



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 28, 2011

Ms. Jaye Valadez-Wilger
FOIA Officer
St. Charles Police Department
Two State Avenue
St. Charles, Illinois 60174

RE: FOIA Pre-Authorization Request – 2011 PAC 15628

Dear Ms. Valadez-Wilger:

We have received and reviewed the written notice from the St. Charles 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 13, 2011, [REDACTED] submitted a FOIA request for a copy of Case Report No. 2100-00013397. The Department seeks to redact the names and dates of birth of an alleged victim and witnesses.

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

Ms. Jaye Valadez-Wilger
July 28, 2011
Page 2

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).

Additionally, the Department's use of the exemption in section 7(1)(c) to redact the names of an alleged victim and witnesses is also **approved**. We have concluded that the Department has met its initial burden of demonstrating that the disclosure of these names would be highly objectionable to a reasonable person. Under these circumstances, the privacy rights of the alleged victim and the witnesses' outweighs any legitimate public interest in obtaining their names.

The Department also indicates that it intends to redact additional information under sections 7(1)(b) and 7(1)(d)(iii) of FOIA (5 ILCS 140/7(1)(b), (d)(iii) (West 2010)). Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than those set forth in 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
Senior Assistant Attorney General
Public Access Bureau

15628 Pre-auth al 7(1)(c) vic priv wit priv pd

SS:ek

cc:

