



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

October 21, 2024

Via electronic mail

[REDACTED]

Via electronic mail

Ms. Kelly A. Coyle
Clark Baird Smith Law
6133 North River Road, Suite 1120
Rosemont, Illinois 60018
kcoyle@cbslawyers.com

RE: FOIA Request for Review – 2024 PAC 82571; W011628-080724

Dear [REDACTED] and Ms. Coyle:

This determination letter is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA).¹ For the reasons that follow, the Public Access Bureau concludes that the response by the Village of Bartlett (Village) to [REDACTED] August 7, 2024, FOIA request did not violate the requirements of FOIA.

On August 7, 2024, [REDACTED] submitted a FOIA request to the Village seeking a specified police report. On August 9, 2024, the Village partially denied [REDACTED] request pursuant to multiple sections of FOIA. On August 15, 2024, this office received [REDACTED] Request for Review challenging the Village's denial. Specifically, [REDACTED] stated she is "just requesting the name and whatever sentence that was covered up in this report."²

¹5 ILCS 140/9.5(f) (West 2023 Supp.).

²E-mail from [REDACTED] to Public Access (August 12, 2024).

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On August 20, 2024, this office sent a copy of the Request for Review to the Village and asked it to provide unredacted copies of the responsive records for this office's confidential review, together with a detailed explanation of the legal and factual bases for the FOIA exemptions it asserted. On August 28, 2024, the Village provided the requested records. On August 30, 2024, this office forwarded a copy of the Village's response to ██████████ with an opportunity to reply; she did not reply.

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 Dep't 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). The exemptions from disclosure are to be narrowly construed. *Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 407 (1997).

Section 7(1)(d)(iv) of FOIA³ exempts from disclosure:

(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:

* * *

(iv) **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[.] (Emphasis added.)

This provision allows police departments to protect the anonymity of both confidential informants and other persons who provide them with information. *See, e.g., Chicago Alliance for Neighborhood Safety v. Town of Chicago*, 348 Ill. App. 3d 188, 200-01 (2004) (names and addresses of beat meeting participants properly redacted because they provided information to police department). A witness statement may be withheld in its entirety only if disclosure of its contents "would necessarily result in the disclosure of the identity of that source" of information

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

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and, therefore, "redaction of the [statement] cannot be meaningfully accomplished." *Copley Press, Inc. v. City of Springfield*, 266 Ill. App. 3d 421, 426 (1994).

This office has also previously determined that where there are a limited number of potential individuals who could have made the statement, the statement can be withheld in its entirety if the contents of the statement would *unavoidably disclose* the source. Ill. Att'y Gen. PAC Req. Rev. Ltr. 68998, issued April 13, 2022, at 5-6 (determining that descriptions from the small number of individuals involved in an incident could be withheld from a requester who was also involved in the incident, but a statement from a witness the requester did not interact with during the incident was not exempt from disclosure). *See also* Ill. Att'y Gen. PAC Req. Rev. Ltr. 51832, issued July 25, 2018, at 5 (determining that a public body did not improperly withhold the statements of multiple witnesses who worked in the same "small department" as the requester); Ill. Att'y Gen. PAC Req. Rev. Ltr. 75565, issued September 28, 2023, at 4 (determining that "information from which inferences could be drawn to limit the number of possible complainants to certain potentially identifiable individuals" was properly withheld).

Based on the plain language of section 7(1)(d)(iv), the Village did not improperly redact the name of the individual who provided information to the Village Police Department. Additionally, this office's review of the unredacted record confirms that the release of the redacted sentence would limit the number of possible witnesses to certain potentially identifiable individuals. Accordingly, the Village has sustained its burden of demonstrating that the name of the individual and the single sentence of the report are exempt from disclosure pursuant to section 7(1)(d)(iv) of FOIA. Because the information was properly withheld under section 7(1)(d)(iv) of FOIA, this office will not address the other exemptions asserted by the Village.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any questions, please contact me at victoria.frazier@ilag.gov. Thank you.

Very truly yours,

[REDACTED]

VICTORIA FRAZIER
Assistant Attorney General
Public Access Bureau

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