



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

June 1, 2011

*Via electronic mail*

Mr. Michael O'Connor, FOIA Officer  
Libertyville Police Department  
200 East Cook Avenue  
Libertyville, IL 60048  
moconnor@libertyville.com

RE: FOIA Pre-Authorization Request - 2011 PAC 14312

Dear Mr. O'Connor:

We have received and reviewed the written notice from the Libertyville Police Department (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. The Department is seeking to redact dates of birth, names of victims and suspects that were never arrest, along with private information, such as address, phone numbers and drivers' license numbers from the requested documents.

██████████ submitted a FOIA request for police report No.10-06197 on May 20, 2011. In its written notice, the Department asserts that dates of birth, names of victims and suspects that were never arrested and other personal information 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 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).

The Department's use of the exemption in section 7(1)(c) to withhold the victim's name is **approved**. We have concluded that the Department has met its initial burden to demonstrate that the disclosure of the victim's name and information contained in these documents would be highly objectionable to a reasonable person. Under these circumstances, the right to privacy outweighs any public interest in the information that the Department intends to withhold.

The Department's use of the exemption in section 7(1)(c) to redact suspects' names is **approved**. We have concluded that the Department has met its initial burden to demonstrate that the disclosure of the names of people suspected of crimes for which they were never arrested or charged would be highly objectionable to a reasonable person. Under these circumstances, the suspects' right to privacy outweighs any legitimate public interest in the information that the Department intends to redact from the report.

In addition, the Department may redact other private information, such as addresses, social security and drivers' license numbers, and telephone numbers pursuant to section 7(1)b without pre-authorization because it is private information. Private information as defined in section 2(c-5) of FOIA includes "unique identifiers, including a person's social security number, driver's license number \* \* \* home or personal telephone numbers[,], and private information is exempt from disclosure under section 7(1)(b).

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

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If you have any questions, please contact Tammy Friedewald at (217) 558-1926.  
This correspondence shall serve to close this matter.

Very truly yours,

*Amanda Lundeen*

AMANDA M. LUNDEEN  
Assistant Attorney General  
Public Access Bureau

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