



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

Lisa Madigan
ATTORNEY GENERAL

July 28, 2010

Kate Rassmussen
Freedom of Information Officer
Kendall County Sheriff's Office
1102 Cornell Lane
Yorkville, Illinois 60560-9597

RE: Pre-Authorization Request – 2010 PAC 8532

Dear Ms. Rassmussen:

We have received and reviewed the written notice from the Kendall County Sheriff's Office ('Sheriff's Office') of its intention to deny certain information contained within an incident report as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act ('FOIA'). 5 ILCS 140/7(1)(c).

On July 8, 2010, [REDACTED] submitted a FOIA request, seeking information relating to the June 25, 2010 incident involving the death of a minor at Southwoods Court in Yorkville, IL. In its written notice, the Sheriff's Office asserts that certain information in the requested report, specifically, the dates of birth, the identity and photographs of victim, and the identity of juvenile witnesses, are exempt from disclosure under Section 7(1)(c) of FOIA.

During an inquiry phone call from our office on July 27, 2010, the Sheriff's Office further explained that the withheld photographs depicts graphic images of the victim's body postmortem.

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.*

First, the Sheriff's Office'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

July 28, 2010

Page 2

with respect to 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 Sheriff's Office has met its burden of demonstrating that this information is exempt from disclosure under Section 7(1)(c) of FOIA.

Next, the Sheriff's Office's use of the Section 7(1)(c) exemption with regards to the identity and the postmortem photographs of the victim is **approved**. We have determined that release of this information would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal by its very nature and its' release would be objectionable to a reasonable person. Accordingly, the Sheriff's Office has met its burden of demonstrating that this information is exempt from disclosure under Section 7(1)(c) of FOIA.

Finally, we have determined that the identity of juvenile witnesses listed in the requested report, falls within the Section 7(1)(d)(iv) exemption for non-disclosure of the identity of persons who provide information to administrative, investigative, law enforcement, or penal agencies. 5 ILCS 140/7(1)(d)(iv). As such, we will not address the issue of whether this information is exempt under Section 7(1)(c) of FOIA.

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

Sincerely,

Cara Smith
Public Access Counselor

By:


Tola Adewola
Assistant Public Access Counselor

cc:

