



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 3, 2011

Ms. Ann Kavanaugh
Records Supervisor
Village of Schaumburg Police Department
1000 West Schaumburg Road
Schaumburg, IL 60194

RE: Pre-Authorization Request — 2011 PAC 14442

Dear Ms. Kavanaugh:

We have received and reviewed the written notice from the Schaumburg Police Department of its intention to deny disclosure of certain information 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). On May 24, 2011, [REDACTED] submitted a FOIA request for Police Reports #11-11264 and 11-9645. The Department is seeking to redact the complainant's date of birth and the names of several potential witnesses.

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 complainant's date of birth is **approved**. We have determined that the Department has met its initial burden of demonstrating that the disclosure of the complainant's date 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)

Ms. Ann Kavanaugh
June 3, 2011
Page 2

(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).

It is not necessary for the Public Access Counselor (PAC) to determine whether the Department may redact the names of witnesses who provided information to the police. The names of witnesses fall within the scope of section 7(1)(d)(iv) of FOIA (5 ILCS 140/7(1)(d)(iv) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010), which exempts information to the extent that disclosure would "unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information" to law enforcement officials. The Department does not require prior approval from the PAC to redact information pursuant to section 7(1)(d)(iv). *See* 5 ILCS 140/9.5(b) (West 2009 Supp.). For the same reason, it is unnecessary to consider whether the Department may redact certain other information under section 7(1)(b) of FOIA. 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 report in accordance with this letter, if it has not already done so.

If you have any questions, please contact me at (312) 814-2770. This correspondence shall serve to close this matter.

Very truly yours,


JOHN SCHMIDT
Senior Assistant Attorney General
Public Access Bureau

JS:ah

14442 pre-auth al 7(1)(c) priv pd

cc: 