

STATE OF MAINE
SAGADAHOC, ss.

SUPERIOR COURT
CIVIL ACTION
NO. BATSC-CV-2026-11

MAINE TRUST FOR LOCAL NEWS,
L3C & HEARST PROPERTIES INC.,

Plaintiffs,

v.

CITY OF BATH, MAINE,

Defendant.

ORDER

The matter before the court is which documents, if any, to release from the *in camera* submission made by Defendant, City of Bath, and whether redactions are necessary. Plaintiffs, Maine Trust For Local News L3C d/b/a The Times Record, and Hearst Properties Inc. d/b/a WMTW-TV, filed a Freedom of Access Act ("FOAA") complaint against Defendant inquiring into the police response surrounding the deaths of Michael, Lisa, and Jennifer Bailey.

BACKGROUND

On October 6, 2024, Michael Bailey killed his wife and daughter, Lisa and Jennifer, then himself. Plaintiffs are media organizations seeking access to documents relating to Bath Police Department's ("BPD") interactions with the Bailey family on September 24, October 2, and October 6, 2024. Plaintiffs filed their complaint on April 13, 2026 after Defendant produced heavily redacted records from September 24, and October 2, 2024. Plaintiffs allege they are entitled under FOAA to the following records,

[F]rom January 1, 2021 to December 31, 2024 . . .

1. All records related to calls for service at 10 Crawford Drive, Bath, Maine ("the Location"), including any dispatch logs, reports, or records indicating the nature of a call for service, the circumstances and disposition of same, police reports, responding officer(s), and dates/times;
2. All citations, summonses, complaints, orders, warnings, or similar documents evidencing formal or informal law enforcement action that have been issued to any person at the Location;
3. All witness statements or interviews given by or taken from any person who resides at the Location;
4. All dash cam or body cam video recordings during any call for service at the Location.

Pls.' Compl. ¶ 20. Defendant asserts these records are protected from disclosure by 16 M.R.S. § 804.

The Parties attended a conference on May 13, 2026 where Defendant agreed to submit the requested records to the court for *in camera* review. An inventory of the submitted documents includes,

1. Police reports from September 24, 2024 where BPD responded to the Bailey home;
2. Body camera footage from September 24, 2024 of BPD's response to the Bailey home;
3. Witness statements from Jennifer and Lisa Bailey filed with BPD on October 2, 2024;
4. Police report from October 2, 2024 describing BPD's interaction with Jennifer and Lisa Bailey at the Bath Police Station;
5. Body camera footage from October 2, 2024 of BPD's interaction with Jennifer and Lisa Bailey at the Bath Police Station;

6. Transcripts of 911 calls made by Jennifer and Lisa Bailey on September 24, 2024 and October 6, 2024;
7. Police reports from BPD describing their response to the Bailey home on October 6, 2024; and
8. Body camera footage from BPD responding to the Bailey home on October 6, 2024.

Pursuant to Defendant's request, the records were kept in a sealed envelope and not available for public access. On June 9, 2026, Plaintiffs filed a motion to supplement the record with an affidavit from Bud Martin, Lisa Bailey's brother. The court reviewed the records and discussed the records with the Parties at a June 26, 2026 conference.

At the June 26, 2026 conference, the court and the Parties discussed concerns that some October 6, 2024 body camera footage was highly graphic and included depictions of the deceased family members. Plaintiffs said they were amenable to redacting those portions of the video. The court listened to the Parties' arguments on the remaining materials and indicated it would issue an order.

DISCUSSION

Defendant argues that all records should remain confidential, or otherwise be redacted, because there is a reasonably possibility that surviving family members retain a privacy interest. *See* 16 M.R.S. § 804(3) (2026). Additionally, Defendant asserts that all records of BPD's response to the Bailey home on October 6, 2024 should not be disclosed because they (1) contain law enforcement investigative techniques and security plans and (2) could endanger the lives of law enforcement. *See id.* § 804(7), (8).

A. FOAA

FOAA provides the public with “the right to inspect and copy any public record . . . within a reasonable time of making the request.” 1 M.R.S. § 408-A (2026). In enacting FOAA, the Legislature intended “that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly.” 1 M.R.S. § 401 (2026). Certain “[r]ecords that have been designated confidential by statute” are specifically excluded. *Id.* § 402(3)(A). However, “[w]hen an agency denies a FOAA request, the agency bears the burden of establishing that there is just and proper cause for the denial.” *Fairfield v. Me. State Police*, 2023 ME 12, ¶ 9, 288 A.3d 1220 (quoting *Preti Flaherty Beliveau & Pachios LLP v. State Tax Assessor*, 2014 ME 6, ¶ 10, 86 A.3d 30) (quotation marks omitted).

Section 804 of the Intelligence and Investigative Record Information Act names several types of records spared from FOAA’s public disclosure. 16 M.R.S. 804 (2026). That section, reads, in relevant part,

[A] record that is or contains intelligence and investigative record information is confidential and may not be disseminated . . . if there is a reasonable possibility that public release or inspection of the record would:

....

3. Constitute an invasion of privacy. Constitute an unwarranted invasion of personal privacy;

....

7. Disclose investigative techniques or security plans. Disclose investigative techniques and procedures or security plans and procedures not known by the general public; [or]

8. Endanger law enforcement or others. Endanger the life or physical safety of any individual, including law enforcement personnel;

Id. § 804(3), (7), (8).

The court has completed *in camera* review and now evaluates the disputed records in light of Plaintiffs' purported interest and Defendant's asserted exceptions.

B. Personal Privacy Interests

Defendant argues (1) the Bailey family has privacy interests that survive death, and (2) there is a reasonable expectation that living family members would assert a privacy interest in the records.

The court will not order disclosure of investigative records when the public's interest is outweighed by the invasion of personal privacy. *See Blethen Maine Newspapers, Inc. v. State*, 2005 ME 56, ¶ 14, 871 A.2d 523. As instructed by the Law Court, the court will examine, "(1) the personal privacy interests of the alleged victims, witnesses, and deceased [] in maintaining the confidentiality of the records sought by [Plaintiffs]; (2) the public interest supporting disclosure of the records; and (3) the balancing of the private and public interests." *Id.* ¶ 14.

1. Privacy Interests of the Bailey Family

The Law Court has acknowledged a distinction between the privacy interest of a deceased individual and the privacy interest of that person's surviving family members. *Blethen*, 2005 ME 56, ¶ 23, 871 A.2d 523. While *Blethen* comments that a deceased individual's privacy interests diminish after death, the court did not "determine whether the deceased [independently] have privacy interests . . . that survived their death[]." *Id.* ¶ 25. However, the court finds it instructive that both the Law Court and the Supreme Court focus their review of these matters on the privacy interest as asserted by the surviving family members. *Id.* ¶ 25 (citing *Nat'l Archives*

& Records Admin. v. Favish, 541 U.S. 157, 158, 166 (2004)). The Supreme Court, discussing the analogous federal rule under FOIA, explained,

The family does not invoke Exemption 7(C) on behalf of Vincent Foster in its capacity as his next friend for fear that the pictures may reveal private information about Foster to the detriment of his own posthumous reputation or some other interest personal to him. If that were the case, a different set of considerations would control. Foster's *relatives instead invoke their own right and interest to personal privacy. They seek to be shielded by the exemption to secure their own refuge from a sensation-seeking culture for their own peace of mind and tranquility, not for the sake of the deceased.*

Favish, 541 U.S. at 166 (citing 5 U.S.C. § 552(b)(7)(C)) (emphasis added); *see Blethen*, 2005 ME 56, ¶ 23, 871 A.2d 523.

After thorough review of the local, neighboring, and federal caselaw, the court finds that even if the deceased kept some privacy interest after death, that interest is only actionable when asserted by a family member. *See Prison Legal News v. Exec. Off. for U.S. Att'ys*, 628 F.3d 1243, 1249 (10th Cir. 2011) (“contrary to PLN’s contention that any privacy interest of Estrella’s family is derivative of Estrella’s own privacy interest, family members’ privacy interests under FOIA are independent interests.”); *see Brookins v. Philadelphia*, No. 25-1041, 2026 WL 1507402, at *2 (3d Cir. May 29, 2026) (“‘personal privacy’ as used in a disclosure exemption under the Freedom of Information Act (FOIA) included ‘the right of family members to . . . limit attempts to exploit pictures of [a] deceased family member’s remains for public purposes.’” (quoting *Favish*, 541 U.S. at 167)); *accord Davis v. Dep’t of Just.*, 460 F.3d 92, 98 (D.C. Cir. 2006) (“the privacy interest in nondisclosure of identifying

information may be diminished where the individual is deceased.” (quoting *Schrecker v. Dep’t of Just.*, 349 F.3d 657, 661 (D.C. Cir. 2003))).

Accordingly, the court finds that the privacy interests of Jennifer, Lisa, and Michael Bailey, as individuals, are minimal, if not extinguished.

2. Privacy Interests of Surviving Family Members

The court now considers the scope of the privacy interest held by the Baileys’ surviving family members. The Law Court explains this interest as follows,

[T]he United States Supreme Court recognized in *Favish* that the relatives of a deceased person may invoke their own interest in personal privacy in connection with the FOIA’s personal privacy exception: “[W]e think it proper to conclude from Congress’ use of the term ‘personal privacy’ that it intended to permit family members to assert their own privacy rights against public intrusions long deemed impermissible under the common law and in our cultural traditions.”

Blethen, 2005 ME 56, ¶ 23, 871 A.2d 523 (quoting *Favish*, 541 U.S. at 167). The language “may invoke their own interest” and “assert their own privacy rights” leads this court to conclude the privacy interest lies with the family member, who must affirmatively raise their interest. *Id.*

After its review of the records, the court can appreciate Defendant’s concern that disclosure risked violating the privacy interests of surviving family members. The court therefore does not find, as Plaintiffs’ argue, that Defendant violated FOAA. Still, Defendant has offered nothing to suggest that any surviving family member objected to disclosing the records. To the contrary, Plaintiffs filed an affidavit from Bud Martin, Lisa Bailey’s brother, which states,

4. I make this affidavit in support of disclosure of police records and removal of redactions relating to law enforcement response prior to the deaths of Lisa Bailey and Jennifer Bailey.

....

7. In my opinion, there should be no secrecy surrounding these events or the governmental response to them.

....

10. I do not seek privacy protections on my own behalf concerning these events and do not believe the extensive redactions serve the interests of surviving family members.

....

14. I submit this affidavit to make clear that, from the perspective of an immediate surviving family member, I support disclosure and transparency concerning these matters.

....

16. I hereby knowingly and fully waive any right to privacy I may have in connection with these records.

Pls.' Mot. Suppl. R. Ex. A at 1-3. Accordingly, the court finds minimal, if any, privacy interest to be protected in the records of BPD's interactions with the Baileys.

3. Privacy Interests of Witnesses

Witnesses and third parties have a significant interest in preventing disclosure of their identities. *See Blethen*, 2005 ME 56, ¶ 15, 871 A.2d 523 ("Few people wish to be publicly associated with investigations of alleged criminal conduct, whether as a perpetrator, witness, or victim."). Neither party asserts a public or privacy interest in any third-party or witness who appears in the records. However, "[i]f all identifying information concerning such individuals can be redacted from the records prior to disclosure and redaction does not prevent the public interest in disclosure from being fully realized, the privacy interests of the living individuals in the redacted documents become greatly reduced." *Id.* ¶ 37. Plaintiffs' interest in disclosure is reached without identifying witnesses and third-parties. Defendant should redact

names and addresses that could be used to identify witnesses, but not the substantive contents of their statements to police. If Defendant concludes that the substance of the communications would allow a witness to be identified by context, that information is not to be redacted, as the public interest requires the substance of such communications be released.

4. Balancing the Private and Public Interests

Plaintiffs assert their public interest is to “reveal whether the City missed an opportunity to prevent a triple-fatality domestic violence incident, pursuant to [FOAA].” Pl.’s Compl. ¶ 1.

i. September 24, 2024 Records

The public’s interest in learning about BPD’s interactions with the Baileys in the days prior to their deaths weighs heavily against the risk of violating personal privacy interests. The records include police reports and body camera footage of BPD responding to the Bailey home after receiving 911 calls. These records can be disclosed with minimal redactions as the Bailey family is deceased and the only surviving relative waives any privacy interest. Defendants may only redact references to living witnesses and third-parties contained in police reports or body camera footage.

ii. October 2, 2024 Records

The public’s interest in learning about BPD’s interactions with the Baileys in the days prior to their deaths weighs heavily against the risk of violating personal privacy interests. The records include police reports and body camera footage of Lisa

and Jennifer Bailey at the Bath Police Station, where they filled out witness statements. Jennifer and Lisa speak to an officer about their concerns regarding Michael's behavior and the officer describes how to file a protection from abuse request. These records can be disclosed without any redactions as the Bailey family is deceased and the only surviving relative waives any privacy interest.

iii. October 6, 2024 Records

The public's interest in learning about BPD's interactions with the Baileys on the day of their death weighs against the risk of violating personal privacy interests. The records include police reports and body camera footage of BPD responding to a 911 call from Lisa and Jennifer at the Bailey home. These records can be disclosed but must include redactions.

The court has not heard testimony or evidence that any surviving family member asserted a privacy interest in records of the police response to the October 6, 2024 shooting. During a June 26, 2026 hearing, the Parties discussed concerns about body camera footage from October 6, 2024 that captured death-scene images of Lisa and Jennifer Bailey. Plaintiffs indicated they were not seeking these images and consented to redaction. Given the lack of public interest in death-scene images and the privacy risks in releasing this footage, the balance tips in favor of redaction.

Accordingly, Defendant shall blur/pixelate the images of Jennifer and Lisa Bailey on all body camera footage from October 6, 2024. The audio shall be preserved. As stated above, Defendant shall redact only the mention, depiction, or statements

made by living third-parties or witnesses. Defendant may request the court review its redactions before submitting to Plaintiffs.

C. Investigative Techniques

Defendant argues that police reports and body camera footage from October 6, 2024 must not be disclosed under 16 M.R.S. § 804(7) because the records would reveal “the manner in which Bath police respond to a potential active shooter scenario” Def.’s Reply 8. Pursuant to subsection 804(7), “intelligence and investigative record information is confidential . . . if there is a reasonable possibility that public release or inspection of the record would [d]isclose investigative techniques and procedures or security plans and procedures not known by the general public[.]” *Id.* The court finds nothing in the October 6, 2024 police reports qualifying for exemption.

After reviewing the body camera footage, the court finds that some audio and video from October 6, 2024 qualifies as confidential security plans and procedures under section 804(7). Specifically, body camera audio describes the coordination and movement of officers as they approach the Bailey home and search for the shooter. This includes radio communications directing officers to and from certain locations. Those conversations are protected under subsection 804(7). However, in other moments, officers describe confusion, frustration, and otherwise offer commentary on how the operation was going. Those conversations are not protected. While communications describing a confidential plan are protected, general confusion and commentary about the efficacy of said plan is not.

D. Safety of Individuals and Law Enforcement

Defendant makes an identical argument regarding 16 M.R.S. § 804(8). That subsection excepts records which could “[e]ndanger the life or physical safety of any individual, including law enforcement personnel.” *Id.* Defendant’s argument is unavailing. The court is not convinced that anything in the October 6, 2024 record poses a risk to the safety of any individual.

CONCLUSION

For the reasons above, the court grants Plaintiffs’ FOAA request for all documents, subject to redactions. Defendant shall submit the requested records from September 24, 2024 and October 4, 2024 but shall only redact the names and images of third-parties and witnesses. Defendant shall submit all records from October 6, 2024 after (1) redacting the names, images, and references to third-parties and witnesses, (2) blurring/pixelating the images of Jennifer and Lisa Bailey in all body camera footage, and (3) redacting the audio of body camera footage where Bath Police Department describes the movement and coordination of officers. Finally, the court does not find that Defendant violated FOAA and declines to award Plaintiffs costs and fees.

The court shall identify portions of the records to be redacted in an attached Addendum to this Order.

The entry is:

Plaintiffs’ FOAA request is granted, subject to the following redactions:

1. September 24, 2024 and October 4, 2024 records without names, images, and references to third-parties and witnesses.

2. October 6, 2024 records with redactions to the names, images, and references to third-parties, and witnesses, with blurred images of Jennifer and Lisa Bailey in all body camera footage, and with audio redactions to body camera footage where the Bath Police Department describes the movement and coordination of officers.

Plaintiffs request that the court find Defendant violated FOAA is denied.

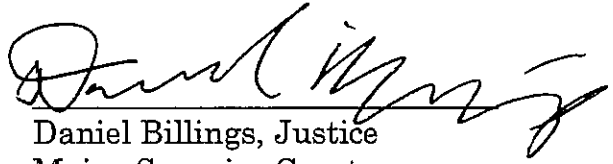
Plaintiffs request for costs and fees is denied.

Any motions not previously addressed by the court are now MOOT.

The clerk is directed to incorporate this order into the docket by reference. M.R.

Civ. P. 79(a).

Dated: September 8, 2026


Daniel Billings, Justice
Maine Superior Court

Entered on the Docket: 9/13/26

STATE OF MAINE
SAGADAHOC, ss.

SUPERIOR COURT
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ADDENDUM TO ORDER ON
FOAA REQUEST
LISTING REDACTIONS

This Addendum serves to specify the portions of records that Defendant, the City of Bath, shall redact prior to disclosure to Plaintiffs.

MATERIAL TO BE REDACTED

I. Police Report 9/24/2024 (Incident 24-015661) (Officer McIntire)

Defendant shall redact the complainant's name, address, and identifying information because they are a third-party witness.

II. Supplement Report 9/24/2024 (Incident 24-015661) (Officer Couture)

Defendant shall not redact anything in this record.

III. Police Report 9/24/2024 (Incident 24-015691) (Officer McIntire)

Defendant shall not redact anything in this record.

IV. Supplement Report 9/24/2024 (Incident 24-015691) (Officer Kaake)

Defendant shall not redact anything in this record.

V. Body Camera Footage 9/24/2024 (#D01A6393S)

There are two recordings from September 24, 2024 with this body camera identification number. Defendant shall not redact anything in either recording.

VI. Body Camera Footage 9/24/2024 (#D01A6452U)

Defendant shall not redact anything in this record.

VII. Body Camera Footage 9/24/2024 (#D01A6475S)

Defendant shall not redact anything in this record.

VIII. Jennifer and Lisa Bailey Witness Statements 10/2/2024

Defendant shall not redact anything in this record.

IX. Supplement Report 10/2/2024 (Incident 24-015691) (Officer McIntire)

Defendant shall not redact anything in this record.

X. Body Camera Footage 10/2/2024 (#D01A6393S)

Defendant shall not redact anything in this record.

XI. Collective Police Reports (Incident 24-016401) (10/6/2024)

These police reports identify third-party witnesses, relatives, and otherwise comment on an officer's family and medical status. Defendant shall redact the names, addresses, and identifying information of all third-party witnesses mentioned in these police reports. Defendant shall redact any information regarding comments made about an officer's medical and family history.

XII. Body Camera Footage 10/6/2024 (#D01A6083S)

This body camera footage depicts third-party witnesses who are neighbors of the Bailey family. Defendants shall blur, pixelate, or otherwise obscure any visual or

auditory depiction of those witnesses and redact any reference to them. The neighbors appear on body camera footage between:

1. 6:41am - 6:47am.

This body camera footage also shows Bath Police Department's response to the Bailey residence. This section of footage qualifies for redaction under 16 M.R.S. § 804(7). Defendants may redact portions of audio describing Officer Movement and Coordination from:

1. 6:41am - 6:49am;
2. 7:00am - 7:23am.

This body camera footage captures the death-scene images of Lisa and Jennifer Bailey when the Bath Police Department discovered them. The video depictions of the bodies shall be blurred, pixelated, or otherwise obscured. Audio shall be preserved. Defendants may redact images of Jennifer and Lisa from:

1. 6:49am - 7:00am.

XIII. Body Camera Footage 10/6/2024 (#D01A6660S)

This body camera footage depicts third-party witnesses who are neighbors of the Bailey residence. Defendants shall blur, pixelate, or otherwise obscure any visual or auditory depiction of those witnesses and redact any reference to them. The neighbors appear on body camera footage between:

1. 6:41am - 6:47am.

This body camera footage also shows Bath Police Department's response to the Bailey residence. This portion of footage qualifies for redaction under 16 M.R.S. §

804(7). Defendants may redact portions of audio describing Officer Movement and Coordination from:

1. 6:41am - 6:49am;
2. 7:00am - 7:23am;

This body camera footage captures the death-scene images of Lisa and Jennifer Bailey when the Bath Police Department discovered them. The video depictions of the bodies shall be blurred, pixelated, or otherwise obscured. Audio shall be preserved. Defendants may redact images of Jennifer and Lisa from:

1. 6:49am - 7:00am.

XIV. Body Camera Footage 10/6/2024 (#D01A6429U)

This body camera footage depicts third-party witnesses who are neighbors of the Bailey residence. Defendants shall blur, pixelate, or otherwise obscure any visual or auditory depiction of those witnesses and redact any reference to them. The neighbors appear on body camera footage between:

1. 6:44am - 6:47am.

This body camera footage also shows Bath Police Department's response to the Bailey residence. This portion of footage qualifies for redaction under 16 M.R.S. § 804(7). Defendants may redact portions of audio describing Officer Movement and Coordination from:

1. 6:44am - 6:49am;
2. 7:00am - 7:23am.
3. 7:25am - 7:27am.
4. 7:29am - 7:38am;
5. 7:43am - 7:46am;
6. 7:49am - 7:53am;
7. 8:02am - 8:08am;

8. 8:12am - 8:13am;
9. 8:18am - 8:22am;
10. 8:25am - 8:27am;
11. 8:31am - 8:35am;
12. 8:38am - 8:42am;
13. 8:50am - 8:55am;
14. 8:57am - 8:58am.

This body camera footage captures the death-scene images of Lisa and Jennifer Bailey when the Bath Police Department discovered them. The video depictions of the bodies shall be blurred, pixelated, or otherwise obscured. Audio shall be preserved. Defendants may redact images of Jennifer and Lisa from:

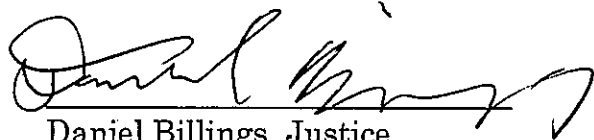
1. 6:49am - 7:00am.

CONCLUSION

For the reasons stated in the attached Order, the court grants Plaintiffs' FOAA request, subject to the redactions described above. Defendant may submit its redactions to the court for review before disclosing records to Plaintiffs.

The clerk is directed to incorporate this order into the docket by reference. M.R. Civ. P. 79(a).

Dated: September 8, 2026



Daniel Billings, Justice
Maine Superior Court

Entered on the Docket: 9/13/26