



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 6, 2010

Ms. Tanya Bundy
City Clerk
City of Centralia
222 S. Poplar
Centralia, IL 62801

RE: Pre-Authorization Request – 2010 PAC 9519
FOIA Requester: Beth Hundsdorfer – Belleville News-Democrat

Dear Ms. Bundy:

We have received and reviewed the written notice from the City of Centralia (City) of its intention to deny disclosure of all police reports involving a sexual assault reported during the period beginning May 1, 2004, pursuant to Section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7), which 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.”

Specifically, on August 17, 2010, Beth Hundsdorfer of the *Belleville News-Democrat* submitted a FOIA request seeking “police reports for sexual assaults reported to [the City] from May 1, 2004, to present.” On September 3, 2010, the City provided Ms. Hundsdorfer with a listing of the time, case number, and location of the sexual assault cases reported during this period. At that time, Ms. Hundsdorfer indicated the information provided was not what she sought, and she filed an additional FOIA request for “narratives, investigative, and initial response of sexual assault cases for 4 years.”

On September 8, 2010, the City sought our office’s approval to withhold the requested documents under the Section 7(1)(c) exemption. It argued that the narratives requested contained “intimate descriptions of acts of violence, intimidation, physical contact and acts of penetration.” The City further claimed that Section 7(1)(c) applied because the “sexual assault cases also document written accounts of interviews with victim’s advocates which are conducted under the auspices of confidentiality. In some cases, medical personnel and examination results and evidence collection are outlines in detail for prosecution purposes, which are shielded from FOIA inquiries.” The City stated that the privacy interests of the subjects in question outweighed any legitimate public interest in obtaining the documents.

On September 16, 2010, our office determined that further inquiry was warranted into this matter to determine whether the requested records met the standard set forth in Section 7(1)(c). We asked that the

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City submit all the documents requested by Ms. Hundsdorfer in order to conduct our review. The City provided our office with the files on all sexual assault cases from January 1, 2004, until the time of the request - a total of 67 cases. We have reviewed each individual case to determine whether it may be withheld under Section 7(1)(c).

As noted above, Section 7(1)(c) 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.”

Determination

The City’s use of the Section 7(1)(c) exemption to withhold the requested records *in their entirety* is **denied**. There is a legitimate public interest in examining how police officers respond to reports of sexual assault that mandates the release of some information regarding these serious criminal allegations while still protecting the privacy of the victims of and witnesses to these events.

Accordingly, the City **may redact** the narrative portions relating to the sexual assault contained in the documents pursuant to Section 7(1)(c), including statements in the narrative regarding the act itself and any description of violence, intimidation, or physical contact relating thereto. After reviewing the information provided, we have determined that this information is highly personal and the subject’s privacy interest outweighs any legitimate public interest in obtaining the information. Therefore, the City has met its burden in establishing that Section 7(1)(c) shields this information from disclosure.

The City **may also redact** any information relayed by a victim’s advocates to the police pursuant to Section 7(1)(c). Victims expect the information provided to these counselors to be kept confidential and releasing this information would be a violation of that trust. The subject’s right to privacy in this information outweighs the public’s interest in obtaining this information. Therefore, the City has met its burden in establishing that Section 7(1)(c) shields this information from disclosure.

Additionally, the City’s use of Section 7(1)(c) to redact narrative portions relating to the victim’s injuries and other information with respect to medical treatment or conditions is **approved**. This information, by its very nature, is highly personal and any legitimate interest of the public in obtaining it is outweighed by the victim’s right to privacy. Therefore, the City has met its burden in establishing that Section 7(1)(c) shields this information from disclosure.

Further, the City’s use of Section 7(1)(c) to redact information that would identify the victim is **approved**. The nature of these crimes is highly personal and the victims’ rights to privacy here outweigh the interests of the public in accessing this information. These redactions may include any information relating to the victim’s relationship with the suspect or arrestee that would identify the victim (although the identities of suspects that have been arrested must be released as required by Section 2.15(a)). Therefore, the City has met its burden in establishing that Section 7(1)(c) shields this information from disclosure.

Finally, the City **may use** 7(1)(c) to **redact** identifying information about suspects who were not arrested. Being accused of sexual assault is highly personal and having that information released in the absence of an arrest or any charges being filed would be highly objectionable to a reasonable person. The individual’s right to privacy in this instance would outweigh any legitimate public interest in obtaining the information.

This letter does not provide an opinion or advice regarding any other redactions that may be available under other sections of FOIA, including Section 7(1)(a), 7(1)(b), and 7(1)(d). However, please note that the City must release information relating to individuals who have been arrested in accordance with Section 2.15(a). 5 ILCS 140/2.15(a). Please also note that law enforcement records regarding juveniles who have been arrested are confidential under the Juvenile Court Act of 1987. 705 ILCS 405/5-905.

Should you have questions or concerns, please feel free to contact me at (312) 814-8413. This correspondence shall serve to close this matter.

Sincerely,

cc: Beth Hundsdorfer
Belleville News-Democrat
120 S. Illinois Street
Belleville, IL 62220

Cara Smith
Public Access Counselor



By: Rebecca Riddick
Assistant Public Access Counselor