



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

July 13, 2011

Ms. Ann Kavanaugh  
FOIA Officer  
Village of Schaumburg  
1000 W. Schaumburg Rd.  
Schaumburg, IL 60194

RE: FOIA Pre-Authorization Request - 2011 PAC 15028

Dear Ms. Kavanaugh:

We have received and reviewed the written notice from the Village of Schaumburg 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 2010)). The Village is seeking to redact the names of suspects and dates of birth from the requested document.

On June 16, 2011, Lexis Nexis submitted a FOIA request for the Schaumburg Police Department incident report pertaining to case no. 11-12881. In its written notice, the Village asserts that the names of suspects and 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 2010).

**DETERMINATION**

The Village's use of the exemption in section 7(1)(c) for the names of suspects and dates of birth is **approved**. We have determined that the Village has met its initial burden to demonstrate that the disclosure of 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 Village intends to redact from the report.

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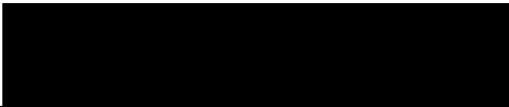
Furthermore, we have found the Village to have met its initial burden to demonstrate that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal by its very nature and the subject's right to privacy outweighs any 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 Village may issue a partial denial letter and release the report with the names of suspects and dates of birth redacted, if it has not already done so.

The Village also indicates that it intends to redact additional information from the report pursuant to sections 7(1)(b) and 7(1)(d)(iv) (5 ILCS 140/7(1)(b), (d)(iv) (West 2010)) of FOIA. Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than sections 7(1)(c) and 7(1)(f) (5 ILCS 140/7(1)(f) (West 2010)), we make no determination at this time regarding the applicability of any other exemptions.

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

Very truly yours,

  
DUSHYANTH REDDIVARI  
Assistant Attorney General  
Public Access Bureau

15028 pre-auth al 7(1)(c) dob sus priv mun

cc: Mr. Bryan Dant  
Lexis Nexis  
P.O. Box 7000  
Southeastern, PA 19398