



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 6, 2011

Mr. Dave Schar
Deputy Chief
Warrenville Police Department
3S245 Warren Ave.
Warrenville, Illinois 60555

RE: FOIA Preauthorization Request 2011 PAC 14420

Dear Deputy Chief Schar:

We have received and reviewed the written notice from the Warrenville Police Department of its intention to deny disclosure of certain information requested by Ms. Christy Gutowski of the *Chicago Tribune* pursuant to section 7(1)(c) of the Freedom of Information Act (FOIA). 5 ILCS 140/7(1)(c) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010. Ms. Gutowski had requested a copy of a statement by an individual who allegedly saw someone damage a political sign and reported it to the Department. The Department seeks preauthorization to withhold the statement. As discussed below, we conclude that the Department has not met its initial burden of demonstrating that this record is exempt from disclosure, although it may redact a portion of the statement.

DETERMINATION

The Department's use of the exemption in section 7(1)(c) to withhold the witness statement is **denied** with the exception of one phrase. Section 7(1)(c) 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." That section 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 the information." Thus, a public body seeking to rely on this exemption must show: 1) that the information is highly personal or that disclosure would be highly objectionable to a reasonable person; and 2) that the subject's right to privacy outweighs any legitimate public interest in obtaining the information. Under section 1.2 of FOIA (5 ILCS 140/1.2 (West 2009 Supp.)), the public body has the burden of proving a claimed exemption by clear and convincing evidence.

Deputy Chief Dave Schar
June 4, 2011
Page 2

After carefully reviewing the materials submitted by the Department, we have determined that release of the statement concerning an alleged ordinance violation would not be highly objectionable to a reasonable person, with the exception of one phrase that may be redacted. That phrase will be highlighted in yellow on a copy of the statement that will be provided only to the Department.

If you have any questions, please contact me at 312-814-2770. This correspondence will serve to close the matter.

Very truly yours,


John Schmidt
Senior Assistant Attorney General
Public Access Bureau

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cc: Ms. Christy Gutowski
Chicago Tribune
3 Westbrook Center
Suite 800
Westchester, Illinois 60154