



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 4, 2011

VIA Electronic Mail

Ms. Joanne Wessels
Batavia Police Department
100 North Island Avenue
Batavia, IL 60510
[REDACTED]

RE: FOIA Pre-Authorization Request - 2011 PAC 15758

Dear Ms. Wessels:

We have received and reviewed the written notice from the Batavia Police Department (Department) of its intention to deny disclosure of certain information as exempt under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010). Specifically, on July 19, 2011, Edward Deems submitted a FOIA request to the Department for accident report #11-11505. The Department is seeking to redact from the requested record dates of birth and a portion of the narrative regarding the complainant's mental state.

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 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 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

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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).


The Department's use of the exemption in section 7(1)(c) to redact a portion of the narrative regarding the complainant's mental state is **approved**. We have concluded that the Department has met its initial burden of demonstrating that the disclosure of that portion of the narrative would be highly objectionable to a reasonable person.

Accordingly, the Department may issue a partial denial letter and release the report with the redacted information, if it has not already done so.

If you have any questions, please contact Tammy Friedewald at (217) 558-1926. This correspondence shall serve to close this matter.

Very truly yours,



AMANADA M. LUNDEEN 
Assistant Attorney General
Public Access Bureau

AL: tf

cc: 