



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

Lisa Madigan
ATTORNEY GENERAL

June 23, 2010

City Clerk Kari Haas
City of Mascoutah
3 West Main Street
Mascoutah, Illinois 62258-2030

RE: Pre-Authorization Request – 2010 PAC 7638
Requester: Beth Hundsdorfer

Dear Ms. Haas:

We have received and reviewed the written notice from the City of Mascoutah (City) of its intent to deny disclosure of certain information in police reports as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act (FOIA). 5 ILCS 140/7(1)(c). This letter is to advise you that your request is approved.

Beth Hundsdorfer of the *Belleville News-Democrat* submitted a FOIA request dated May 19, 2010, seeking 20 criminal sexual assault police reports and one battery police report from 2005 through 2010. Our office on June 3, 2010, confirmed that dates of birth are exempt from disclosure under Section 7(1)(c) of FOIA and issued a letter of further inquiry on other proposed applications of the exemption. In its response received June 17, 2010, the City asserts that all information indentifying the victims, all victim employment information, and all medical information is exempt from disclosure under Section 7(1)(c) of FOIA. The City further asserts that in reports involving juvenile victims or suspects, narrative descriptions where the victim recounts the assault also are exempt from disclosure under Section 7(1)(c) of FOIA.

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.*

Determinations

Based on the specific facts presented here, the City’s use of the exemption in Section 7(1)(c) with regard to information identifying the victims and all victim employment information is approved. We have determined that the disclosure of this information would be highly

objectionable to a reasonable person. Because each of these reports involves a sex offense, the subjects' privacy concerns are significantly heightened and their right to privacy in these cases outweighs any legitimate public interest in obtaining this information. Therefore, the disclosure of this information would constitute a clearly unwarranted invasion of personal privacy. 5 ILCS 140/7(1)(c).

The City's use of the exemption in Section 7(1)(c) with regard to narrative descriptions obtained from juvenile sex offense victims also is approved. We have determined that the disclosure of this information would be highly objectionable to a reasonable person. The details in these narrative descriptions include highly personal and sensitive information relating to sex offenses. As a result, the juveniles' right to privacy in these highly personal details outweighs any legitimate public interest in obtaining this information. Therefore, the disclosure of this information would constitute a clearly unwarranted invasion of personal privacy. 5 ILCS 140/7(1)(c).

Health information of the sort in these reports – medical examination records generated by healthcare providers – is properly redacted under Section 7(1)(b) of FOIA. Section 7(1)(b) of FOIA exempts private information from disclosure. Section 2(c-5) of FOIA defines "private information" to include medical records. As Section 7(1)(b) of FOIA does not require pre-authorization from the Public Access Counselor, we decline to make a determination on the redaction and withholding of this information.

Also, any information identifying juvenile sex offense victims is strictly prohibited from disclosure by the Juvenile Court Act of 1987. 705 ILCS 405/5-905(2). As such, information identifying juvenile sex offense victims should be withheld from disclosure under Section 7(1)(a) of FOIA and the Juvenile Court Act. As Section 7(1)(a) of FOIA does not require pre-authorization from the Public Access Counselor, we decline to make a determination on the redaction of this information.

Should you have questions or concerns, please call our office at 1-877-299-FOIA (3642). This letter shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By: 

Sara Gadola Gallagher
Deputy Public Access Counselor

cc: Ms. Beth Hundsdorfer
Belleville News-Democrat
Post Office Box 427
Belleville, Illinois 62220