



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

May 10, 2011

Mr. Steven C. Langhoff  
Macon County Assistant State's Attorney  
MCSO FOIA Officer  
253 East Wood Street, 4th FL  
Decatur, Illinois 62523

RE: FOIA Pre-Authorization Request - 2011 PAC 13888

Dear Mr. Langhoff:

We have received and reviewed the written notice from the Macon County Sheriff's Office 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 Sheriff's Office is seeking to redact dates of birth and the identity of an individual from the requested documents.

On April 19, 2011, [REDACTED] submitted a FOIA request for all police and arrest reports made on November 14, 2009 and November 16, 2009 concerning [REDACTED]. In its written notice, the Sheriff's Office asserts that dates of birth within the responsive records and certain information contained in a 'Department of Justice Firearms Trace Summary' form 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.

Mr. Steven C. Langhoff  
May 10, 2011  
Page 2

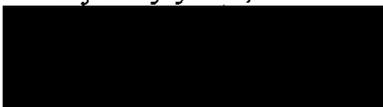
### DETERMINATION

The Sheriff's Office's use of the exemption in section 7(1)(c) to withhold the dates of birth of the victim and other individuals, excluding that of the requester, is **approved**. We have determined that the Sheriff's Office has met its initial burden to demonstrate 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 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).

Next, the Sheriff's Office's use of the exemption in section 7(1)(c) to withhold certain information contained in the Department of Justice Firearms Trace Summary form is **approved**. We have concluded that the Sheriff's Office has met its initial burden to demonstrate that the disclosure of information pertaining to a third party's identity would be highly objectionable to a reasonable person because the subject was neither arrested nor charged in relation to the offense. Under these circumstances, the right to privacy outweighs any public interest in the information that the Sheriff's Office intends to withhold.

In accordance with this letter, therefore, the Sheriff's Office may issue a partial denial letter and release the records with the appropriate information redacted. If you have any questions, please contact me at (312) 814-6437. This correspondence shall serve to close this matter.

Very truly yours,



TOLA SOBITAN  
Assistant Attorney General  
Public Access Bureau

cc:

