



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 1, 2011

Ms. Shirley Galloway
FOIA Officer
Macomb Police Department
120 South McArthur Street
Macomb, Illinois 61455

RE: FOIA Pre-Authorization Request – 2011 PAC 15033

Dear Ms. Galloway:

We have received and reviewed the notice from the Macomb 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).

On May 19, 2011, Mr. Bryan Dant, on behalf of LexisNexis, requested records relating to incident number 11-50460. The Department seeks pre-authorization to redact dates of birth, the name of a battery victim, and the names of witnesses from the responsive police report.

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."

DETERMINATION

The Department's use of the exemption in section 7(1)(c) to withhold 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 obtaining this information. *See, e.g., Oliva v. United States*, 756 F. Supp. 105, 107 (E.D.N.Y. 1991) (holding

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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) to redact the name of the alleged victim and the names of the witnesses is **approved**. The involvement of these individuals in this incident is highly personal, and the subjects' right to privacy outweighs any legitimate interest in obtaining the identities of the victim or the witnesses. We conclude that the Department has sustained its initial burden of demonstrating that this information is exempt under section 7(1)(c).

Accordingly, the Department may issue a partial denial letter directly to Mr. Dant and release the records to him with the appropriate information redacted. If you have any questions, please contact me at (312) 814-2086. This correspondence shall serve to close this matter.

Very truly yours,



SARAH KAPLAN
Assistant Attorney General
Public Access Bureau

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cc: Mr. Bryan Dant
LexisNexis Claims Solutions, Inc.
P.O. Box 7000
Southeastern, Pennsylvania 19398