

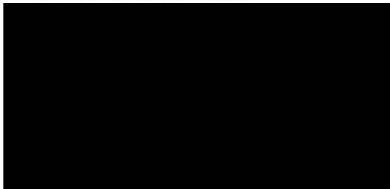


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

October 2, 2024

Via electronic mail



RE: FOIA Request for Review – 2024 PAC 83212

Dear [REDACTED]:

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2023 Supp.)). For the reasons explained below, this office has determined that your Request for Review is unfounded.

You submitted an undated FOIA request to the Village of Libertyville (Village) seeking all police reports concerning two individuals who resided at a specific residential address. On September 9, 2024, the Village denied your request pursuant to sections 7(1)(a), 7(1)(b), 7(1)(c) and 7(1)(d)(iv) of FOIA,¹ asserting that disclosure of the withheld reports would constitute an unwarranted invasion of personal privacy. On September 25, 2024, this office received your Request for Review contesting the Village's response.

Section 7(1)(c) of FOIA exempts from disclosure "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information." Section 7(1)(c) defines "unwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining

¹5 ILCS 140/7(1)(a), (1)(b), (1)(c), (1)(d)(iv) (West 2023 Supp.), as amended by Public Act 103-605, effective July 1, 2024.

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the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy."

When balancing the right to privacy against the public interest in disclosure, courts have "repeatedly expressed particular concern for protecting those who have been investigated, but not charged, in connection with a crime from the public embarrassment and damage to their reputations which a disclosure of the investigative interest would cause." *Dunaway v. Webster*, 519 F. Supp. 1059, 1078 (N.D. Cal. 1981). The right to privacy "is strongest where the individuals in question 'have been investigated but never publicly charged.'" *Citizens for Responsibility and Ethics in Washington v. United States Dep't of Justice*, 846 F. Supp. 2d 63, 71 (D.D.C., 2012), quoting *American Civil Liberties Union v. United States Dep't of Justice*, 655 F.3d 1, 7 (D.C. Cir. 2011). The Public Access Bureau has previously determined that in appropriate circumstances, a report can be withheld in its entirety if the report's narrative contains highly personal information about an individual, no arrests were made, and the matter is closed at the time of the request. Ill. Att'y Gen. PAC Req. Rev. Ltr. 32478, issued October 4, 2016, at 3 (report of domestic disturbance involving a police officer properly withheld where no arrests were made and the case was closed); *see also Copley Press, Inc. v. City of Springfield*, 266 Ill. App. 3d 421, 426 (1994) (finding an investigative file may be withheld in full under section 7(1)(d)(iv) of FOIA² where "redaction of the file cannot be meaningfully accomplished[]" to protect the identities of witnesses).

On October 1, 2024, the Village furnished this office with unredacted copies of the two reports. Based on this office's review, the reports contain highly personal information concerning a private incident that occurred at a private residence, and there is no indication that the incident resulted in any arrests or criminal charges. Because your request identified the subjects by name and address, redaction of those individuals' names and identifying information from the responsive records would not protect their identities. Further, the specific nature of the conduct and circumstances described in the report could potentially reveal the identities of the records' subjects even if the FOIA request did not identify them by name.

²Section 7(1)(d)(iv) of FOIA exempts from disclosure information that would "unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies[.]"

[REDACTED]
October 2, 2024

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Accordingly, this office concludes that the Village did not improperly withhold the reports pursuant to section 7(1)(c) of FOIA, and that this matter is unfounded.³ This file is closed. If you have any questions, my e-mail address is Matthew.Rogina@ilag.gov.

Very truly yours,

[REDACTED]

MATTHEW C. ROGINA
Senior Assistant Attorney General
Public Access Bureau

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cc: *Via electronic mail*
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³Because of the applicability of section 7(1)(c), this office declines to discuss any additional exemptions.