



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 7, 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 14356

Dear Ms. Kustak:

We have received and reviewed the written notice from the Palos Heights Police 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).

David Wix submitted a FOIA request for all records pertaining to Palos Heights Police Department Case Number 111102863 on May 24, 2011. In its written notice, the Department asserts that personal and identifying information for juveniles involved, and dates of birth 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 redaction of both personal and identifying information for juveniles involved is **approved**. We conclude that the Department has met its initial burden of demonstrating that disclosure of the juveniles' personal and identifying information would be highly objectionable to the reasonable person. Under these circumstances, the right to privacy outweighs any public interest in the information that the Village intends to withhold.

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 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 complainant's personal address, phone numbers and driver's license without preauthorization because it is private information. Private information is defined in section 2(c-5) of FOIA as "unique identifiers, including a person's driver's license number, *** home or personal telephone numbers, *** [and] home address[.]" 5 ILCS 140/2(c-5) (West 2009 Supp.). Private information is exempt from disclosure pursuant to section 7(1)(b). 5 ILCS 140/7(1)(b) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

Accordingly, the Department may issue a partial denial letter and release the reports with the personal and identifying information for juveniles and dates of birth redacted, if it has not already done so.

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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,

A solid black rectangular box redacting the signature of the sender.

DUSHYANTH REDDIVARI
Assistant Attorney General
Public Access Bureau

cc: David Wix
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