



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

Lisa Madigan
ATTORNEY GENERAL

July 26, 2010

P.O. Michael Kelly
Assistant Freedom of Information Officer
Chicago Police Department
3510 S. Michigan Ave.
Chicago, IL 60653

RE: FOIA Pre-approval Request – 2010 PAC 8551

Dear Officer Kelly:

On July 20, 2010, we received from the Chicago Police Department (CPD) a written notice of its intention to assert the Section 7(1)(c) exemption in response to [REDACTED] Freedom of Information Act (FOIA) request dated June 23, 2010. [REDACTED] sought all reports related to the incident for which the requester was convicted (CPD File B598925.) The Department has indicated that it intends to redact from responsive records all statements made by the victim, witnesses and persons interviewed/canvassed, asserting that release of that information would constitute a clearly unwarranted invasion of personal privacy and, therefore, that such information is exempt under Section 7(1)(c) of the Act.

Section 7(1)(c) of the Freedom of Information Act permits a public body to withhold “[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” That provision further defines an “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.” Based on our review of CPD’s explanation of the information it intends to withhold as constituting a clearly unwarranted invasion of personal privacy and its explanation of its bases for asserting that exemption, we have determined that CPD has met its burden to justify withholding the victim’s statements to police in this instance as a clearly unwarranted invasion of personal privacy. Because of the nature of the crime involved, the victim’s account of the details of the incident is likely to include highly personal information about the victim and the victim’s experience, the release of which would be objectionable to a reasonable person. Further, the subjects’ rights to privacy outweigh any public interest in release of that information. Thus, the victim statements in question properly fall within the Section 7(1)(c) exemption and are appropriate for redaction.

CPD has also indicated its intention to withhold statements of other witnesses in order to protect the privacy and identities of those witnesses. CPD has asserted that persons providing information to police have a reasonable expectation of privacy and anonymity. While it is appropriate for CPD to redact identifying information to protect the anonymity of persons providing information to police under Section 7(1)(d)(iv), CPD has not met its burden of establishing that the witness statements in their entirety fall within the Section 7(1)(c) exemption for information constituting a clearly unwarranted invasion of personal privacy. Ensuring the anonymity of persons who provide information to police is important to encourage people to come forward and aid law enforcement in solving crimes. The substance of the information provided, however, is not inherently information that would be considered highly personal in nature. To the contrary, it is likely that much of the pertinent information provided to police would not relate to personal information about the witness or informant, but rather information about an incident that witness observed.

The identities of persons who provide information to police, including any information contained in the statements of such persons that would reveal their identities, are protected by the statutory exemption in Section 7(1)(d)(iv). Statements of witnesses and other persons providing information to police, however, are not, in their entirety, personal or private and CPD has not met its burden of establishing that the release of the substance of their statements would constitute a clearly unwarranted invasion of the personal privacy of those individuals. As such, CPD's request for approval of use of the 7(1)(c) exemption to withhold such statements *in toto* is denied. CPD may redact the identities of those who provided information to the investigators, together with any other information that might inexorably disclose their identities.

If you have any questions, please feel free to contact me at (217) 785-7438. This letter shall serve to close these files.

Sincerely,

Cara Smith
Public Access Counselor



Amanda M. Lundeen
Assistant Public Access Counselor

cc:

