



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

Ms. Olivia Medina
Public Information Officer
Chicago Police Department
Records Inquiry Section, Unit 163
3510 S. Michigan Ave.
Chicago, IL 60653

Re: Pre-Authorization Request - 2010 PAC 9829

Dear Ms. Medina:

We have received and reviewed the written notice from the Chicago Police Department (Department) of its intention to deny certain records as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act (FOIA), 5 ILCS 140/1et seq., as amended.

██████████ submitted a FOIA request on November 10, 2010 seeking:

- “1) Any and all fingerprint identification cards, live-scan records, LEADS (law enforcement support agency) records, police reports, arrest reports, incident reports, citations, and any other police instrument including arrest warrants created from January 1991 to August 2010 by the Chicago Police Department to identify for ██████████
- 2) Any and all photographs, mug-shots, or other digital or electronic record or written description(s) created from January 1991 to August 2010 by the Chicago Police Department to identify or capture the image or likeness of ██████████

In its written notice, the Department asserts that disclosure of these records would constitute a clearly unwarranted invasion of personal privacy and, therefore, the records are exempt under Section 7(1)(c) 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

The Department's proposed application of Section 7(1)(c) to deny disclosure of all records responsive to this request is denied. Although we recognize that some information contained in these records, such as victim's and witnesses' names which appear in responsive police reports, 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.)

For example, Section 2.15(a) of FOIA (5 ILCS 140/2.5(a)) requires that the following information be disclosed regarding any offenders who were arrested:

...(i) information that identifies the individual, including the name, age, address, and photograph, when and if available; (ii) information detailing any charges relating to the arrest; (iii) the time and location of the arrest; (iv) the name of the investigating or arresting law enforcement agency; (v) if the individual is incarcerated, the amount of any bail or bond; and (vi) if the individual is incarcerated, the time and date that the individual was received into, discharged from, or transferred from the arresting agency's custody.

In addition to its 7(1)(c) assertion, the Department also asserts that certain responsive records are exempt under Section 7(1)(d) and Section 7(1)(o) of FOIA. 5 ILCS 140/7(1)(d), (o). Because FOIA does not require public bodies to seek pre-authorization from our office before asserting Section 7(1)(d) or Section 7(1)(o), we take no position in this letter with regard to those two exemptions.

This correspondence shall serve to close this matter. If you have any questions, please feel free to contact me at (217) 782-9078.

Sincerely,

Cara Smith
Public Access Counselor

By 

Matthew M. Sebek
Assistant Public Access Counselor

cc: 

9829 pre-auth dl 7(1)(c) priv pd