IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket No. 52772

GARTH GAYLORD,	)	
	)	
Plaintiff-Respondent,	)	**Boise, May 2026 Term**
	)	
v.	)	**Opinion Filed: November 2, 2026**
	)	
MATT CLIFFORD, BROOKE MCMAHON,	)	**Melanie Gagnepain, Clerk**
	)	
Defendants-Appellants.	)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Jonathan Medema, District Judge.

The judgment of the district court is vacated, and its order is affirmed in part and reversed in part.

Jan M. Bennetts, Ada County Prosecuting Attorney, Boise, for Appellants Matt Clifford and Brooke McMahon. Sherry A. Morgan argued.

Garth Gaylord, Respondent pro se. Garth Gaylord argued.

MEYER, Justice.

This is an appeal from a district court's order requiring the Ada County Sheriff to disclose a video recording from a law enforcement officer's body-worn camera under Idaho's Public Records Act (PRA). The video captures the fatal shooting of Ada County Sheriff's Deputy Tobin Bolter during a traffic stop, as well as the subsequent actions of citizens, deputies, and emergency personnel. The case presents an issue of first impression regarding the meaning of "unwarranted invasion of personal privacy" under Idaho Code section 74-101(17), which, pursuant to Idaho Code section 74-124(1)(c), serves as an exemption to the disclosure of investigatory records compiled for law enforcement purposes by a law enforcement agency.

We affirm the district court's order in part and reverse in part because a portion of the video, specifically from timestamp 00:38 to 08:30, is exempt from disclosure under Idaho Code section 74-101(17)(a)(ii), as its release would constitute an unwarranted invasion of personal privacy. We affirm that portion of the district court's order requiring the release of the other segments of the video because their release would not constitute an unwarranted invasion of

personal privacy.

I. FACTUAL AND PROCEDURAL BACKGROUND

On April 20, 2024, at approximately 8:55 p.m., Deputy Bolter conducted a traffic stop on a grey Chevrolet Suburban near West Overland Road and South Raymond Street in Boise. Deputy Bolter was wearing a body-worn camera that recorded audio and video. His patrol vehicle was not equipped with a dashboard camera. The recording runs approximately 13 minutes. The district court reviewed the video *in camera* and described its contents in its order granting the petition.

The video has no audio during the initial 30 seconds. The chest-mounted camera records Deputy Bolter driving, turning right, stopping, and exiting his patrol vehicle. Audio commences as Deputy Bolter approaches the driver's side door of the Suburban, which is stopped in front of his patrol car with the window up. As Deputy Bolter comes within one or two steps of the window, between timestamps 00:36 and 00:37, a gunshot sounds, and a small hole appears in the lower rear corner of the driver's window. Deputy Bolter immediately falls back, landing on the ground, and the Suburban departs from view. The Suburban's exhaust can be seen as clouds of smoke drifting off to the right side of the video frame.

For about 30 seconds, between timestamps 00:43 and 01:14, the audio remains quiet, and the video captures only the darkening sky. Two males arrive, summon emergency medical assistance by cell phone, and attempt first aid. At timestamp 03:52, a Boise Police Department officer arrives. Shortly after, a responding sheriff's deputy arrives, holds Deputy Bolter's hand, speaks encouraging words to him, and directs others to establish a crime-scene perimeter. At timestamp 06:11, the same deputy requests a gurney from an individual outside the video's view. At timestamp 06:43, a law enforcement officer removes Deputy Bolter's body-worn camera and places it on the ground after instructions are given to begin chest compressions. An unidentified voice states, "Call my wife." At timestamps 07:13 and 07:26, the body-worn camera is moved farther away, after which only the sky is visible. According to the audio, at approximately timestamp 08:34, emergency medical services transport Deputy Bolter into an ambulance. Thereafter, the video records various voices as the scene transitions from emergency response to investigation.

The following day, Deputy Bolter died from his injuries. The driver of the Suburban was later located and shot by Boise Police officers during an apprehension attempt.

Approximately six months after the shooting, Garth Gaylord submitted a public records request to the Ada County Sheriff's Office (ACSO), which was received by law enforcement records technician, Brooke McMahon. He requested, in pertinent part, footage of the traffic stop from Deputy Bolter's body camera and patrol vehicle:

> I am requesting the body cam and patrol vehicle dash cam footage of the pull-over by Deputy Tobin Bolter when he was shot on 4/20/2024 around 8:55 pm on W Overland and S Raymond street, which was described by [Ada County] Sheriff Matt Clifford in a Press Conference saying: "Video shows that the deputy never even made it to the window."

In a letter signed by McMahon, Clifford denied Gaylord's record request "in accordance with Idaho Code [section] 74-105(1) and [section] 74-124(1)(a), which provide for denial of items that are still under investigation." At the time of the denial, three investigations were active: the investigation into Deputy Bolter's murder, a Critical Incident Task Force investigation into the shooting of Deputy Bolter, and a separate Critical Incident Task Force investigation by the Boise Police Department into the shooting of the Suburban driver. All investigations have since concluded.

After Clifford denied his public records request, Gaylord filed a petition to compel disclosure of public records and application for an order to show cause pursuant to Idaho Code sections 74-115 and 74-116, naming as Respondents Sheriff Clifford and McMahon (hereinafter "Clifford"). Gaylord also filed an affidavit in support. In his petition, Gaylord expressed his view that "Sheriff Clifford may be hiding something" regarding the investigations and argued that disclosure of footage would "contribute to the public's understanding of government operations and activities" and "the understanding of the heart of what a police officer may go through when enforcing codes or whatever, as actually seeing someone get harmed or killed may move a viewer in a different way than just hearing a report about it."

In response, Clifford filed an answer to the petition and a "Memorandum in Support of Its Public Records Act Denial." Clifford also filed declarations from Deputy Bolter's widow, Lieutenant Brent Klimke, Sergeant James Pickard, and one witness who rendered aid to Deputy Bolter. In pertinent part, Clifford argued that the requested documents were exempt under the PRA because the public disclosure would (1) interfere with investigations that were active at the time of Gaylord's request, and (2) constitute an "unwarranted invasion of personal privacy" of Deputy Bolter, his family, and anyone else captured by the video under Idaho Code section 74-124(1)(c). Clifford also filed a motion to dismiss Gaylord's petition on various grounds. Gaylord,

representing himself, responded by filing a variety of documents, some of which requested relief that is not relevant to this appeal and some of which responded to Clifford's filings.

The district court issued a memorandum decision denying Clifford's request to dismiss Gaylord's petition and addressing the procedure it would utilize to decide the petition. In doing so, the court ordered Clifford to appear for a hearing on January 27, 2025, and to show cause why disclosure should not be required.

After the hearing, the district court reviewed the body camera video *in camera* and issued its memorandum decision granting Gaylord's petition and ordering Clifford to disclose the video. Initially, the district court found that Deputy Bolter's patrol vehicle was not equipped with a dashboard camera and that no such recording existed. With regard to Deputy Bolter's body camera footage, the district court determined that the video was a public record under Idaho Code section 74-101(13), noting that Deputy Bolter was on duty as a police officer when it was created.

Next, the district court analyzed several potentially applicable exemptions to public records disclosure and determined that none applied. The district court concluded that disclosure could not interfere with enforcement proceedings because both Deputy Bolter and the driver of the Suburban were deceased and rejected the argument that an ongoing investigation alone justified denial under Idaho Code section 74-124(1)(a). With respect to the privacy exemption under Idaho Code section 74-124(1)(c), the district court determined that release of the video would not invade the privacy interests of Deputy Bolter's family because his injuries were not visible, his voice was not audible, and the video could not be said to impugn his character or his family's memory of him.

Clifford appealed. The district court granted Clifford's motion to stay disclosure pending appeal. After oral argument, this Court ordered ACSO to deliver a copy of Deputy Bolter's body camera video for *in camera* review.

II. ISSUES ON APPEAL

1. Is the video a public record as defined in Idaho Code section 74-101(13)?
2. If the video is a public record, is any portion of it exempt from disclosure?

III. STANDARDS OF REVIEW

In a PRA case, "[a] trial court's findings of fact will not be set aside unless clearly erroneous," which means that findings "based upon substantial and competent, although conflicting, evidence will not be disturbed on appeal." *Bolger v. Lance*, 137 Idaho 792, 794, 53

P.3d 1211, 1213 (2002); *see also Cover v. Idaho Bd. of Corr.*, 167 Idaho 721, 727, 476 P.3d 388, 394 (2020). "This Court exercises free review over questions of law, including the interpretation of a statute." *Ward v. Portneuf Med. Ctr., Inc.*, 150 Idaho 501, 504, 248 P.3d 1236, 1239 (2011) (citing *Idaho Conservation League, Inc. v. Idaho State Dep't of Agric.*, 143 Idaho 366, 368, 146 P.3d 632, 634 (2006)).

IV. ANALYSIS

The PRA "provides a statutory mechanism by which members of the public may review public records so that they may be knowledgeable of the operations of their government, the performance of public officials, and the formulation of public policy." *Wade v. Taylor*, 156 Idaho 91, 97, 320 P.3d 1250, 1256 (2014). To that end, "[t]he PRA grants a general right to the public to examine and copy public records of the State." *Sentry Dynamics, Inc. v. Ada County*, 175 Idaho 663, 670, 569 P.3d 484, 491 (2025) (citing I.C. § 74-102(1)). Public records are presumed open unless provided otherwise by statute. I.C. § 74-102(1). "An agency withholding public records bears the burden of persuasion and must show cause, or prove, that the documents fit within one of the narrowly-construed exemptions." *Sentry Dynamics, Inc.*, 175 Idaho at 670, 569 P.3d at 491 (citation modified).

In this case, Clifford challenges the district court's order requiring the disclosure of Deputy Bolter's body camera video on two main bases. First, he argues that the district court erred in concluding that the video qualifies as a "public record" under Idaho Code section 74-101(13). Next, he argues that, even if the video is a public record, the district court erred by concluding that the video, or segments of the video, were not exempt from disclosure. Each argument is addressed in turn.

A. The district court did not err when it determined that the video was a public record under the PRA.

The district court determined that the video was a public record, reasoning that "[t]he Sheriff is an elected official. Deputy Bolter was on duty as a police officer during the time period captured on the video recordings that Gaylord requested. Therefore, those recordings are public records as defined in [Idaho Code section] 74-101(13)."

On appeal, Clifford contends that the video is not a public record under the PRA because it does not contain information relating to the "conduct or administration of the public's business" under section 74-101(13). Clifford argues that once Deputy Bolter was shot, he could no longer act within the course and scope of his employment and therefore "became Tobin Bolter, patient,

and ultimately, murder victim." As an alternative argument, Clifford contends that, if this Court determines that the initial 36 seconds showing the traffic stop does relate to the public's business, the pre- and post-shooting segments could be separated, with only the brief pre-shooting portion treated as a public record. In response, Gaylord contends that body-camera footage of an on-duty deputy conducting a traffic stop, during which the deputy is shot and killed in the line of duty, is information relating to the administration of the public's business. He argues that "[i]ncidents of crime, especially involving death, and the death of a law enforcement officer, who the people pay to protect them, are of interest to the people" and affect public safety. For the reasons set forth below, we affirm the district court's conclusion that the video is a public record.

"Interpretation of a statute begins with an examination of the statute's literal words." *Cowles Publ'g Co. v. Kootenai Cnty. Bd. of Cnty. Comm'rs*, 144 Idaho 259, 262, 159 P.3d 896, 899 (2007) (quoting *Idaho Conservation League, Inc. v. Idaho State Dep't of Agric.*, 143 Idaho 366, 368, 146 P.3d 632, 634 (2006)). "Where the language of a statute is plain and unambiguous, courts give effect to the statute as written, without engaging in statutory construction." *Id.* (citation omitted).

The PRA provides that a "'[p]ublic record' includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics." I.C. § 74-101(13). "Thus, a record may be a public record if it is a writing that (1) contains information relating to the conduct or administration of the public's business, *and* (2) was prepared, owned, used or retained by a governmental agency." *Cowles Publ'g Co.*, 144 Idaho at 263, 159 P.3d at 900. A "writing" includes "every means of recording," including "pictures" and "sounds." I.C. § 74-101(18).

In *Cowles*, we applied this test to determine whether emails between a county prosecutor and his subordinate were public records subject to disclosure. 144 Idaho at 262–63, 159 P.3d at 899–900. At the time of the public records request, a highly publicized defamation suit and administrative investigation were underway, which involved the demise of a county program known as "Juvenile Education and Training Court" or "JET Court" and an alleged intimate relationship between the prosecutor and the county employee. *Id.* at 261–62, 159 P.3d at 898–99. In concluding that the emails were public records, we explained that it was not merely the fact that the emails were created on government equipment or during work hours that made them public records; rather, "it [was] their relation to legitimate public interest that makes them a public

record." *Id.* at 264, 159 P.3d at 901. These interests included, among other things, information pertaining to a government employee's professional performance:

> The public has a legitimate interest in these communications between this elected official and the employee whom he hired and supervised because when the JET Court's financial problems and eventual demise became apparent to the public, [the prosecutor] defended [the employee]'s management to both the [county board of commissioners] and the public. Whether he did so as her supervisor defending her job performance, or whether he did so because of an alleged inappropriate relationship is a public concern. Put another way, [the prosecutor]'s reasons for defending [the employee] relate to the conduct and administration of the public's business. Likewise, ICRMP, the County's insurer who examined the emails in relation to Cowles's public record request, settled a potential defamation claim brought by [the employee] against the County. The email's content relates to the public's business because the public's business includes job performance by a county employee, the spending policies of a county program, the issues surrounding that program's demise, other employment related claims, and the validity and circumstances surrounding the defamation claim.

Id. at 263, 159 P.3d at 900.

In this case, the video was prepared, owned, used, or retained by a law enforcement agency, as Clifford concedes, and it directly documents Deputy Bolter performing a traffic stop and the law enforcement response to his shooting. The video begins with Deputy Bolter driving a patrol vehicle, initiating a traffic stop, and approaching the stopped vehicle. There is no dispute that the public has a legitimate interest in how law enforcement activity is conducted, which includes a county deputy's enforcement of traffic laws. The video then captures the moment the deputy is shot, the flight of the perpetrator, the arrival of citizens who summoned help, and the response of deputies and emergency medical personnel. Like the emails in *Cowles*, the public has a legitimate interest in the video because it contains information relating to the job performance of government employees. Therefore, the video contains information "relating to the conduct or administration of the public's business." *See id.* at 263, 159 P.3d at 900. We hold, therefore, that the entire video is a public record.

Clifford's alternative argument—that this Court should separate the video into pre-shooting and post-shooting segments and treat only the first 36 seconds as a public record because Deputy Bolter ceased to act within the course and scope of his employment once he was shot—is unavailing. Deputy Bolter was shot while in the line of duty. The response to the shooting by concerned citizens, medical personnel, and law enforcement relate to the public's business.

Concerns about sensitive footage, including the privacy of Deputy Bolter's family and others shown in the video, are addressed by exemptions, which we discuss next.

For these reasons, we affirm the district court's conclusion that the video was a public record under Idaho Code section 74-101(13).

B. The district court erroneously concluded that the "unwarranted invasion of personal privacy" exemption did not apply to a segment of Deputy Bolter's body camera video, from 00:38 to 08:35.

Because the video is a public record, the burden shifted to Clifford to prove that an exemption permits withholding the video or parts of it. *Wade*, 156 Idaho at 100, 320 P.3d at 1259. As set forth above, the PRA presumes that all public records "are open at all reasonable times for inspection except as otherwise expressly provided by statute." I.C. § 74-102(1). The PRA has multiple exemptions to its disclosure requirements. *See* I.C. §§ 74-103 to 74-112, 74-124. This Court construes exemptions narrowly, and the agency withholding a record "bears the burden of persuasion" to show that the video falls within an exemption. *Bolger v. Lance*, 137 Idaho 792, 796, 53 P.3d 1211, 1215 (2002). The agency must "demonstrate a reasonable probability that disclosure . . . would result in a harm" the statute identifies, measured at the time of the denial rather than the time of the hearing. *Wade*, 156 Idaho at 100, 320 P.3d at 1259.

In this case, the district court analyzed several potentially applicable exemptions to the PRA's disclosure requirement and determined that none applied. On appeal, Clifford contends that the video is exempt from disclosure on two bases. First, he argues that the district court erred in concluding that the video did not "constitute an unwarranted invasion of personal privacy" because the court applied an incorrect test for evaluating whether the exemption applies, and Clifford established that the exemption applied under the correct test. Second, he argues the video constitutes an exempt medical record of Deputy Bolter under section 74-106(13) because the video captures the bystanders' and responding deputies' discussions regarding Deputy Bolter's injuries and first aid care.

For the reasons set forth below, we agree with Clifford that the district court applied an incorrect legal standard for evaluating whether the disclosure of the video would "constitute an unwarranted invasion of personal privacy" under Idaho Code section 74-101(17)(a)(ii). We further conclude that this exemption applies to the segment of the video from 00:38 to 08:35, but not the other segments of the video. Given our holding, we need not address Clifford's second argument

because the exempt segment of the video contains the bystanders' and responding deputies' discussion regarding Deputy Bolter's injuries and first aid care.

1. *The district court applied an incorrect legal standard when it evaluated whether the disclosure of the video would constitute an unwarranted invasion of personal privacy under the PRA.*

As an initial matter, we clarify the test for evaluating whether a disclosure "constitute[s] an unwarranted invasion of personal privacy" under the PRA. Section 74-124 provides exemptions from the PRA's disclosure requirement for certain investigatory records of law enforcement agencies, including where the production of these records would constitute an unwarranted invasion of personal privacy:

> Notwithstanding any statute or rule of court to the contrary, nothing in this chapter nor chapter 10, title 59, Idaho Code, shall be construed to require disclosure of investigatory records compiled for law enforcement purposes by a law enforcement agency, but such exemption from disclosure applies only to the extent that the production of such records would . . . [c]onstitute an unwarranted invasion of personal privacy[.]

I.C. § 74-124(1)(c). Relevant to this appeal, section 74-101(17)(a) defines "unwarranted invasion of personal privacy" as:

> (i) Disclosure of information used to identify, locate, or harass a juvenile, a victim of an alleged crime of mass violence or domestic violence, or a victim of physical or sexual abuse; or
>
> (ii) Disclosure where release of information is likely to violate legitimate and substantial privacy interests of the person identified when such interests are weighed against general public information.

I.C. § 74-101(17)(a)(i), (ii).

Below, Clifford argued that the Idaho Legislature adopted section 74-124(1)(c)'s personal privacy exemption from the Freedom of Information Act (FOIA)'s Exemption 7(C), which exempts from disclosure "records or information compiled for law enforcement purposes" if their production "could reasonably be expected to constitute an unwarranted invasion of personal privacy," 5 U.S.C. § 552(b)(7)(C). Therefore, Clifford asserted that section 74-124(1)(c) should be construed consistently with the interpretation of Exemption 7(C) by federal courts. Applying the balancing test set forth by the United States Supreme Court in *National Archives and Records Administration v. Favish*, 541 U.S. 157 (2004), Clifford argued that the public's (and Gaylord's) interest in obtaining Deputy Bolter's body camera video did not outweigh the privacy rights of Deputy Bolter's family, the responding officers, and bystanders. *See id.* at 171 (the determination

of whether an invasion of personal privacy is "unwarranted" under Exemption 7(C) requires courts to balance the implicated privacy interest against the public interest in releasing the materials).

The district court rejected Clifford's argument. After reviewing the PRA's legislative history, the court concluded that the Idaho Legislature could not have intended to adopt the Supreme Court's interpretation of the personal privacy exemption in *Favish* because the precursor to section 74-124(1)(c), former Idaho Code section 9-335, was enacted forty years before *Favish* was published and the language addressing Idaho's personal privacy exemption "was identical and has remained unchanged ever since." To determine the meaning of this phrase, the district court proceeded to survey the common law of privacy torts and ultimately concluded that an invasion of personal privacy is only "unwarranted" under section 74-124(1)(c) when release of the information would be actionable in Idaho tort law.

On appeal, Clifford argues that the district court applied an incorrect legal standard because the Idaho Legislature defined personal privacy in section 74-101(17)(a)(ii), which requires trial courts to conduct a balancing test similar to the test established by the Supreme Court in *Favish*. For the reasons set forth below, we agree.

First, the legislature defined "unwarranted invasion of personal privacy" in Idaho Code section 74-101(17)(a)(ii), and that definition should have been applied. In 2023, the legislature added a definition of the phrase applicable to the entire chapter. Act of Apr. 3, 2023, ch. 256, § 1, 2023 Idaho Sess. Laws 773, 773–74 (now codified at I.C. § 74-101(17)). When the legislature defines a term, that definition controls, and a court applies the meaning the legislature supplied. *See Pocatello Hosp., LLC v. Corizon LLC* (*In re Decision on Joint Mot. to Certify Question of L. to Idaho Sup. Ct. (Dkt. 31, 32, 45)*), 165 Idaho 298, 302, 444 P.3d 870, 874 (2018) ("[L]egislative definitions of terms included within a statute presents a straight-forward analysis, as those definitions control and dictate the meaning of those terms as used in the statute." (citation modified)). Therefore, the district court's failure to apply this definition was error.

Second, while this Court has not had occasion to interpret section 74-101(17)(a)(ii), we agree with Clifford that this definition establishes a balancing test. As set forth above, the portion of the personal privacy exemption at issue here is "[d]isclosure where release of information is likely to violate legitimate and substantial privacy interests of the person identified when such interests are weighed against general public information." I.C. § 74-101(17)(a)(ii). Thus, when an agency seeks to shield a public record from disclosure under this exemption, the agency must

demonstrate that the privacy interest implicated by the disclosure (1) is "legitimate and substantial," and (2) outweighs the "general public information." *Id.*

We also find the Supreme Court's interpretation of the FOIA's Exemption 7(C) persuasive. Idaho Code section 74-124(1) and Exemption 7(C) exempt the same category of records, on the same condition, in nearly the same words. *Compare* 5 U.S.C. § 552(b)(7)(C) (shielding records compiled for law enforcement purposes to the extent production "could reasonably be expected to constitute an unwarranted invasion of personal privacy"), *with* I.C. § 74-124(1)(c) (exempting investigatory records compiled for law enforcement purposes to the extent production would "[c]onstitute an unwarranted invasion of personal privacy"). "This Court will look to federal law when federal statutes are contained within Idaho's own statute and when federal and Idaho law mirror each other." *Teurlings v. Larson*, 156 Idaho 65, 71, 320 P.3d 1224, 1230 (2014) (citation omitted).

Moreover, the new legislative definition of the personal privacy exemption, section 74-101(17)(a)(ii), was adopted after *Favish* and reflects language similar to the balancing test articulated by the Supreme Court for evaluating Exemption 7(C)'s personal privacy exemption. *See Favish*, 541 U.S. at 171 (Exemption 7(C) "directs nondisclosure only where the information 'could reasonably be expected to constitute an unwarranted invasion' of the family's personal privacy. The term 'unwarranted' requires us to balance the family's privacy interest against the public interest in disclosure." (citation omitted)); *see also* 2023 Idaho Sess. Laws at 773–74. While this Court is not bound by federal court decisions interpreting or applying the Exemption 7(C) balancing test, we conclude that FOIA's interpretation by the Supreme Court and other courts is consistent with our view of Idaho's statute. Therefore, we adopt the test from *Favish* and apply it here.

For these reasons, we conclude that the district court erred by failing to apply the PRA definition of unwarranted invasion of personal privacy. Despite this error, we need not remand this matter for reconsideration because this appeal presents a situation where this Court has exactly the same evidence before it as was considered by the district court, which includes Gaylord's verified petition, Deputy Bolter's body camera video submitted to this Court in camera, and the declarations of Sergeant Pickard, Lieutenant Brent Klimke, Abbey Bolter, and a bystander who rendered aid.

2. *Clifford has established that the production of a segment of Deputy Bolter's body camera video, from 00:38 to 08:35, would constitute an unwarranted invasion of the Bolter family's personal privacy.*

As set forth above, the balancing test for determining whether an invasion of personal privacy is "unwarranted" has two steps. *See Favish*, 541 U.S. at 171–73. We must first determine whether the privacy interest implicated by the disclosure is "legitimate and substantial." I.C. § 74-101(17)(a)(ii). If so, we must then consider whether that privacy claim outweighs the public's legitimate interest in disclosure. *See id.*

Here, Clifford identified the following individuals whose privacy interests would be invaded by the disclosure of the body camera video: Deputy Bolter; Deputy Bolter's widow and daughter; the responding deputies; and a witness who rendered aid.

Our analysis begins (and ends) with the privacy interests asserted by Deputy Bolter's widow and daughter. In her declaration, Mrs. Bolter stated that release would cause her family "extreme emotional hardship," and that she did not want the video seen by the public, played in the media, or posted online "where our child or myself or a member of our family could intentionally or unintentionally come across it . . . ."

In *Favish*, the Supreme Court recognized that surviving family members have a personal privacy right in death-scene images of a relative under Exemption 7(C). 541 U.S. at 170. After a deputy White House counsel was found dead in a federal park and official investigations concluded the death was a suicide, a private citizen who doubted that conclusion sought death-scene photographs under the FOIA. *Id.* at 160–61. Holding the photographs were exempt from disclosure, the Supreme Court grounded the family's privacy right in the FOIA's statutory text, the common law, and the well-established cultural tradition under which relatives honor and mourn their dead and shield the images of their death from public exploitation. *Id.* at 168–69. This right, the Supreme Court explained, extends to "family members who object to the disclosure of graphic details surrounding their relative's death . . . ." *Id.* at 171. In doing so, the Supreme Court recognized the "weighty privacy interests" of family members seeking to preserve their private memories of a deceased loved one and "to secure their own refuge from a sensation-seeking culture for their own peace of mind and tranquility." *Id.* at 166–67, 171.

Those same privacy interests are implicated here. Although Deputy Bolter did not die until the day following the shooting, the video and audio capture the immediate aftermath of a fatal gunshot wound and Deputy Bolter's incapacitation. The Bolter family's interests are as intensely

private and as legitimate and substantial under these circumstances as those of the family in *Favish*. Accordingly, we conclude that the interest asserted by Deputy Bolter's widow and daughter are legitimate and substantial. Therefore, we must next determine whether their privacy claims outweigh the public's legitimate interest in the disclosure of the record, whether in whole or in part.

We begin with the opening segment of the video (00:00–00:37 seconds). From the start of the video to 00:37, the camera records Deputy Bolter driving, coming to a stop, stepping out of his vehicle, and then walking at an angle toward the Suburban. No sound accompanies the first 30 seconds, and the only sounds that follow are his footsteps. The segment captures the sound of the gunshot and an image of the hole in the window from the gunshot. The family has a privacy interest in this segment insofar as it captures the moment Deputy Bolter was shot; however, such interest is limited because the segment does not actually show the impact of the shooting on Deputy Bolter or his suffering.

On the other side of the scale, the legitimate public interest in disclosure of this segment is significant because it depicts the conduct of public business leading up to the shooting. This segment of the recording shows how the stop was initiated, where Deputy Bolter positioned his vehicle, how he approached, and the absence of any verbal exchange before he was shot. That information allows the public to evaluate the official account of the traffic stop. Thus, we conclude that the family's privacy interest does not outweigh the public's legitimate interest in this segment and therefore section 74-124(1)(c) does not exempt this portion of the video from release. Accordingly, the opening segment must be disclosed.

The middle segment of the video, from 00:38 to 08:35, captures Deputy Bolter falling backward following the gunshot, potentially his last conscious moments, the words spoken by Sergeant Pickard and others encouraging Deputy Bolter to hold on, and the efforts of bystanders, medical professionals, and law enforcement to provide aid to Deputy Bolter. We conclude that Deputy Bolter's widow and daughter have a more "weighty" privacy interest in this portion of the video because it depicts graphic details preceding Deputy Bolter's death. *See Favish*, 541 U.S. at 166–67, 171. On the other side of the scale, the public has some legitimate interest in the release of this segment insofar as it depicts government actors' response in the aftermath of the criminal activity that had just occurred.

Gaylord contends that the full video should be disclosed, asserting that law enforcement "may be hiding something" and "may not have been honest about [Sheriff Clifford's] narrative to the public . . . ." The public's interest in the details from this segment of the video, such as the audible anguish and stress of bystanders, the words spoken to Deputy Bolter, and the directions given concerning medical care, are negligible, and certainly less weighty than the substantial privacy interest Deputy Bolter's family has in keeping private his efforts to remain alive following a gunshot wound. Therefore, we hold that the release of the middle segment of the video would constitute an unwarranted invasion of personal privacy under section 74-124(1)(c), and that it is exempt from disclosure.

The closing segment, from 08:36 to the end of the video, contains no exempt material. By this point, emergency medical personnel have transported (or are in the process of transporting) Deputy Bolter into an ambulance and away from the scene. The camera rests on the ground pointing at the sky, and the video captures officers and medical personnel coordinating his transport and managing the scene until a deputy reaches down and turns the camera off. The family's interest recedes because this segment does not record Deputy Bolter's suffering. However, there is a legitimate public interest in this segment because it records the operational response of government personnel performing their duties. Therefore, we conclude that the family's privacy interest does not outweigh the public's legitimate interest in this segment. As a result, disclosure would not constitute an unwarranted invasion of personal privacy, and the closing segment must be disclosed.

For these reasons, we hold that the "unwarranted invasion of personal privacy" exemption applies to the segment of the video from 00:38 to 08:35. The exemption does not apply to the segment from the start of the video to 00:37, which captures the initiation and conduct of the traffic stop and the gun shot, or to the closing segment, from 08:36 to the end of the video, which captures the management of the scene after emergency medical personnel transported Deputy Bolter from the scene.

C. We decline to assess a civil penalty against Clifford or award costs.

Gaylord requests that this Court assess a civil penalty against Clifford under section 74-117 "for the deliberate, unlawful, frivolous, bad faith denial" of his public records request. Section 74-117 states: "[i]f the court finds that a public official has deliberately and in bad faith improperly refused a legitimate request for inspection or copying, a civil penalty shall be assessed against the

public official in an amount not to exceed one thousand dollars ($1,000), which shall be paid into the general fund." I.C. § 74-117. We decline to award penalties under section 74-117 because Gaylord failed to establish that Clifford denied the request in bad faith. This case turns on legitimate arguments concerning the interpretation of a statute that this Court has never analyzed. *See Darrow v. White*, 172 Idaho 272, 288, 531 P.3d 1169, 1185 (2023) (declining to award fees under Idaho Code section 12-121 because the appeal raised a novel legal question of statutory interpretation). Moreover, Clifford prevailed in part, which establishes that his denial was not unlawful, frivolous or in bad faith.

Gaylord also requests that this Court award him costs for his filing fees. Section 74-116(2) of the PRA provides in relevant part that "the court shall award reasonable costs and attorney fees to the prevailing party or parties, if it finds that the request or refusal to provide records was frivolously pursued." I.C. § 74-116(2). For the reasons discussed above, Gaylord has failed to establish that Clifford frivolously pursued this appeal. Idaho Appellate Rule 40(a) further provides that "costs shall be allowed as a matter of course to the prevailing party unless otherwise provided by law or order of the Court." I.A.R. 40(a). Because all parties prevailed in part on appeal, we decline to award costs to either party under Idaho Code section 74-116(2) or Rule 40(a).

V. CONCLUSION

We vacate the district court's judgment and affirm in part and reverse in part the court's order. Specifically, we affirm the district court's conclusion that the video is a public record; however, we reverse the district court's order requiring Clifford to disclose the entire video. Clifford is not required to disclose the portion of the video from time stamp 00:38 to 08:35 because, for the reasons described above, the privacy interests of Deputy Bolter's family outweigh the public's interest in the information contained in that segment of the video. The release of the other segments of the video would not constitute an unwarranted invasion of personal privacy; therefore, it must be produced to Gaylord. Given the mixed result on appeal, we decline to award costs to either party.

Chief Justice BRODY, and Justices BEVAN, MOELLER, and ZAHN CONCUR.