



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 17, 2011

Ms. Julie Nistler
FOIA Officer
City of Park Ridge
Police Department
200 South Vine Avenue
Park Ridge, Illinois 60068

RE: Pre-Authorization Request — 2011 PAC 15997

Dear Ms. Nistler:

We have received and reviewed the written notice from the Park Ridge 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)). Specifically, on July 26, 2011, [REDACTED] submitted a FOIA request to the Department for copies of several police reports concerning a specific address in Park Ridge, Illinois. The Department is seeking to redact the names of witnesses and dates of birth.

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), to redact the names of witnesses is **approved**. Information identifying an individual as a witness to an alleged crime is highly personal by its very nature. The subjects' right to privacy outweighs any legitimate public interest in disclosure of such information. Accordingly, we conclude that the Department has sustained its initial burden of demonstrating that the names of witnesses are exempt from disclosure under section 7(1)(c).

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The Department's use of the exemption in section 7(1)(c) for the dates of birth is also **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 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).

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

The Department also indicates that it intends to redact additional information from the reports 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) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,

STEVE SILVERMAN
by EK
STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

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