



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
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June 20, 2011

Ms. Ann Kavanaugh
Records Supervisor
Village of Schaumburg Police Department
1000 West Schaumburg Road
Schaumburg, Illinois 60194
akavanaugh@ci.schaumburg.il.us

RE: Pre-Authorization Request – 2011 PAC 13245

Dear Ms. Kavanaugh:

We have received and reviewed the written notice from the Village of Schaumburg Police Department (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 March 25, 2011, [REDACTED] submitted a FOIA request for Police Report No. 09-21926. The Department seeks to redact dates of birth and a portion of an officer's narrative from the report.

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 privacy. This type of information is highly personal by its very nature and the subject's right

Ms. Ann Kavanaugh
June 20, 2011
Page 2

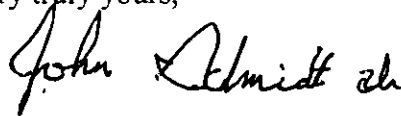
privacy outweighs any legitimate public interest in disclosing this information. *See, e.g., Oliva v. United States*, 756 F. Supp. 105, 107 (E.D.N.Y. 1991) (holding that, under Exemption 6 of the Federal Freedom of Information Act (5 U.S.C. §552(b)(6)), "dates of birth[] are a private matter, particularly 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).

The Department's redaction of a portion of an officer's narrative is also **approved**. The narrative consists of highly personal information regarding items located in a subject's hotel room. The items in the subject's hotel room do not relate to the offense to which the report pertains. The subject's right to privacy outweighs any legitimate public interest in obtaining this information. Therefore, the Department has sustained its initial burden of demonstrating that the specific portion of the officer's narrative is exempt under section 7(1)(c).

The Department also indicates that it intends to redact additional information from the report pursuant to sections 7(1)(b) and 7(1)(d)(iv) of FOIA (5 ILCS 140/7(1)(b), (d)(iv) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than those set forth in sections 7(1)(c) and 7(1)(f) (5 ILCS 140/7(1)(f) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010), we make no determination at this time regarding the applicability of any other exemptions.

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

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cc:

