



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

February 6, 2026

Via electronic mail
Mr. Scott Damnjanovic

RE: FOIA Request for Review – 2025 PAC 91314

Dear Mr. Damnjanovic:

This determination letter is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (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 City of Marseilles (City) did not improperly respond to your December 12, 2025, FOIA request.

On that date, you submitted a FOIA request seeking text messages between the City's Mayor and a City Detective between August 19, 2024, and December 1, 2025. On December 17, 2025, the City responded and informed you that it had conducted a search and identified no responsive records. On December 19, 2025, you submitted a Request for Review of that response along with a police report that identifies a text communication between the two parties on April 2, 2025.

FOIA requires a public body to conduct a "reasonable search tailored to the nature of [each] particular request." *Campbell v. U.S. Department of Justice*, 164 F.3d 20, 28 (D.C. Cir. 1998). However, "[a] requester is entitled only to records that an agency has in fact chosen to create and retain." *Yeager v. Drug Enforcement Administration*, 678 F.2d 315, 321 (D.C. Cir. 1982); *see also Miller v. United States Dep't of State*, 779 F.2d 1378, 1385 (8th Cir.1985) ("The fact that a document once existed does not mean that it now exists; nor does the fact that an agency created a document necessarily imply that the agency has retained it."). "[T]he adequacy

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of a FOIA search is generally determined not by the fruits of the search, but by the appropriateness of the methods used to carry out the search." *Iturralde v. Comptroller of Currency*, 315 F.3d 311, 315 (D.C. Cir. 2003). This office has previously determined that a public body generally may satisfy the requirement to conduct a reasonable search by directing applicable employees to search for responsive e-mails maintained on private accounts and to turn over any responsive e-mails. *See* Ill. Att'y Gen. Pub. Acc. Op. No. 16-006 at 10-11.

In a January 8, 2026, telephone call with a Senior Assistant Attorney General, the City's Clerk stated that upon receiving the request she checked with the Mayor who confirmed that no responsive text messages exist. In the same conversation, the Mayor also confirmed that the April 2, 2025 text correspondence between himself and the Detective was deleted. In a separate January 28, 2026, e-mail to this office, the Clerk confirmed that she contacted the Detective referenced in the request who confirmed he had no text messages. The measures taken by the Clerk were reasonably calculated to locate text messages responsive to your request. This office also notes that because your request identified the mayor by name, any responsive text messages in which the mayor submitted a harassment complaint or communicated with a detective about a harassment complaint would be exempt from disclosure under section 7(1)(d)(iv) of FOIA¹ because they would unavoidably identify the mayor as a complainant even if the mayor's name was redacted. *Copley Press, Inc. v. City of Springfield*, 266 Ill. App 3d 421, 426 (1994) (concluding that records may be withheld in their entireties pursuant to section 7(1)(d)(iv) if producing them "would necessarily result in the disclosure of the identity of the source" of the information and, therefore, "redaction * * * cannot be meaningfully accomplished." Accordingly, this office concludes that no further action is warranted in this matter.

This file is closed. If you have questions, you may contact me at
Matthew.Rogina@ilag.gov.

Very truly yours,
Matthew Rogina

MATTHEW C. ROGINA
Senior Assistant Attorney General
Public Access Bureau

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¹5 ILCS 140/7(1)(d)(iv) (West 2024) (exempting from disclosure information that would "unavoidably disclose the identity of * * * persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies[.]").

Mr. Scott Damnjanovic

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cc: *Via electronic mail*
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