



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 1, 2011

Ms. Heather Allen
FOIA Officer
City of Moline Law Department
619 16th Street
Moline, Illinois 61265

RE: FOIA Pre-Authorization Request – 2011 PAC 14543

Dear Ms. Allen:

We have received and reviewed the written notice from the City of Moline of its intention, pursuant to section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010), to deny disclosure of investigative reports and supporting documents related to the investigation of [REDACTED]. On May 23, 2011, Mr. Dustin Lemmon of the *Quad-City Times* submitted a FOIA request to the City seeking copies of records related to the "2009 investigation of [REDACTED]. This could include investigative summaries, transcripts from witness interviews, evidence lists, search warrants and other records related to the investigation." The City sought pre-authorization to "deny the FOIA request in its entirety" pursuant to section 7(1)(c) and provided this office with copies of the responsive records.

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." Section 7(1)(c) also provides that "[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy."

DETERMINATIONS

The City's assertion of the section 7(1)(c) exemption to deny Mr. Lemmon's FOIA request in its entirety is **denied**. Section 7(1) of FOIA provides that "[w]hen a request is made to

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inspect or copy a public record that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying." 5 ILCS 140/7(1) (West 2010). In light of this provision, this office concludes that the City may not properly withhold all responsive documents in their entirety..

However, in its written notice the City specifically referenced certain information that the victim disclosed during the investigation and asserted that this information "should remain private. Such disclosure would clearly be an invasion of personal privacy of both an individual and of a juvenile. Disclosure of this information would be objectionable to a reasonable person and the right to privacy outweighs any public interest." In our telephone conversation on June 10, 2011, you asserted that the City was particularly interested in withholding graphic information that emerged during interviews with [REDACTED] the victim, and several witnesses.

Based on our review of the responsive records, the City's use of the section 7(1)(c) exemption with regard to limited portions of the records containing specific, sexually explicit information about the relationship between the victim and [REDACTED] is approved. This information is highly personal, and the victim's right to privacy with respect to this information outweighs any legitimate public interest in obtaining the information. Thus, disclosure of this information would constitute a clearly unwarranted invasion of the victim's personal privacy.

We also note that the City intends to deny Mr. Lemmon's FOIA request based on other exemptions in FOIA. We decline to determine at this stage whether the City's use of those exemptions is appropriate with regard to the responsive records. Should you have any questions or concerns, please contact me at (312) 793-0865. This correspondence shall serve to close this matter.

Very truly yours,

[REDACTED]
SARA GADOLA GALLAGHER
Assistant Attorney General
Public Access Bureau

cc: Mr. Dustin Lemmon
Quad-City Times
500 East Third Street
Davenport, Iowa 52801