



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

October 25, 2010

Denise Li  
City Clerk/FOIA Officer  
City of Sandwich  
144 E. Railroad Street  
Sandwich, Illinois 60548

Re: Pre-Authorization Request – 2010 PAC 9345

Dear Ms. Li:

On August 30, 2010 we received written notice from the City of Sandwich (City) of its intention to deny certain records as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act. 5 ILCS 140/1 *et seq.*, as amended (FOIA). On September 20, 2010 you provided us with unredacted copies of documents responsive to a FOIA request made by [REDACTED] on August 25, 2010, in which he sought "[a]ny and all documents, reports, notes, and results pertaining to the rape complaint filed in May 2009 on behalf of [REDACTED]." In addition, you advised that you were seeking to deny disclosure of information under Sections 7(1)(a) and 7(1)(b) of FOIA.

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.*

Determination

First, the City's proposed use of the personal privacy exemption found in Section 7(1)(c) of FOIA to deny in whole all records responsive to [REDACTED] FOIA request is denied. Although we recognize that some discrete information contained in these reports, such as the narrative of the alleged assault and any references to medical conditions or treatments, may be exempt from disclosure under Section 7(1)(c) of FOIA, the fact that a document may contain some exempt information does not justify denying disclosure of the document in its entirety.

Section 7(1) of FOIA (5 ILCS 140/7(1)) provides, in part:

When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. ***The public body shall make the remaining information available for inspection and copying.*** (Emphasis added.)

Second, other provisions of FOIA, as well as other statutes, may exempt from disclosure discreet information contained within the responsive records. For example, "medical records" are defined as "private information" in Section 2(c-5) of FOIA and are exempt from disclosure under Section 7(1)(b) of FOIA. However, a public body is only required to seek pre-authorization from the Public Access Counselor for use of the exemptions found in Sections 7(1)(c) and 7(1)(f) of FOIA. We offer no opinion or advice as to the use of any other exemption to deny disclosure of the records sought by [REDACTED].

The City may submit a new pre-authorization request to the Office of the Public Access Counselor identifying the discreet information that it intends to redact under Section 7(1)(c), along with a detailed factual basis for asserting the exemption. If the City chooses to submit a new request, please provide both redacted and unredacted copies of the responsive documents, clearly identifying which exemption is being asserted for each redaction. If the City chooses not to submit a new request, it shall disclose the requested records to [REDACTED], unless it properly asserts an exemption other than Section 7(1)(c) of FOIA.

If you have any questions, please feel free to contact me at (312) 814-1003 or [joleary@atg.state.il.us](mailto:joleary@atg.state.il.us). This correspondence shall serve to close this matter.

Sincerely,

Cara Smith  
Public Access Counselor

By: [REDACTED]

[REDACTED]  
Jessica O'Leary  
Assistant Attorney General

cc: [REDACTED]