



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

June 28, 2011

Ms. Teresa Fisher  
FOIA Officer  
Wilmington Police Department  
1165 South Water Street  
Wilmington, IL 60481

RE: FOIA Pre-Authorization Request - 2011 PAC 14940

Dear Ms. Fisher:

We have received and reviewed the written notice from the Wilmington 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). The Department is seeking to redact dates of birth, Social Security numbers, driver license numbers, phone numbers and addresses from the requested document.

██████████ submitted a FOIA request for Incident Report No. LW3101027010416 on June 12, 2011. In its written notice, the Department asserts that dates of birth, Social Security numbers, driver license numbers, phone numbers and addresses 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**

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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 may redact Social Security numbers, driver license numbers, personal phone numbers and home addresses under section 7(1)(b) (5 ILCS 140/7(1)(b) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010) which exempts from disclosure "private information." Social Security numbers, driver license numbers, personal phone numbers and home addresses are all forms of "private information," as defined by section 2(c-5) (5 ILCS 140/2(c-5) (West 2009 Supp.)). The Department does not require pre-authorization from the Public Access Counselor to redact this information under section 7(1)(b).

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) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,

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

cc:

