



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 26, 2011

Ms. Teresa Fisher, FOIA Officer
Wilmington Police Department
120 North Main Street
Wilmington, IL 60481

RE: FOIA Pre-Authorization Request - 2011 PAC 14163

Dear Ms. Fisher:

We have received and reviewed the written notice from the Wilmington Police Department (Department) 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 Department is seeking to redact dates of birth and private information, such as address, phone numbers, drivers' license and social security numbers from the requested documents.

[REDACTED] submitted a FOIA request for police report No.11-3269 on May 12, 2011. In its written notice, the Department asserts that dates of birth and other personal information 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 Department's use of the exemption in section 7(1)(c) for the dates of birth is **approved**. We have determined that the Department has met its initial burden of demonstrating that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal

Ms. Teresa Fisher
May 20, 2011
Page 2

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).

In addition, the Department may redact other private information, such as addresses, social security and drivers' license numbers, and telephone 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 or personal telephone numbers[,], and private information is exempt from disclosure under section 7(1)(b).

Accordingly, the Department may issue a partial denial letter and release the report with the dates of birth and private information redacted, if it has not already done so.

If you have any questions, please contact Tammy Friedewald at (217) 558-1926. This correspondence shall serve to close this matter.

Very truly yours,

Amanda Lundeen
AMANDA M. LUNDEEN *ML*
Assistant Attorney General
Public Access Bureau

cc:

