

EXHIBIT 5

VIA EMAIL

Matthew D. Gagné
Deputy Chief of Police
Sanford Police Department
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February 13, 2026

RE: Request for Inspection and Copying of Public Records Pursuant to the Maine Freedom of Access Act, 1 M.R.S. § 408-A

Dear Deputy Chief Gagné:

I am writing in a final attempt to resolve the FOAA request submitted by the ACLU of Maine on February 3, 2026. The Sanford Police Department is both permitted and required to produce responsive incident reports and body-worn camera footage with identifying information redacted, as detailed below. This approach avoids any intrusion on privacy while promoting FOAA's goal of providing the public with the information they need to participate in their governance. The Department's unjustified withholding of these records may constitute bad faith and, if this request is forced to litigation, may result in an award of attorneys' fees to the ACLU of Maine. We ask the Department to confirm that it will produce responsive incident reports and body-worn camera footage by **February 23, 2026**. If we do not receive that confirmation by February 23, 2026, we will interpret that as a denial of the request pursuant to 1 M.R.S. § 408-A(4).

I. Incident reports and body-worn camera footage are public records under FOAA.

As noted in our original February 3 request, FOAA must "be liberally construed and applied to promote its underlying purposes" of promoting openness and transparency in governance, and exceptions to the law are interpreted narrowly. 1 M.R.S. § 401; *see* February 3 Request, attached. In keeping with that broad statutory policy, records are presumed public unless they are explicitly made confidential by statute or they meet certain other narrow criteria. 1 M.R.S. § 402(3).

No statute makes incident reports or body-worn camera footage ("BWC footage") inherently confidential, and for good reason: these documents contain valuable information that adds to the public's knowledge of how its government operates. Incident reports—unlike the terse radio logs already provided—would provide information such as why an officer initiated a traffic stop, the circumstances at play when the officer contacted federal immigration enforcement, the number of people involved in the stop, and the number of people turned over to federal custody. BWC footage would provide a "script" of the traffic stop, as well as time stamps that demonstrate how long the traffic stop lasted, and the interval of time between when the officer contacted federal immigration authorities and the authorities arrived. Incident reports and BWC footage therefore provide valuable information to the public about the conduct of their local police departments.

Indeed, if the Department’s position were correct, incident reports and BWC footage could *never* be produced in response to public records requests under FOAA. The Department has identified no authority supporting that drastic result. To the contrary, police departments across the state routinely produce incident reports and BWC footage in response to FOAA requests by the ACLU of Maine and other entities and individuals.¹

II. The Department can negate any intrusion on privacy by making appropriate redactions.

The Department asserts that incident reports and BWC footage are “intelligence and investigative record information” under 16 M.R.S. § 803(7) and their disclosure would therefore constitute an invasion of privacy under 16 M.R.S. § 804(3). This argument is similarly unsuccessful for at least two reasons.

First, even assuming for the purposes of this correspondence that the incident reports and BWC footage *are* “intelligence and investigative record information,” that term is limited to information collected “while performing the administration of *criminal* justice.” 16 M.R.S. § 803(7) (emphasis added). Administration of criminal justice consists of “activities related to the . . . monitoring of investigation of *known, suspected or possible crimes.*” 16 M.R.S. § 803(2) (emphasis added). “A traffic infraction is not a crime.” 29-A M.R.S. § 103(1). To the extent officers were exclusively investigating a traffic infraction or an unspecified immigration violation, that activity was not the “administration of criminal justice”, and the resulting records are not “intelligence and investigative record information.” In that instance, Section 804(3)’s “intrusion on privacy” FOAA exception is utterly inapplicable and does not justify withholding records.

Second, to determine whether release of intelligence and investigatory record information would constitute an unwarranted intrusion on personal privacy under Section 804(3) the Law Court utilizes a three-step test, each part of which demonstrates that the Department must release these incident reports and BWC footage (with appropriate redactions of identifying information). Specifically, the Law Court looks to: “(1) the personal privacy interests . . . in maintaining the confidentiality of the records sought by [the requesting party]; (2) the public interest supporting disclosure of the records; and (3) the balancing of the private and public interests.” *Fairfield v. Me. State Police*, 2023 ME 12, ¶ 15 (quoting *Blethen v. Me. Newspapers, Inc.*, 2005 ME 56, ¶ 14).

Personal privacy interests. When information that implicates a privacy interest can be redacted, the rest of the public record can and should be disclosed. *Id.* (requiring disclosure of

¹ See ACLU of Maine, *Maine’s Cooperation with Federal Immigration Enforcement*, <https://www.aclumaine.org/publications/maines-cooperation-with-federal-immigration-enforcement/> (collecting and publishing results the ACLU of Maine has received from identical FOAA requests); Emily Allen, *He waited 40 minutes for a ticket from Maine State Police, then spent 2 months in a Texas immigration facility* Portland Press Herald (Dec. 11, 2025), <https://www.pressherald.com/2025/12/11/he-waited-40-minutes-for-a-ticket-from-maine-state-police-then-spent-2-months-in-a-texas-immigration-facility/> (noting that the Press Herald obtained body cam footage); Emily Allen, *Maine State Police called immigration authorities about 60 times last year* Portland Press Herald (Feb. 6, 2026), <https://www.pressherald.com/2026/02/06/maine-state-police-called-immigration-authorities-about-60-times-last-year/> (noting Press Herald obtained reports and body cam footage).

redacted DNA contamination log and redacted drying locker logs); *Mainestay Media, LLC v. Waldo County*, No. AUGSC-CV-2025-152, 2025 WL 4033381 (Me. Super. Ct. Dec. 30, 2025) (requiring disclosure of police incident report with names redacted). People who have been detained by law enforcement may have a privacy interest in limiting public knowledge of their detainment. But this interest is easily addressed—the Department can and should produce incident reports and BWC footage with the names, faces, and other identifying information of people detained in the traffic stop redacted. With those redactions, there would be no privacy interest at stake at all—the requester and public would simply not know the identities of the people involved.

Public interest. Public interest in this context is focused “on the citizens’ right to be informed about what their government is up to.” *Blethen* 2005 ME 56, ¶ 29 (quotations omitted). To determine whether a potential invasion of privacy is merited, courts look to whether “the public interest is a significant one and whether the information sought is likely to advance that interest.” *Id.* ¶ 33.

Even assuming there is a potential invasion of privacy at stake (which with redactions, there is not), the public interest this request advances is significant. Cooperation between local law enforcement and federal immigration authorities in Maine has attracted national² and local³ media attention. This public attention has particularly focused on traffic stops in which local police hand over immigrants to federal authorities.⁴ But without incident reports and BWC footage, virtually every detail of how the Department cooperates with federal immigration authorities in the context of traffic stops is shielded from public scrutiny—the public cannot know “what their government is up to.” The information sought in our request pertains directly to that public interest, particularly because all documents we receive will be made available to the public.⁵ The public interest in these documents is strong.

Balancing the public and private interests. A balancing of the factors clearly shows that the strong public interest outweighs any privacy intrusion at stake. This is in keeping with Maine’s tradition of interpreting FOAA exceptions narrowly and requiring documents to be produced with

² David Goodman, *Fear of ICE Jolts a Maine beach Town*, NY Times (July 28, 2025), <https://www.nytimes.com/2025/07/28/travel/maine-wells-ice-immigration-tourism.html>.

³ Emily Allen & Morgan Womack, *A look at where traffic stops in Maine have led to Border Patrol arrests*, Portland Press Herald (Aug. 24, 2025), <https://www.pressherald.com/2025/08/24/a-look-at-where-traffic-stops-in-maine-have-led-to-border-patrol-arrests/>; Sasha Ray, *Mainers alarmed by arrest of immigrants after midcoast traffic stop*, Bangor Daily News (March 28, 2025), <https://www.bangordailynews.com/2025/03/28/midcoast/midcoast-police-courts/montville-maine-traffic-stop-border-patrol-immigrants-arrest-backlash/>.

⁴ Ari Snider, *Minor traffic incidents have landed some Maine immigrants in ICE detention*, Bangor Daily News (June 18, 2025), <https://www.bangordailynews.com/2025/06/18/state/state-police-courts/minor-traffic-incidents-maine-immigrants-in-ice-detention/>; Morgan Womack, *How do Maine’s local law enforcement agencies collaborate with ICE?*, Portland Press Herald (Jan. 16, 2026), <https://www.pressherald.com/2026/01/16/how-do-maines-local-law-enforcement-agencies-collaborate-with-ice/>; Emily Allen, *He waited 40 minutes for a ticket from Maine State Police, then spent 2 months in a Texas immigration facility*, Portland Press Herald (Dec. 11, 2025), <https://www.pressherald.com/2025/12/11/he-waited-40-minutes-for-a-ticket-from-maine-state-police-then-spent-2-months-in-a-texas-immigration-facility/>.

⁵ ACLU of Maine, *Maine’s Cooperation with Federal Immigration Enforcement*, <https://www.aclumaine.org/publications/maines-cooperation-with-federal-immigration-enforcement/>.

redactions as necessary. *Blethen*, 2005 ME 56; *Fairfield*, 2023 ME 12; *Mainestay*, 2025 WL 4033381; *Mainetoday Media, Inc. v. State*, No. AP-14-23, 2014 WL 7920601 (Super. Ct. Aug. 5, 2014); *Blais v. Me. State Police*, AUGSC-CV-2021-00122, 2025 WL 3898595 (Super. Ct. Dec. 19, 2025).

III. The Department's position is likely in bad faith and if this request continues to litigation the ACLU of Maine Foundation will likely be awarded attorneys' fees.

As noted in our original request, the Department must respond to our request in good faith, and failure to do so can result in substantial penalties. *See Human Rights Defense Center v. MCCA Risk Pool*, (Super. Ct. No. 21-131) (ordering government entity to pay over \$130,000 in attorneys' fees and costs based on its bad faith failure to comply with FOAA request for records); 2023 ME 56, 301 A.3d 782 (affirming trial court's decision finding that government entity acted in bad faith and that requester was therefore entitled to attorney's fees). Bad faith includes "dishonest conduct" as well as "deliberately and affirmatively impeding or thwarting valid requests for access." *Id.*

None of the above information regarding privacy and the feasibility of redactions can be novel to the Department. Indeed, the Department regularly posts the full names, addresses, and charges of its arrestees, as well as information about the circumstances of each arrest.⁶ Per the Department's public posts, the Department is aware that it does not intrude on any person's privacy to disclose that they are connected with an arrest, the circumstances of their arrest, and their criminal charges.

By asserting that it cannot produce incident reports and BWC footage with appropriate redactions the Department's position is essentially that incident records and BWC footage can never be disclosed. This is an untenable result that would mean critical information about government work never sees the light of day. Without these documents, the public could never know the details of *any* interaction between a police officer and a specific person. That is the opposite of what FOAA intends and requires, and because incident reports and BWC footage are *not* confidential it is a position that "thwart[s] valid requests for access."

The Department's recommendation to seek a court order also appears to impede our proper request for records "deliberately and affirmatively." If the Department believes that records are public (and a court would likely order their production), then it must produce the records. If the Department does not believe that, it is unclear why it would encourage seeking a court order. The Department cannot in good faith deny records on the one hand and concede that litigation would likely result in disclosure of the records on the other.

Conclusion

For the reasons outlined above, the Department can and must produce the full range of responsive documents in its custody, with appropriate redactions. We look forward to your prompt response

⁶ Sanford Police Department – Media Log (Feb. 7, 2026), <https://cms5.revize.com/revize/sanford/02.07.2026.pdf?t=202602101059420&t=202602101059420>.

and receipt of further records. Please confirm by February 23, 2026 that the Department will produce responsive incident reports and body-worn camera footage; otherwise we will interpret that as a denial of our request pursuant to 1 M.R.S. § 408-A(4).

Thank you,



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