



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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April 21, 2025

Via electronic mail

Via electronic mail

The Honorable Benjamin L. Goetten
Jersey County State's Attorney
201 West Pearl Street
Jerseyville, Illinois 62052
sao@jerseyil.org

RE: FOIA Request for Review – 2025 PAC 86037

Dear [REDACTED] and Mr. Goetten:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2023 Supp.)). For the reasons that follow, the Public Access Bureau concludes that the Jersey County Sheriff's Office (Sheriff's Office) did not improperly withhold the report responsive to [REDACTED] March 14, 2025, FOIA request.

On that date, [REDACTED] submitted a FOIA request to the Sheriff's Office seeking a copy of police report 2024-6054. On that same date, the Sheriff's Office denied the request in its entirety pursuant to section 7(1)(c) of FOIA.¹ On March 31, 2025, [REDACTED] submitted the above-referenced Request for Review contesting the denial. He argued that the section 7(1)(c) exemption did not apply because the report involved a county public official and her husband.

On April 10, 2025, this office forwarded a copy of the Request for Review to the Sheriff's Office and asked it to provide an unredacted copy of the withheld report for this office's

¹5 ILCS 140/7(1)(c) (West 2023 Supp.), as amended by Public Act 103-605, effective July 1, 2024; 103-865, effective January 1, 2025.

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confidential review, together with a detailed explanation of the legal and factual bases for the asserted exemption. On April 14, 2025, the Jersey County State's Attorney (State's Attorney) furnished those materials to this office on behalf of the Sheriff's Office. On April 15, 2025, he provided an amended copy of the written response for forwarding to [REDACTED].² On that same date, this office forwarded the written response to [REDACTED]. On April 16, 2025, he replied.

DETERMINATION

"All records in the custody or possession of a public body are presumed to be open to inspection or copying." 5 ILCS 140/1.2 (West 2022); *see also Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 415 (2006). A public body that withholds records "has the burden of proving by clear and convincing evidence" that the records are exempt from disclosure. 5 ILCS 140/1.2 (West 2022).

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." An "unwarranted invasion of personal privacy" is defined in section 7(1)(c) 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 the information." Section 7(1)(c) also provides that "[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy."

A public body's assertion that the release of information would constitute an unwarranted invasion of personal privacy is evaluated on a case-by-case basis. *Chicago Journeymen Plumbers' Local Union 130 v. Department of Public Health*, 327 Ill. App. 3d 192, 196 (2001). Illinois courts consider the following factors in determining whether disclosure of information would constitute a clearly unwarranted invasion of personal privacy: "(1) the plaintiff's interest in disclosure, (2) the public interest in disclosure, (3) the degree of invasion of personal privacy, and (4) the availability of alternative means of obtaining the requested information." *National Ass'n of Criminal Defense Lawyers v. Chicago Police Department*, 399 Ill. App. 3d 1, 13 (2010).

"[T]he core purpose of the FOIA is to expose what the government is doing, not what its private citizens are up to." *Chicago Alliance for Neighborhood Safety v. City of Chicago*, 348 Ill. App. 3d 188, 211 (2004) (quoting *Lakin Law Firm, P.C. v. F.T.C.*, 352 F.3d 1122, 1124 (7th Cir. 2003)). In contrast to the diminished privacy interests of arrestees, the right

²*See* 5 ILCS 140/9.5(d) (West 2023 Supp.) ("The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy.").

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to privacy "is strongest where the individuals in question 'have been investigated but never publicly charged.'" *Citizens for Responsibility and Ethics in Washington v. U.S. Dep't of Justice*, 846 F. Supp. 2d 63, 71 (D.D.C. 2012) (quoting *American Civil Liberties Union v. U.S. Dep't of Justice*, 655 F.3d 1, 7 (D.C. Cir. 2011)); see also Ill. Att'y Gen. Pub. Acc. Op. No. 16-009, issued November 7, 2016, at 16 (disclosure of information identifying suspect of a crime who had not been arrested or charged would constitute a clearly unwarranted invasion of personal privacy).

Additionally, while there is a strong public interest in information reflecting how public officials perform their public duties, there is generally a lower public interest in domestic matters involving public officials that do not rise to the level of an arrest or the charging of a criminal offense. See, for instance, Ill. Att'y Gen. PAC Req. Rev. Ltr. 32478, issued October 4, 2016, at 3-4 (police report concerning domestic matter involving a police officer and his family on private property where no arrests were made exempt from disclosure under section 7(1)(c)).

In his response to this office, the State's Attorney stated that the incident underlying the requested report was a marital dispute in which no arrests were made and did not involve the public duties of public officials. He argued that disclosure of the report would therefore be an unwarranted invasion of personal privacy for multiple parties in the report.

In his reply, [REDACTED] argued that there is "significant public interest in [one of the subjects'] actions leading up to her resignation [from public office], including the circumstances surrounding her marriage."³ He speculated that a publicly reported investigation into her conduct as a public official could be connected to the circumstances of her marriage. [REDACTED] further argued that there is a public interest in the way public employees or officials responded to the 9-1-1 call and investigated the circumstances surrounding the withheld report. In response to [REDACTED] reply, the State's Attorney noted that any cause of action related to this report would have arisen in Madison County, and that he did not have jurisdiction over this incident.

Applying the four-factor balancing test set out above, [REDACTED] has not described a personal interest in disclosure other than the general public interest in information concerning a public official who is the subject of a publicly reported investigation. This office's confidential review of the withheld report confirmed that it concerns a highly personal incident that did not result in any arrests or criminal charges by the Sheriff's Office. Further, the incident did not involve any actions related to the public duties of any public officials who are the subjects of the report. There is an acute right to privacy in records concerning such incidents. To the limited extent that the report reflects the duties of responding officers, the report cannot be meaningfully redacted. See *Copley Press, Inc. v. City of Springfield*, 266 Ill. App. 3d 421,

³E-mail from [REDACTED] to [Benjamin] Silver, [Supervising Attorney, Public Access Bureau] (April 16, 2025).

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427 (1994) (concluding that public body properly withheld records that could not be "meaningfully redacted to avoid the disclosure" of exempt information). Lastly, [REDACTED] does not appear to have any alternative means to access the report.

Weighing these factors, the privacy interests of the subjects of the report clearly outweigh the public interest in disclosure under these circumstances. Accordingly, the Sheriff's Office sustained its burden of proving that the report is exempt from disclosure pursuant to section 7(1)(c).

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter shall serve to close this matter. If you have any questions, please contact me at benjamin.silver@ilag.gov or (773) 590-7878.

Very truly yours,

[REDACTED]

BENJAMIN J. SILVER

Supervising Attorney

Public Access Bureau

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