



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 13, 2011

Ms. Kathy Rust
Freedom of Information Officer
St. Charles Police Department
Two State Avenue
St. Charles, Illinois 60174

RE: FOIA Pre-Authorization Request – 2010 PAC 10243

Dear Ms. Rust:

We have received and reviewed your written notice from the St. Charles 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 October 13, 2010, [REDACTED] submitted a FOIA request to the Department for police incident report No.10-22533. The Department seeks to deny the release of the report narrative, the subjects' dates of birth and names, the incident type, and other personal information associated with the incident report under 7(1)(c) of FOIA. [REDACTED] is not named in the report and no arrest occurred.

Section 7(1)(c) of FOIA exempts from inspection and copying "[p]ersonal information contained within police 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 subject's date of birth is **approved**. We have concluded 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

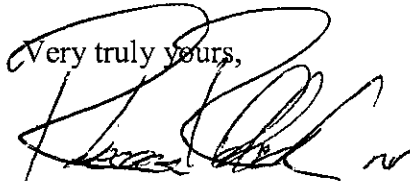
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information. *See, e.g., Oliva v. United States*, 756 F. Supp. 150, 107 (E.D.N.Y. 1991) (holding that, under Exemption 6 of the Federal Freedom of Information Act (5 U.S.C. § 552(b)(6)), "dates of birth[] are a private matter, particularly when coupled with * * * other information" and "would constitute a clearly unwarranted invasion of personal privacy"); *Texas Comptroller of Public Accounts v. Att'y 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 Texas Public Information Act (*see* Tex. Gov't Code §§ 552.101, 552.102), which substantially outweighs the negligible public interest in disclosure).

Second, the Department's use of the exemption in section 7(1)(c) to redact the report narrative, subject names, incident type, and other personal information contained in the description of incident report No.10-22533 is **approved**. We have reviewed the redactions and agree that releasing this information would constitute an 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.

Accordingly, the Department may release the properly redacted police records to [REDACTED] if it has not already done so.

If you have any questions, please contact Andres Acosta at (877) 299-3642. This correspondence shall serve to close this matter.

Very truly yours,


REBECCA RIDDICK
Assistant Attorney General
Public Access Bureau

RR: nr

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cc: [REDACTED]