



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 8, 2011

Ms. Kelli Bennewitz
City Clerk
City of Galesburg
55 West Tompkins Street
Galesburg, Illinois 61401

RE: FOIA Pre-Authorization Request - 2011 PAC 14054

Dear Ms. Bennewitz:

We have received and reviewed the written notice from the City of Galesburg (City) of its intention to deny disclosure of certain information under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010)). On May 4, 2011, [REDACTED] submitted a FOIA request for incident reports, accident reports, and arrest reports from July 2008 to the present for [REDACTED] and [REDACTED]. The City is seeking to withhold all responsive reports in their entirety.

We determined that further inquiry was warranted and requested that the City provide us with copies of the records in question in order to determine whether the section 7(1)(c) exemption applies. On May 17, 2011, the City responded to our request and provided us with un-redacted copies of all of the reports.

DETERMINATION

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 the disclosure is consented to in writing by the individual subjects of the information." The exemption 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."

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We have carefully reviewed all the documents provided to us by the City. The City's request to withhold the reports pursuant to section 7(1)(c) is **denied** as to three reports, and is **approved** for the remaining documents.

Report No. 090026751-00 pertains to an incident for which a suspect was arrested and charged with felony offenses. Nothing in the nature of the offense or the narrative of the report, other than the identity of the alleged crime victim and any witnesses who provided information, would result in an invasion of personal privacy if disclosed. Therefore, this report may not be withheld in its entirety. However, the disclosure of the names and identifying information concerning the victim and witnesses would constitute an unwarranted invasion of personal privacy outweighing any legitimate public interest in the disclosure of such information. Accordingly, the City may redact the names of the alleged victim and the witnesses, together with any information that would lead to their identification, from the report.

We would further note that the City is required to disclose the following information regarding arrestees pursuant to section 2.15(a) of FOIA (5 ILCS 140/2.15(a) (West 2010)):

(i) information that identifies the individual, including the name, age, address, and photograph, when and if available; (ii) information detailing any charges relating to the arrest; (iii) the time and location of the arrest; (iv) the name of the investigating or arresting law enforcement agency; (v) if the individual is incarcerated, the amount of any bail or bond; and (vi) if the individual is incarcerated, the time and date that the individual was received into, discharged from, or transferred from the arresting agency's custody.

Likewise, neither Report No. 080021656-00, which concerns a non-violent property crime, and Report No. 080004574-00, which details the towing of a vehicle, may be withheld pursuant to section 7(1)(c). We have determined that the disclosure of the substance of these reports would not constitute an unwarranted invasion of personal privacy. As discussed above, however, the names and identifying information concerning the crime victim and witnesses, if any, may be redacted from the reports pursuant to section 7(1)(c).

The City's use of the exemption in section 7(1)(c) to withhold the remaining reports is **approved**. We have reviewed copies of the reports, which concern incidents of a highly personal nature from which no arrests or criminal charges resulted. The privacy rights of the subjects of these reports outweigh any legitimate public interest in disclosing this information. Therefore, we conclude that the City has met its initial burden of demonstrating that these reports are exempt from disclosure under section 7(1)(c).

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If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,


STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

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cc: 