



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

January 5, 2022

Via electronic mail



Via electronic mail

Mr. Jason Foy
FOIA Officer
Rock Island Police Department
1212 Fifth Avenue
Rock Island, Illinois 61201
foy.jason@rigov.org

RE: FOIA Request for Review – 2021 PAC 68694

Dear [REDACTED] and Mr. Foy:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2020)). For the reasons stated below, the Public Access Bureau concludes that the Rock Island Police Department (Department) did not improperly respond to [REDACTED] June 1, 2021, FOIA request.

On that date, [REDACTED] submitted a FOIA request to the Department seeking copies of reports regarding her and two other named individuals since April 19, 2021, along with any dashboard camera recordings showing an incident that occurred on April 30, 2021. On June 2, 2021, the Department responded by providing [REDACTED] with copies of records with certain redactions pursuant to section 7(1)(d)(iv) of FOIA (5 ILCS 140/7(1)(d)(iv) (West 2020)). The Department stated that it would not disclose information that would reveal the identity of any complainant, victim, or witness. The Department also stated that it did not

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possess any responsive dashboard camera recordings. ██████████ subsequently submitted the above-referenced Request for Review contesting the Department's redaction of the responsive records.¹ She stated that the request relates to a custody battle, and that the parties named in her request are her ex-husband and his girlfriend.

On December 6, 2021, the Public Access Bureau forwarded a copy of ██████████ Request for Review to the Department and asked it to provide this office with unredacted copies of any responsive records for this office's confidential review, together with a detailed description of the applicability of section 7(1)(d)(iv) of FOIA. On December 20, 2021, this office received those materials from the Department; the Department also provided ██████████ with a copy of its response letter. The Department cited section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c) (West 2020)) in addition to section 7(1)(d)(iv). ██████████ replied directly to the Department on December 20, 2021, and provided a supplemental reply to this office the following day.

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 2020); *see also Southern Illinoisan v. Illinois Dept. of Public Health*, 218 Ill. 2d 390, 415 (2006). A public body "has the burden of proving by clear and convincing evidence" that a record is exempt from disclosure. 5 ILCS 140/1.2 (West 2020).

As an initial matter, the Public Access Counselor's authority to resolve disputes is limited to alleged violations of FOIA and the Open Meetings Act (5 ILCS 120/1 *et seq.* (West 2020)). *See* 15 ILCS 205/7(c)(3) (West 2020). FOIA governs the disclosure of existing public records; it does not govern the issues ██████████ raised other than whether the redacted information is exempt from disclosure. Accordingly, this determination letter is limited to that issue.

Section 7(1)(d)(iv) of FOIA

In its response to this office, the Department maintained that it properly redacted information pursuant to section 7(1)(d)(iv) of FOIA, which exempts from disclosure information in law enforcement records to the extent that disclosure 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 law enforcement agencies. Where

¹ ██████████ submitted the above-referenced Request for Review to the Public Access Bureau via e-mail on June 3, 2021. However, because of a breach to the Attorney General's Office's computer network, this office did not receive her Request for Review at or close to the time it was submitted.

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the disclosure of a witness statement would unavoidably identify a person as having provided that information to law enforcement even if personally-identifying details such as the name and contact information of the witness was redacted, the contents of the witness statement generally may be redacted. *Copley Press Inc. v. City of Springfield*, 266 Ill. App. 3d 421, 426 (4th Dist. 1994).

In her reply to the Department, [REDACTED] stated that she already knows the identities of the individuals who filed the incident report. [REDACTED] argued that the allegations against her are false, and stated that she would like unredacted copies of the reports so she can legally dispute these allegations. In her reply to this office, [REDACTED] questioned whether the involved parties qualify as "confidential sources" for purposes of section 7(1)(d)(iv). [REDACTED] also argued that the involved parties should not be entitled to privacy because they have violated a court order.

This office's review of the unredacted copies of the incident reports confirmed that the Department redacted the contents of statements made to law enforcement by complainants, witnesses, or alleged victims, and their identifying information. These statements contained the perspectives of these involved individuals and allegations regarding the behavior of other involved parties. The plain language of the exemption encompasses not just "confidential sources" but also "persons who file complaints with or provide information" to law enforcement. Although [REDACTED] argued that her interest in obtaining the records outweighs the involved individuals' privacy rights, the requester's interest in disclosure does not impact the applicability of the section 7(1)(d)(iv) exemption.² Because the disclosure of the redacted portions of the statements and the corresponding names and contact information would identify which involved party provided which pieces of information to the Department, this office concludes that the Department did not improperly redact this information.

²In contrast, section 7(1)(c) of FOIA, which protects personal information from disclosure, considers whether "the subject's right to privacy outweighs any legitimate public interest in obtaining the information." Although the Department additionally cited section 7(1)(c) in its response to this office, it is unnecessary for this office to review the applicability of the exemption because the contested information falls within the scope of section 7(1)(d)(iv).


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The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. If you have any questions, you may contact me by mail at the Chicago address listed on the first page of this letter or by e-mail at jane.sternecky@ilag.gov. This letter serves to close this file.

Very truly yours,


JANE STERNECKY
Assistant Attorney General
Public Access Bureau

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