

ILLINOIS STATE POLICE
Office of the Director

JB Pritzker
Governor

Brendan F. Kelly
Director

December 8, 2021

Via Electronic Mail
Mr. John R. Keigher
Legal Counsel
Illinois Law Enforcement Training and Standards Board

Re: Chris Coates - FOIA Request

Dear Mr. Keigher,

The purpose of this letter is to request that you deny the pending Illinois Freedom of Information Act ("FOIA") request that you have received regarding the above-referenced matter.

The Illinois State Police ("ISP") was made aware of an allegation of Fraud and Official Misconduct against an employee of the Illinois Law Enforcement Training and Standards Board. It is my understanding that you have received a FOIA request on this matter. The ISP's investigation will ultimately result in a recommendation on whether the employee should be criminally charged. The investigation may also result in other individuals being charged with crimes. Thus, releasing any records at this would interfere with the pending investigation.

The ISP believes that all records responsive to your FOIA request are subject to the following exemptions:

1. Section 7(1)(d)(i) of FOIA

“(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would: (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;” (5 ILCS 140/7(1)(d)(i)).

The information requested would interfere with a pending or actual law enforcement proceeding conducted by a law enforcement agency.

2. Section 7(1)(d)(iii) of FOIA

“(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would: ... (iii) create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;” (5 ILCS 140/7(1)(d)(iii)).

The information requested could create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing if the information were made public, as this case has not yet been adjudicated.

3. Section 7(1)(d)(vii) of FOIA

“(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would: ... (vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.” (5 ILCS 140/7(1)(d)(vii)).

The information requested would obstruct a current and ongoing criminal investigation. The ISP is expecting to gather additional information regarding the case up to, and until, the verdict has been reached, if criminal charges are filed. Therefore, the case pertaining to the request is considered an ongoing investigation.

According to Master Sergeant Matthew Barber, Division of Criminal Investigation, ISP, the factual basis to support the above-referenced exemptions is as follows:

“On August 26, 2021, Illinois State Police, Division of Criminal Investigation, was made aware of an allegation of Fraud and Official Misconduct against an Illinois Law Enforcement Training and Standards Board (ILETSB) employee. According to the allegations, the employee within their official capacity, created and supplied a benefactor with an official document without proper authority.

Through interviews it was determined that a nonstandard document may have been supplied to the benefactor from the employee. The details of this document, its creation, its issuance and the documents intention are confidential and currently under investigation.

The items detailed in the requested emails are of evidentiary value and if released to the public could taint a jury pool. Further, due to the highly publicized nature of this case, the release of these documents could influence the recollection of witnesses and those called to testify. The ISP may be called upon to perform additional interviews and conduct further investigation by the State’s Attorney’s Office. Release of these record could also inhibit witnesses from coming forward,

jeopardizing their willingness to cooperate with the investigation. Also, there may be additional witnesses who have not yet come forward and need to be interviewed. Releasing the requested documents and specific emails before the review and before formal criminal proceedings are concluded would significantly impact the outcome of the case and would deprive involved parties of their due process and fair trial”

...

Finally, recent case law developments permit a law enforcement agency to honor the claimed exemption by another law enforcement agency. In *Kelly v. Kenilworth*, 2019 IL. App. (1st) 170780 (2019), the Court stated a law enforcement agency may assert an exemption over another law enforcement agency’s records. The Court stated:

“Illinois law and practical necessity require that law enforcement agencies in this state cooperate with one another to investigate and prosecute crime ... We find the circuit court properly determined that Kenilworth could assert an exemption over the other defendants’ records in this case. Were it otherwise, law enforcement agencies would be discouraged from cooperating due to the risk of harmful disclosures and the people of Illinois would be denied effective law enforcement.”

Id. at ¶ 33.

Based on *Kenilworth* and the above-exemptions under FOIA, I request that your office honor the exemptions raised by the ISP regarding this matter and deny the FOIA request at this time.

Thank you for your prompt attention to this matter.

Sincerely,

David Catlin

David Catlin
Freedom of Information Officer
801 S. Seventh St., Suite 1000-S
Springfield, Illinois 62703