



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 28, 2011

Captain Bill Merrill
Tazewell County Sheriff's Office
101 S. Capitol Street
Pekin, Illinois 61554

RE: FOIA Pre-Authorization Request - 2011 PAC 15034

Dear Captain Merrill:

We have received and reviewed the written notice from the Tazewell County Sheriff's Office 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 Office is seeking to redact dates of birth from the requested documents.

On June 15, 2011 [REDACTED] submitted a FOIA request for all Freedom of information Act requests made to the Office in May 2011, and copies of the responses to those requests. In its written notice, the Office asserts that dates of birth 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 Office's use of the exemption in section 7(1)(c) for the dates of birth is **approved**. We have determined that the Office has met its initial burden of demonstrating that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal

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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 Office may issue a partial denial letter and release the documents with the dates of birth redacted, if it has not already done so.

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

Very truly yours,

Rebecca Riddick

REBECCA RIDDICK
Assistant Attorney General
Public Access Bureau

by EK

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