



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

August 24, 2011

Ms. Sherry Holmes  
FOIA Officer  
Macomb Police Department  
120 South McArthur Street  
Macomb, Illinois 61455-2141

RE: FOIA Pre-Authorization Request - 2011 PAC 16161

Dear Ms. Holmes:

We have received and reviewed the written notice from the Macomb Police Department of its intention to deny certain information as exempt from disclosure under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010). Specifically, on August 11, 2011, [REDACTED] submitted a FOIA request to the Department for a copy of Report No. 11-52692. In its written notice, the Department asserts that the names of suspects and 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." 5 ILCS 140/7(1)(c).

**DETERMINATION**

The Department's assertion of section 7(1)(c) to redact the names of suspects who have not been arrested or charged is **approved**. We agree that disclosure of the identities of these individuals would be highly objectionable to a reasonable person. In this instance, the privacy rights of the suspects outweigh any legitimate public interest in obtaining this information.

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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 Village 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 obtaining 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 appropriate information redacted, if it has not already done so.

The Department also indicates that it intends to redact additional information from the report. 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) as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011), 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*  
STEVE SILVERMAN  
Assistant Attorney General  
Public Access Bureau  
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