



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 25, 2011

Mr. Robert J. Burden, City Clerk
FOIA Officer
City of Loves Park
100 Heart Boulevard
Loves Park, Illinois 61111

RE: FOIA Pre-Authorization Request - 2011 PAC 16072

Dear Mr. Burden:

We have received and reviewed the written notice from City of Loves Park 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), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011). The City is seeking to redact dates of birth and the name of a suspect from the requested document.

██████████ submitted a FOIA request for police report No. 11-006731 on August 2, 2011. In its written notice, the City asserts that dates of birth 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."

DETERMINATION

The City's use of the exemption in section 7(1)(c) for the dates of birth is **approved**. We have determined that the City has met its initial burden of demonstrating that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy.

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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

The City's use of the exemption in section 7(1)(c) to redact a suspect's name is **approved**. We have concluded that the City has met its initial burden of demonstrating that the disclosure of the names of people suspected of crimes for which they were never arrested or charged would be highly objectionable to a reasonable person. Under these circumstances, the suspects' right to privacy outweighs any legitimate public interest in the information that the City intends to redact from the report.

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

If you have any questions, please contact Andres Acosta at (877) 299-3642. This correspondence shall serve to close this matter.

Very truly yours,

Rebecca Riddick by: AA

REBECCA RIDDICK
Assistant Attorney General
Public Access Bureau

cc:

