



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 3, 2011

DuPage County Sheriff's Office
Richard Czupowski, FOIA Officer
501 N. Country Farm Rd
Wheaton, IL 60187

Re: Pre-authorization request – 2011 PAC 12115

Dear Mr. Czupowski:

We have received from the DuPage County Sheriff's Office a notice of intention to deny disclosure of information requested by Mark Peterson under the Freedom of Information Act. 5 ILCS 140/1 *et seq.*, as amended. Mr. Peterson requested information regarding the investigation and arrest of Kenneth Larson. The Sheriff's Office requested pre-approval to redact "intimate" information pursuant to Section 7(1)(c) (5 ILCS 140/7(1)(c)).

Mr. Czupowski clarified in a telephone conversation that the Sheriff's Office is requesting pre-approval under Section 7(1)(c) to redact all information regarding sexual matters. Mr. Larson was arrested on a possession of child pornography charge.

Determination

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.*

The request for pre-authorization to withhold information regarding sexual matters under Section 7(1)(c) is **approved in part and denied in part**. We have reviewed un-redacted copies of the records and determined that to the extent the information regarding child pornography is subject to disclosure under Section 2.15 (5 ILCS 140/2.15)) of FOIA, the Sheriff's Office has not shown that such information, in its entirety, should not be disclosed. There is a substantial public interest in information regarding arrests for alleged crimes of this nature and the manner in

which such alleged crimes are investigated by police. Accordingly, the Sheriff's Office has not sustained its burden of demonstrating that information regarding child pornography is exempt from disclosure under Section 7(1)(c).

However, the Sheriff's Office may redact references to sexual matters which do not regard the offense for which the suspect was arrested. Such information is highly personal by its very nature; a subject's right to privacy outweighs any legitimate public interest in disclosure of such information. Accordingly, the Sheriff's Office has sustained its initial burden of demonstrating that information regarding sexual matters which do not pertain to child pornography is exempt from disclosure under Section 7(1)(c).

The Sheriff's Office has asserted that additional records are exempt from disclosure under Section 7(1)(d)(vii) (5 ILCS 140/7(1)(d)(vii)). Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than Section 7(1)(c) and Section 7(1)(f), we make no determination at this time regarding the applicability of any other exemptions.

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

Sincerely,


Steve Silverman
Assistant Public Access Counselor

cc: Mark Peterson
Director Train Management
Union Pacific Railroad
301 W. Lake St.
Northlake, IL 60164