



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 18, 2010

Michael S. Recupito
Director of Police Administration
Round Lake Police Department
741 West Town Line Road
Round Lake, IL 60073-5709

Re: Pre-authorization request – 2010 PAC-6379

Dear Mr. Recupito:

We have received the Round Lake Police Department's (Department) notice of intention to deny disclosure of certain information requested under the Freedom of Information Act, 5 ILCS 140/1 *et seq.*, as amended. [REDACTED] requested a copy of Incident Report 2010-000214. The report details a violent crime for which two suspects were arrested and charged. The Department asserted that the following information is exempt from disclosure under Section 7(1)(c) (5 ILCS 140/7(1)(c)):

- 1) Birth dates.
- 2) The names and photographs of "filler" persons who were selected for a photo line-up because of physical similarities to one of the arrestees.
- 3) The names of the arrestees' emergency contacts, and the emergency contacts' relationship to the arrestees.
- 4) Identifying information of suspects who were not arrested or charged.

Information in public records is exempt if disclosure would "constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information." 5 ILCS 140/7(1)(c). An "[u]nwarranted invasion of personal privacy" is 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

The Department's assertion of the Section 7(1)(c) exemption to redact birth dates from the report is **approved**. Birth dates are a highly personal form of information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. A subject's right to privacy outweighs any legitimate public interest in the disclosure of his or her date of birth.

The Department's assertion of the Section 7(1)(c) exemption to redact photographs of individuals who appeared in a photo line-up viewed by the victim is **denied**. We determined in 2010 PAC 5626 that the assertion of the Section 7(1)(c) exemption to withhold line-up photographs is not appropriate. The release of such "photos with all identifying information redacted does not constitute an unwarranted invasion of personal privacy." *Nat'l Ass'n of Criminal Def. Lawyers v. Chicago Police Dep't*, 399 Ill. App. 3d 1, 13-14, 924 N.E.2d 564, 575 (1st Dist. 2010). However, the Department's assertion of the Section 7(1)(c) exemption to redact the names of individuals who appeared in the photo line-up is **approved**. We determined in 2010 PAC 8440 that disclosure of the names of individuals who were not arrested or charged but appeared in a photo line-up would constitute a clearly unwarranted invasion of personal privacy. Such individuals' right to privacy outweighs any legitimate public interest in disclosure of their names.

The Department's assertion of the Section 7(1)(c) exemption to redact the arrestees' emergency contact information also is **approved**. We determined in 2010 PAC 8380 that an individual's emergency contact information is exempt from disclosure under Section 7(1)(c). Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. An arrestee's right to privacy outweighs any legitimate public interest in disclosure of his or her emergency contact information.

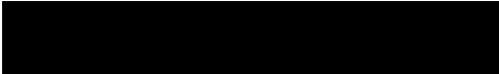
In addition, the Department's assertion of the Section 7(1)(c) exemption to redact identifying information of suspects who were not arrested or charged in connection with the crime detailed in the report is **approved**. We have determined that information identifying an individual as a suspect of a crime for which he or she was not arrested or charged would constitute a clearly unwarranted invasion of personal privacy. An individual's right to privacy outweighs any legitimate public interest in identifying him or her as a suspect of a crime for which he or she was not arrested or charged.

This letter shall serve to close this file. If you have any questions, please feel free to contact me at (312) 814-6756 or ssilverman@atg.state.il.us.

Sincerely,

Cara Smith
Public Access Counselor

By:


Steve Silverman
Assistant Public Access Counselor

CC:



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