



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 25, 2010

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

RE: FOIA Pre-Authorization Request - 2010 PAG-8950

Dear Ms. Rassmussen:

We have reviewed the Kendall County Sheriff's Office's pre-authorization request and associated documents to determine whether section 7(1)(c) of the Freedom of Information Act ("FOIA") (5 ILCS 140/7(1)(c)) was properly asserted to withhold information requested by [REDACTED]. [REDACTED] requested copies of "all depositions taken from all parties deposed" in a sexual harassment case against the Sheriff's Office. The Sheriff's Office claims that some of the information contained in the depositions is exempt from disclosure under Section 7(1)(c) of FOIA. On August 16, 2010, we determined that further inquiry was warranted, and requested that the Sheriff's Office provide us with an unredacted copy of the withheld information. The Sheriff's Office provided us with the requested information and categorized the documents it withheld by a "document number," providing reasons for its exemption claim for each of the withheld documents. Accordingly, we will address each document as labeled by the Sheriff's Office in determining whether Section 7(1)(c) was properly asserted.

Section 7(1)(c) of FOIA exempts from inspection and copying the following: "personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. . . . 'Unwarranted invasion of personal privacy' means the disclosure of information that is highly personal or objectionable to reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." 5 ILCS 140/7(1)(c).

First, the Sheriff's Office contends that documents 123, 127, 148, 305, 412, 936, 966, and 1042 are exempt under Section 7(1)(c) because they contain names of minors along with their birthdates. We conclude that the Sheriff's Office has satisfied its initial burden of establishing that the minors' names are exempt from disclosure under Section 7(1)(c). The documents,

however, should not be withheld. Rather, redaction of the minors' names is a more suitable alternative.

Moreover, we note except for document 1042, information concerning birthdates do not appear in these documents. While one minor's birth year is disclosed in document 305, a birth year is not the same as a birthdate. With respect to document 1042, however, the birthdate of that child is exempt from public disclosure because the personal privacy interest at stake outweighs any legitimate public interest in disclosure. Accordingly, we conclude that documents 123, 127, 148, 305, 412, 936, 966, and 1042 are subject to disclosure, provided, however, that the birthdate appearing on document 1042, as well as any of the minors' names, may be redacted.

Second, the Sheriff's Office contends that document 593 is exempt from disclosure because it contains the plaintiff's birthdate. We agree that the birthdate is exempt from disclosure under Section 7(1)(c). Thus, the Sheriff's Office should disclose this document with the birthdate redacted.

Third, the Sheriff's Office claims that documents 75, 76, 247, 266, 276, 277, 278, 405, 406, 410, 411, 412, 505, 506, 511, 513, 527, 532, 651, 849, 850, 933, 966, 967, 987, 988, 990 are exempt under Section 7(1)(c) because they contain "personal information about the witnesses outside of the scope of their duties at the Kendall County Sheriff's Office." The Sheriff's Office states that the information appearing on these documents "pertain to the witnesses' former marriages, romantic relationships and/or alleged events that occurred outside of the Kendall County Sheriff's Office."

We agree that this information is exempt from disclosure under Section 7(1)(c). The information appearing on these documents do not relate in any way to the public business of the Sheriff's Office but, instead, concern only private relationships of various employees with the Sheriff's Office. We conclude that this information is highly personal in nature, and its disclosure would result in a clearly unwarranted invasion of personal privacy.

Finally, the Sheriff's Office posits that documents 499, 593, and 961 are exempt from disclosure under Section 7(1)(c) because they contain personal medical information about various witnesses. We agree that the information concerning the witnesses' medical care and treatment is highly personal and objectionable, the disclosure of which would result in a clearly unwarranted invasion of personal privacy. However, we conclude that it is more appropriate for the Sheriff's Office to redact such information, rather than withhold the entire documents.

If you have any questions concerns, please contact me at (312) 814-5044. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:

[Redacted Signature]

Sunil Bhawe
Assistant Attorney General

cc:

[Redacted CC List]

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