RAOUL
ATTORNEY GENERAL

By:


R. Douglas Rees
Chief Deputy Attorney General

cc: Mr. Ryan Hurst
Deputy Chief of Police
Mattoon Police Department
1710 Wabash Avenue
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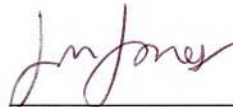
CERTIFICATE OF SERVICE

Joshua M. Jones, Bureau Chief, Public Access Bureau, Chicago, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 25-014) upon:

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by causing a true copy thereof to be sent electronically to the addresses as listed above and by causing to be mailed a true copy thereof in correctly addressed, prepaid envelopes to be deposited in the United States mail at Chicago, Illinois on December 3, 2025.



Joshua M. Jones
Bureau Chief

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