



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 2, 2010

Ms. Josie Gavurnik
Carol Stream Police Department
500 N. Gary Avenue
Carol Stream, IL 60188

RE: Pre-Authorization Request — 2010 PAC 6221

Dear Ms. Gavurnik:

We have received and reviewed the written notice from the Carol Stream Police Department (Department) of its intention to deny disclosure of certain information as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act, (FOIA). 5 ILCS 140/1 *et seq.*, as amended.

Marco Santana of the *Daily Herald*, submitted a FOIA request dated March 10, 2010, seeking a copy of a police report dated February 10, 2010, concerning Sgt. Tom Miller. In its written notice, the Department asserted that the following categories of information are exempt from disclosure under Section 7(1)(c) of FOIA:

1. Complainant's name and address;
2. Third party names and addresses;
3. Certain statements made by the Complainant pertaining to unrelated prior incidents;
4. Dates of birth; and
5. Third party identifying information, including height, weight, eye color, hair color and a driver's license number (DLN).

Determinations

Section 7(1)(c) of FOIA 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). The exemption defines “[u]nwarranted 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.” *Id.*

First, with respect to the Department’s proposed redaction of the complainant’s name and address and the names and addresses of the third parties noted in the police report, it is not necessary to determine whether these names and addresses are proper for redaction under Section 7(1)(c). The name and address of the complainant and the third parties referenced in this particular police report are exempt from disclosure under Section 7(1)(d)(iv), which allows withholding of information revealing the identity of persons who file complaints with or provide information to law enforcement. Please note that the FOIA only requires public bodies to submit a Notice of Intent to Deny and request for pre-authorization with regard to assertion of the exemptions in Sections 7(1)(c) (allowing withholding of information the release of which would constitute a clearly unwarranted invasion of personal privacy) and 7(1)(f) (allowing withholding of pre-decisional, deliberative process materials). Where information is specifically exempt under other sections of the Act, public bodies may issue denials relying upon such exemptions directly to the requester, without the need to submit the matter to the Public Access Counselor for pre-authorization.

Second, the Department’s use of the exemption in Section 7(1)(c) with regard to the complainant’s statements pertaining to unrelated prior incidents is **approved**. We have determined that the disclosure of this type of information would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c). This type of information is highly personal by its very nature and the subject’s right to privacy outweighs any legitimate public interest in disclosing this information.

Third, the Department’s use of the exemption in Section 7(1)(c) with regard to dates of birth is **approved**. We have determined that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c). This type of information is highly personal by its very nature and the subject’s right to privacy outweighs any legitimate public interest in disclosing this information.

Finally, the Department’s use of the exemption in Section 7(1)(c) with regard to eye color, hair color, height or weight is **denied**. We have determined that the disclosure of this identifying information would not constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c). We do not feel that the Department has met its burden to demonstrate a basis for redacting this information. However, we have determined that the DLN that the Department intends to redact falls within the Section 7(1)(b) exemption for private information, which is described in

paragraph five above and does not require pre-approval from Our office. The Department also asserted 7(1)(d) regarding some of this information and, as noted above, use of this exemption does not require preapproval from our Office. Likewise, the Department's proposed use of the Section 7(1)(d)(iv) exemption which it indicates that it intends to use as its basis for redacting the address of a certain business does not require pre-approval from our Office.

In accordance with this letter, the Department may release the requested records to the requester, in a matter not inconsistent with the determinations reached herein. If you have any questions, please call me at 217-782-9078. This letter shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:



Matthew M. Sebek
Assistant Attorney General, Public Access Division

cc: Marco Santana
Staff Writer
Daily Herald
P.O. Box 2497
Lisle, Illinois