



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

August 12, 2011

Ms. Ann Kavanaugh  
FOIA Officer  
Schaumburg Police Department  
1000 W. Schaumburg Road  
Schaumburg, IL 60194-4198

RE: FOIA Pre-Authorization Request - 2011 PAC 15465

Dear Ms. Kavanaugh:

We have received and reviewed the written notice from the Schaumburg 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, and the names of a victim and a suspect from the requested documents.

On July 13, 2011, [REDACTED] submitted a FOIA request for all Department records pertaining to a particular individual filed since 1996. In its written notice, the Department asserts that dates of birth, and the names of a victim and a suspect 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 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*

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*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).

Furthermore, the Department's use of the exemption in section 7(1)(c) to withhold the names of the victim and suspect is **approved**. We have concluded that the Department has met its initial burden of demonstrating that the disclosure of the victim's name contained in these documents would be highly objectionable to a reasonable person. We have also concluded that the disclosure of the name of a person suspected of crimes for which he or she was never arrested or charged would be highly objectionable to a reasonable person. Under these circumstances, the victim's and suspect's respective rights to privacy outweigh any public interest in the information that the Department intends to withhold.

Accordingly, the Department may issue a partial denial letter and release the records with the dates of birth, and the names of a victim and a suspect redacted, if it has not already done so.

The Department also indicates that it intends to redact additional information from the records pursuant to sections 7(1)(b) and 7(1)(d)(iv) (5 ILCS 140/7(1)(b), (d)(iv) (West 2010)). 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, please contact me at (312) 814-5206. This correspondence shall serve to close this matter.

Very truly yours,



DUSHYANTH REDDIVARI  
Assistant Attorney General  
Public Access Bureau

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cc:

