



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

May 5, 2011

Nicole Wickham, C09  
FOIA Officer, Records  
Aurora Police Department  
1200 East Indian Trail  
Aurora, Illinois 60505-1896

RE: FOIA Pre-Authorization Request - 2011 PAC 13859

Dear Ms. Wickham:

We have received and reviewed the written notice from the Aurora 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 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). The Department seeks to redact dates of birth from the requested document.

On April 22, 2011, the Department received Ms. Astrid Pruger's FOIA request for police report 2010-020009. In its written notice, the Department asserts that the dates of birth in that report 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) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

**DETERMINATION**

The Village'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 to demonstrate that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal

Nicole Wickham

May 5, 2011

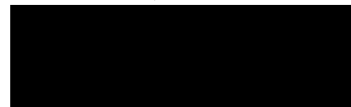
Page 2

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 dates of birth redacted, if it has not already done so.

If you have any questions, please contact me at (312) 814-2086. This correspondence shall serve to close this matter.

Very truly yours,



SARAH KAPLAN  
Assistant Attorney General  
Public Access Bureau

cc: Astrid X. Pruger  
Jackson Lewis LLP  
150 North Michigan Avenue, Suite 2500  
Chicago, Illinois 60601