



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 9, 2011

Mr. Michael S. Recupito
Director of Police Administration
Round Lake Police Department
741 West Town Line Road
Round Lake, Illinois 60073

RE: Pre-Authorization Request – 2010 PAC 14013

Dear Mr. Recupito:

We have received and reviewed the written notice from the Round Lake 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). Specifically, on May 3, 2011, Debra Oleson submitted a FOIA request to the Department for Report # 11-0705. The Department is seeking to redact dates of birth and the name and certain other identifying information of a suspect who was not arrested or charged in connection with the incident.

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), to redact the name and other information identifying an individual listed as a suspect is **approved**. The report contains allegations of criminal conduct for which the suspect was not arrested or charged. Disclosure of information identifying this person in this context would constitute a highly unwarranted invasion of the personal privacy. Accordingly, we conclude that the Department has sustained

Mr. Michael S. Recupito
June 9, 2011
Page 2

its initial burden of demonstrating that this information is exempt from disclosure under section 7(1)(c).

The Department's use of the exemption in section 7(1)(c) for the dates of birth is also **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).

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

If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,

STEVE SILVERMAN
STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau
by EK

14013 preauth A1 71c dob 71c sus priv

cc: Ms. Debra Oleson
Oleson & Associates, Ltd.
1749 W. Golf Road, #342
Mt. Prospect, Illinois 60056