



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

Lisa Madigan
ATTORNEY GENERAL

July 20, 2010

Ann Kavanaugh
Records Supervisor/ FOIA Officer
Schaumburg Police Department
1000 W. Schaumburg Road
Schaumburg, Illinois 60194-4198

RE: Pre-Authorization Request – 2010 PAC 8440

Dear Ms. Kavanaugh:

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

On July 7, 2010, Mr. Greg Miller, on behalf of PCC News, submitted a FOIA request seeking a copy of the police report relating to the sexual battery against Diana Hickey that occurred on 7-18-83.

In its written notice, the Department asserts that the dates of birth, the name of the accused/offender, and the names of other individuals listed for photo line-ups, as contained within the police report, are exempt from disclosure under Section 7(1)(c) of FOIA. The Department further contends that disclosure of the name of the accused would be highly objectionable to a reasonable person because the date of the arrest goes back to 1983 and the court had found the accused 'Not Guilty' on all charges.

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.” 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.” *Id.*

The Department’s use of the Section 7(1)(c) exemption with regard to dates of birth is **approved**. A date of birth is highly personal information, and an individual’s right to privacy with respect to

July 20, 2010

Page 2

his date of birth generally outweighs any legitimate public interest in obtaining it. Thus, disclosure of the dates of birth would constitute a clearly unwarranted invasion of personal privacy to the individuals. Accordingly, the Department has met its burden of demonstrating that this information is exempt from disclosure under Section 7(1)(c) of FOIA.

Next, the Department's use of the exemption in Section 7(1)(c) with regard to the name of accused is **denied**. We have determined that the disclosure of this information would not constitute a clearly unwarranted invasion of personal privacy because the accused, in question, had been arrested and charged in relation to the incident. The fact that the accused was not convicted does not outweigh any legitimate public interest in obtaining this information. Therefore, the Department has failed to meet its burden of demonstrating that the offender's name is exempt from disclosure under Section 7(1)(c) of FOIA.

Finally, the Department's use of the Section 7(1)(c) exemption with regards to the names of other individuals who were listed in the photo line-ups is **approved**. None of the said individuals named in the police report were arrested or charged with regard to this incident. As such, we have determined that the disclosure of this information would be highly objectionable to a reasonable person, and these individuals' right to privacy outweighs any legitimate public interest in obtaining this information. Therefore, the disclosure of names of the said individuals would constitute a clearly unwarranted invasion of personal privacy.

Please note that this letter does not express an opinion or provide advice as to the applicability of any exemptions to these records other than Section 7(1)(c).

Accordingly, the Department may issue a partial denial letter to Mr. Miller and may release the records to him with the appropriate information redacted.

If you have any questions, please feel free to contact me at (312) 814-6437. This letter shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


Tola Adewola
Assistant Public Access Counselor

cc: Greg Miller
371 W. Honey Creek Drive
Terre Haute, IN 47802