



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 12, 2010

Ms. Colleen O'Brien
Harvard Police Department
201 W. Front Street
Harvard, IL 60033

RE: Pre-Authorization Request — 2010 PAC 7163

Dear Ms. O'Brien:

We have received and reviewed the written notice from the Harvard Police Department (Department) of its intention to deny disclosure of certain information, responsive to a FOIA request made by [REDACTED] as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act, (FOIA). 5 ILCS 140/1 *et seq.*, as amended.

[REDACTED] FOIA request sought a copy of police reports No. [REDACTED] No. [REDACTED] and No. [REDACTED]. In its response to our further inquiry letter, the Department clarified that it intends to redact the following pursuant to the Section 7(1)(c) exemption:

1. Dates of birth; and
2. Identifying information, including social security numbers, driver's license numbers, home addresses, personal telephone numbers, race, sex, and gender.

Determinations

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 disclosure is consented to in writing by

the individual subjects of the information." 5 ILCS 140/7(1)(c). The exemption defines "[u]nwarranted 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." *Id.*

The Department's use of the exemption in Section 7(1)(c) with regard to **dates of birth** is **approved**. We have determined that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c). 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.

With respect to the Department's proposed redaction of **social security numbers, driver's license numbers, home addresses, and personal telephone numbers** referenced in these reports, it is not necessary to determine whether this information is properly subject to redaction under Section 7(1)(c). Social security numbers, driver's license numbers, home addresses, and personal telephone numbers are generally exempt from disclosure under Section 7(1)(b), which allows the withholding of "[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law or a court order." *See, also*, 5 ILCS 140/2(c-5) (defining "private information" to include "unique identifiers, including a person's social security number, driver's license number, * * * home or personal telephone numbers, and * * * * home address * * * except as otherwise provided by law or when compiled without possibility of attribution to any person.") Please note that FOIA only requires public bodies to submit a Notice of Intent to Deny and request for pre-authorization with regard to their assertions of the exemptions in Sections 7(1)(c) (allowing withholding of information the release of which would constitute a clearly unwarranted invasion of personal privacy) and 7(1)(f) (allowing withholding of pre-decisional, deliberative process materials). Where information is specifically exempt under other sections of the Act, public bodies may issue denials relying upon such exemptions directly to the requester, without the need to submit the matter to the Public Access Counselor for pre-authorization.

Finally, the Department's use of the exemption in Section 7(1)(c) with regard to race, sex, and gender is **denied**. We have determined that the disclosure of this identifying information would not constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c). We do not feel that the Department has met its initial burden to demonstrate a basis for redacting this information.

If you have any questions, please call me at 217-782-9078. This letter shall serve to close this matter.

Sincerely,

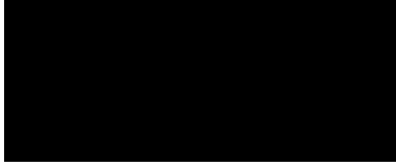
Cara Smith
Public Access Counselor

By:



Matthew M. Sebek
Assistant Attorney General, Public Access Division

cc:



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