



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 5, 2011

Mr. Todd E. Rent
Human Resources/Compliance Officer
City of Urbana
400 S. Vine Street
Urbana, IL 61801

RE: FOIA Pre-Authorization Request – 2011 PAC 15178

Dear Mr. Rent:

We have received and reviewed written notice from the City of Urbana 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 22, 2011, Ms. Kristy Geier submitted a FOIA request to the City for "[a]ll records concerning [REDACTED]". The City seeks to deny the release of portions of the responsive documents under 7(1)(c) of FOIA. The City argues that the incident did not involve Ms. Geier, and no arrest occurred.

Section 7(1)(c) of FOIA exempts from inspection and copying "[p]ersonal information contained within police 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 City's use of the exemption in section 7(1)(c) to redact the proposed portions of the responsive records is **approved**. We have reviewed the redactions 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.

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We assume that, because it did not include dates of birth in its pre-authorization request, the City redacted dates of birth pursuant to section 7(1)(b) of FOIA. 5 ILCS 140/7(1)(b) (West 2010). However, section 7(1)(b) may only be used to withhold "private information," as defined in section 2(c-5) of FOIA. 5 ILCS 140/2(c-5) (West 2010). Dates of birth are not included in this definition and, therefore, must be withheld, if at all, under section 7(1)(c) of FOIA.

We have consistently concluded that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy under section 7(1)(c). 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 City may properly withhold dates of birth in this report pursuant to section 7(1)(c).

The City may release the redacted incident reports to Ms. Geier 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,


REBECCA RIDDICK
Assistant Attorney General
Public Access Bureau

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cc: Ms. Kristy Geier
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Urbana, IL 61801