



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 18, 2011

Mr. Michael S. Recupito
FOIA Officer
Round Lake Police Department
741 West Town Line Road
Round Lake, IL 60073

RE: FOIA Pre-Authorization Request - 2011 PAC 14925

Dear Mr. Recupito:

We have received and reviewed the written notice from the Round Lake 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 2010)). The Department is seeking to redact dates of birth, specific narrative descriptions and photographs relating to the injuries suffered by the victim, and the suspect's emergency contact information from the requested document.

On June 9, 2011, Ms. Stephanie Escobar of Renacer Latino, Inc. submitted a FOIA request for the Department Report pertaining Incident Number 2010-001662. In its written notice, the Department asserts that dates of birth, specific narrative descriptions and photographs relating to the injuries suffered by the victim, and the suspect's emergency contact 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 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

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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) for certain narrative descriptions and photographs relating to the injuries suffered by the victim is **approved**. We have determined that the Department has met its initial burden to demonstrate that the disclosure of these descriptions and photographs would be highly objectionable to a reasonable person. Under these circumstances, the victim's right to privacy outweighs any legitimate public interest in the information that the Department intends to redact from the report.

The Department's use of the exemption in section 7(1)(c) for the suspect's emergency contact information is **approved**. We have determined that the Department has met its initial burden to demonstrate that the disclosure of the suspect's emergency contact information would be highly objectionable to a reasonable person. Under these circumstances, the contacts' right to privacy outweighs any legitimate public interest in the information that the Department intends to redact from the report.

Accordingly, the Department may issue a partial denial letter and release the report with the dates of birth, the specified narrative descriptions and photographs relating to the injuries suffered by the victim, and the suspect's emergency contact information 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,


DUSHYANTH REDDIVARI
Assistant Attorney General
Public Access Bureau

14925 Pre-auth al 71c dob vic priv sus priv pd

cc: Ms. Stephanie Escobar
Renacer Latino, Inc.
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