



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 19, 2011

Ms. Jeanine M. Kustak, FOIA Officer
Palos Heights Police Department
7607 W. College Drive
Palos Heights, IL 60463

RE: FOIA Pre-Authorization Request - 2011 PAC 14068

Dear Ms. Kustak:

We have received and reviewed the written notice from the Palos Heights Police Department (PHPD) of its intention to deny certain information as exempt from disclosure under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). The PHPD is seeking to redact juvenile victim's name and information, dates of birth, social security and drivers' license numbers, and statements made to police by complainant as to the suspect's medical situation from the requested documents.

██████████ submitted a FOIA request for the Palos Heights Police Department Incident Report pertaining to Case Number 111102521 on May 9, 2011. In its written notice, the PHPD asserts that juvenile victim's name and information, dates of birth, social security and drivers' license numbers, and statements made to police by complainant as to the suspect's medical situation are exempt from disclosure 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 the disclosure is consented to in writing by the individual subjects of the information." 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." 5 ILCS 140/7(1)(c) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

DETERMINATION

The PHPD's use of the exemption in section 7(1)(c) to redact juvenile victim's name and information is **approved**. We have concluded that the PHPD has met its initial burden of demonstrating that the disclosure of the juvenile victim's name and information contained in these documents would be highly objectionable to the reasonable person. Under these circumstances, the right to privacy outweighs any public interest in the information that the PHPD intends to withhold.

The PHPD's use of the exemption in section 7(1)(c) for the dates of birth is **approved**. We have determined that the Village has met its initial burden of demonstrating that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal by its very nature and the subject's right to privacy outweighs any legitimate public interest in disclosing this information. *See, e.g., Oliva v. United States*, 756 F. Supp. 105, 107 (E.D.N.Y. 1991) (holding that, under Exemption 6 of the Federal Freedom of Information Act (5 U.S.C. §552(b)(6)), "dates of birth[] are a private matter, particularly when coupled with * * * other information" and "would constitute a clearly unwarranted invasion of personal privacy"); *Texas Comptroller of Public Accounts v. Attorney General of Texas*, ___ S.W.3d ___, 54 Tex. Sup. Ct. J. 245 (2010) (state employees have a "nontrivial privacy interest" in their dates of birth under the Texas Public Information Act (*see* Tex. Gov't Code §§552.101, 552.102), which substantially outweighs the negligible public interest in disclosure).

The PHPD's use of the exemption in section 7(1)(c) to redact statements made to police by complainant as to the suspect's medical situation is **denied**. We have concluded that the PHPD has failed to meet its initial burden to demonstrate that the disclosure of statements made to police by complainant as to the suspect's medical situation contained in these documents would constitute a clearly unwarranted invasion of privacy. The voluntarily made statements are neither highly personal nor objectionable to a reasonable person. Therefore, these statements are not exempt under section 7(1)(c) as the suspect's right to privacy does not outweigh a legitimate public interest in disclosing this information.

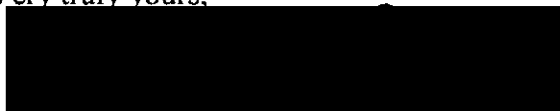
In addition, the PHPD may redact drivers license and social security numbers pursuant to section 7(1)(b) without pre-authorization because it is private information. Private information as defined in section 2(c-5) of FOIA includes "unique identifiers, including a person's social security number, driver's license number *** home address***", and private information is exempt from disclosure under section 7(1)(b).

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Accordingly, the PHPD may issue a partial denial letter and release the reports with juvenile victim's name and information, dates of birth, and social security and drivers' license numbers redacted, if it has not already done so.

If you have any questions about FOIA, please contact us at (877) 299-FOIA. This correspondence shall serve to close this matter.

Very truly yours,



DUSHYANTH REDDIVARI
Assistant Attorney General
Public Access Bureau

cc:

