



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 12, 2010

Deputy Chief Robert K. Pawlisz
Freedom of Information Officer
New Lenox Police Department
701 West Haven Avenue
New Lenox, Illinois 60451-2137

RE: Pre-Authorization Request — 2010 PAC 7803

Dear Deputy Chief Pawlisz:

We have received and reviewed the written notice from the New Lenox Police Department (Department) of its intent 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.

James Brumund of Brumund, Jacobs, Hammel, Davidson & Andreano, LLC, submitted a FOIA request dated June 2, 2010, seeking police records in case 08-0265 regarding an incident occurring on February 7, 2008. In its submission to our office, the Department redacted victims' names, a witness' name, photographs of injuries, the arrestee's emergency contact information, dates of birth and a narrative description of the incident in this case as exempt from disclosure under Section 7(1)(c) of FOIA.

The addresses, telephone numbers, social security numbers and driver's license number the Department redacted fall within the Section 7(1)(b) exemption for private information. "Private information" means unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person." 5 ILCS 140/7(1)(b)

In addition, the names of individuals who have filed complaints with or provided information to law enforcement may be exempt from disclosure under Subsection 7(1)(d)(iv) of FOIA.

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Use of these exemptions to partially deny disclosure of public records does not require preapproval from our Office.

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 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.*

The Department’s use of the exemption in Section 7(1)(c) with regard to the dates of birth of the victim and witness 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.

The Department’s use of the exemption in Section 7(1)(c) with regard to the dates of birth of the arrestee is denied. The requester, through his attorney, is himself the arrestee in this case and we have determined that the disclosure of dates of birth would not constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c).

The Department’s use of the exemption in Section 7(1)(c) with regard to the arrestee’s emergency contact’ information is denied. The requester, through his attorney, is himself the arrestee in this case and is undoubtedly familiar with his own emergency contact. We have determined that the disclosure of this information would not constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c).

The Department’s use of the exemption in Section 7(1)(c) with regard to the narrative description of the incident is denied. We have determined that the disclosure of this information would not constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c).

The Department’s use of the exemption in Section 7(1)(c) with regard to the victim’s name is approved. We have determined that the disclosure of victims’ names 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.

The Department’s use of the exemption in Section 7(1)(c) with regard to photographs depicting the victim’s injuries is approved. We have determined that the disclosure of photographs depicting a

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victim's injuries would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c).

Finally, the Department has also redacted the height, race and hair color of the victim, as well as the height, weight and hair color of the witness. The redaction of these physical characteristics is denied. This information is not exempt under Section 7(1)(c), nor under Section 7(1)(b).

The Department may wish to consider other exemptions with regards to this information. However, this letter gives no advice or opinion with regard to other exemptions. As such, the Department may issue a partial denial letter directly to Mr. Brumund and release the records to him with the appropriate information redacted.

If you have any questions, please feel free to contact me at (312) 814-5206. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:

A large black rectangular redaction box covering the signature of Amalia Rioja.

Amalia Rioja
Chief Deputy Public Access Counselor

cc: James R. Brumund
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