



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 18, 2011

Ms. Theresa Wisnewski
Support Services Commander
Village of Wheeling
1 Community Blvd.
Wheeling, IL 60090

RE: FOIA Pre-Authorization Request – 2011 PAC 15228

Dear Ms. Wisnewski:

We have received and reviewed written notice from the Village of Wheeling 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).

On June 24, 2011, [REDACTED] submitted a FOIA request to the Village for records from February 2011, through the present for [REDACTED]. The Village seeks to withhold the names of non-arrested individuals, dates of birth, addresses, phone numbers, and injury information under section 7(1)(c) of FOIA. The Village argues that the incidents in the reports did not involve [REDACTED] and no arrests occurred, therefore, the release of this information would be an unwarranted invasion of personal privacy.

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

After review of the materials provided, the Village's use of section 7(1)(c) to withhold the names of individuals who were not arrested and any injury information contained in

Ms. Theresa Wisnewski

July 18, 2011

Page 2

the reports is **approved**. We have reviewed the reports and agree that releasing this information would constitute an 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. Therefore, the Village has met its initial burden to withhold this information under section 7(1)(c).

Further, the Village's use of section 7(1)(c) to withhold dates of birth is **approved**. 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. 150, 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. Att'y 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 Texas Public Information Act (*see* Tex. Gov't Code §§ 552.101, 552.102), which substantially outweighs the negligible public interest in disclosure). Therefore, we conclude that the Village may properly withhold dates of birth in these reports pursuant to section 7(1)(c).

Please note that home addresses and personal phone numbers may be properly redacted under section 7(1)(b). 5 ILCS 140/7(1)(b) (West 2010). Section 7(1)(b) allows public bodies to withhold "private information" as defined in section 2(c-5) of FOIA. 5 ILCS 140/2(c-5) (West 2010). Use of this exemption does not require pre-approval from this office.

The Village may release the redacted incident reports to [REDACTED] in accordance with this letter, if it has not already done so.

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

Very truly yours,

[REDACTED]
REBECCA RIDDICK
Assistant Attorney General
Public Access Bureau

15228 pre-auth al 71c dob priv mun

cc: [REDACTED]