

# ILLINOIS STATE POLICE DIRECTIVE

## ADM-102, FREEDOM OF INFORMATION ACT

<b>RESCINDS:</b> ADM-102, 2021-029, revised 11-15-2021.	<b>REVISED:</b> 06-08-2022 <b>2022-180</b>
<b>RELATED DOCUMENTS:</b> ADM-137	<b>RELATED CALEA STANDARDS (6<sup>th</sup> Edition):</b> 31.4.6, 43.1.2, 55.1.1, 82.1.1

### I. POLICY

The Illinois State Police (ISP) will provide public records as defined in Section 2 of the Freedom of Information Act (FOIA) from files in its possession or under its control to persons requesting such information to the extent required by the FOIA.

### II. AUTHORITY

II.A. 5 ILCS 140/1, et seq., "Freedom of Information Act"

II.B. 5 ILCS 160/1, et seq., "State Records Act"

### III. DEFINITIONS

III.A. Private Information - unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person (5 ILCS 140/2(c-5)).

III.B. Public records - all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information, and all other documentary materials pertaining to public business transactions, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body (5 ILCS 140/2(c)).

**NOTE:** The physical characteristics of records are not relevant in classifying them as "public records" because the definition expressly extends to all records regardless of their physical form or characteristics. Rather, the important factors in determining whether a record is a "public record" is based solely on whether the record pertains to the transaction of public business of the public body; and whether the record was prepared by or for, or was or is being used by, was received by, or is in the possession of or under the control of the public body. This includes files, videos, cassette tapes, text messages, emails, databases, investigations, photos, and any other document or record the agency creates or receives.

III.C. Request - any written request for public records delivered to any ISP employee or facility. A FOIA request need not specifically state that the request is being made pursuant to the provisions of FOIA. It may simply be a written statement asking for records.

III.D. Undue Burden – a request made pursuant to the FOIA which, if fulfilled as requested, will create a burden on the ISP that outweighs the public interest in the documents requested and which the requester is either unable or unwilling to narrow the scope of their request.

**NOTE:** In order to establish undue burden, the FOIA Unit will require information from the work unit regarding the number of hours that will be required to research, redact, review and prepare the requested records for dissemination before the Department can assert undue burden.

### IV. PROCEDURES

IV.A. Any employee who receives a FOIA request directly from a requestor must immediately forward the request via ISP Email to the FOIA Officer.

- IV.B. Each Division and the Office of the Director (OOD) will establish, maintain, update, and provide the FOIA Officer with the following information:
  - IV.B.1. A list of all units within their command.
  - IV.B.2. A list of all categories of records within their control.
  - IV.B.3. At least one FOIA Liaison and one backup FOIA Liaison to assist the FOIA Office in the collection of the required documents.
    - IV.B.3.a. FOIA Liaisons must be permanent full-time ISP employees and should only be replaced if necessary due to reassignment.
    - IV.B.3.b. FOIA Liaisons shall not have any pending or past discipline, investigation, or accusation concerning the deletion, alteration, or hiding of any public record.
    - IV.B.3.c. FOIA Liaisons who do not fulfill their duties and responsibilities in a timely and accurate manner may be removed at the request of the Chief Legal Counsel upon approval by the FOIA Liaison's command.
- IV.C. FOIA Liaisons will:
  - IV.C.1. Complete and submit to the FOIA Office a FOIA Liaison contact information form.
  - IV.C.2. Successfully complete required FOIA liaison training initially upon designation as well as on an ongoing or annual basis.
  - IV.C.3. Prioritize all work assignments provided by the FOIA Office to ensure they are completed within three business-days or request an extension as soon as possible.
  - IV.C.4. Ensure responses provided are consistent with the FOIA training received by the FOIA Liaison, including but not limited to:
    - IV.C.4.a. Identifying all Private Information that is to be redacted prior to release of the records; and
    - IV.C.4.b. Recommend any additional redactions that need to be considered. When recommending an exemption, provide the required information to support the exemption. For example, when asserting that a request constitutes an Undue Burden, provide the number of hours that will be required to research, redact, review and prepare the requested records for dissemination

NOTE: The FOIA Unit is responsible for the redactions generally identified and flagged by the FOIA Liaisons. When responding to a particular FOIA request, the FOIA Liaison should advise which documents or audio files, if any, contain Private Information so it can be reviewed and redacted by the FOIA Unit.
- IV.D. The ISP Chief Legal Counsel will:
  - IV.D.1. Nominate one individual to act as the Freedom of Information Act Officer for the ISP pursuant to 5 ILCS 140/3.5 "Freedom of Information Act Officers."
  - IV.D.2. Designate an attorney or attorneys within the ISP Legal Office to serve as a Technical Advisor within the ISP Legal Office and the agency's subject matter expert on legal issues impacting the release of information as it pertains to the operations of the Department.
- IV.E. The ISP FOIA Officer will:
  - IV.E.1. Make recommendations regarding and administer policy governing FOIA for ISP.

- IV.E.2. Understand and remain knowledgeable through training as required by 5 ILCS 140/3.5(b) of the Illinois Freedom of Information Act, court cases regarding FOIA, and both binding and advisory opinions rendered by the Office of the Illinois Attorney General Public Access Counselor.
- IV.E.3. Coordinate intake and respond to requests made under FOIA while ensuring due diligence is afforded with respect to established time frames and/or extensions.
- IV.E.4. Conduct annual training for ISP employees to ensure an understanding of their responsibilities in response to FOIA requests.
- IV.E.5. Maintain contact with the Governor's FOIA Officer, keeping ISP command informed of changing issues.
- IV.E.6. Keep the ISP Public Information Office (PIO) informed regarding any issues that may result in significant media attention.

| Indicates new or revised items.

**-End of Directive-**