



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

August 6, 2010

Mr. Ryan Nelligan
Office of Legal Affairs
Chicago Police Department
3510 South Michigan Avenue
Chicago, Illinois 60653

RE: Request for Review – 2010 PAC 5910

Dear Mr. Nelligan:

We have reviewed the documents that this Office received on March 15, 2010 with respect to your notice of intention to deny disclosure of specific information pursuant to Section 7(1)(c) of the Freedom of Information Act. (FOIA) 5 ILCS 140/1 *et-seq.*, as amended.

Specifically, on February 8, 2010, Georgia Garvey, on behalf of the Chicago Tribune, submitted a FOIA request to CPD seeking all incidents, arrest, investigative, and any other supplemental reports relating to Dexter Henley as either an arrestee or a victim.

On February 18, 2010 CPD denied Ms. Garvey's FOIA request asserting that the documents are exempt from disclosure under Section 7(1)(c), Section 7(1)(b), Section 7(1)(d)(iv), 7(1)(d)(v), 7(1)(d)(vi). In its February 18, 2010, pre-authorization letter to our office, CPD asserted that the disclosure of reports where Mr. Henley is a victim or suspect would constitute a highly unwarranted invasion of personal privacy under Section 7(1)(c) which exempts from inspection and copying "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless disclosure is consented to in writing by the individual subjects of the information." 5 ILCS 140/7(1)(c). This Office issued a further inquiry letter on March 1, 2010 and requested that CPD provide us with a supportive analysis as to which reports correspond to Section 7(1)(c). In its March 15, 2010 response, CPD asserted additional exemptions, such as Section 2.15(b) and pointed out that the combined information in the reports includes personal information, the names, addresses and phone numbers of victims and witnesses to crimes in which Mr. Henley has been arrested and has been victimized, together with Mr. Henley's personal information.

Determinations

CPD's request for approval of its decision to withhold information pursuant to Section 7(1)(c) is hereby approved in part and denied in part.

Section 3(a) of FOIA provides that "[e]ach public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of this Act." 5 ILCS 140/3(a). Under Section 1.2 of FOIA "[a]ll records in the custody of a public body are presumed to be open to inspection and copying." The Section further states that "[a]ny public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2. Further, a public body is required to give a detailed, factual basis for any exemption claimed and the names of the people responsible for the request. 5 ILCS 140/9(a).

It is our determination that CPD has not met its burden as to a portion of Ms. Garvey's request. CPD notes in its March 15, 2010 letter that possesses reports relating to occasions in which Mr. Henley was arrested. Because of CPD's obligation under Section 2.15(a), disclosure of these reports cannot be considered a highly unwarranted invasion of personal privacy and does not fall within the scope of Section 7(1)(c). As such, CPD should release these reports to Ms. Garvey. CPD may redact any victims' names from these reports pursuant to Section 7(1)(c). With regard to any police reports involving Mr. Henley as a victim of a crime or as a suspect who was not arrested, CPD may withhold these reports pursuant to Section 7(1)(c). For future reference, the addresses and phone numbers of victims are considered unique identifiers and may be properly redacted under Section 7(1)(b). The use of this exemption does not require pre-approval from this Office.

If you have any questions, please call our office at (312) 814-5383. This letter shall serve to close this matter,

Sincerely,

Cara Smith
Public Access Counselor

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Matthew Rogina
Assistant Public Access Counselor

Cc: Georgia Garvey
Chicago Tribune
