



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

May 11, 2011

Ms. Denise E. Wills  
FOIA Officer  
Huntley Police Department  
10911 Main Street  
Huntley, Illinois 60142

RE: Pre-Authorization Request — 2011 PAC 13892

Dear Ms. Wills:

We have received and reviewed the written notice from the Village of Huntley Police Department of its intention to deny disclosure of certain information pursuant to 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). Specifically, on April 20, 2011, [REDACTED] submitted a FOIA request to the Department for reports numbered 06-0688, 06-1181 and 06-3530. The Department is seeking to redact dates of birth and a suspect's name and identifying information from the requested documents.

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.).

**DETERMINATION**

The Department'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 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 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

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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).

The Department's use of the exemption in section 7(1)(c) to redact the name of a suspect, who was never arrested or charged, and identifying information concerning this individual is also **approved**. We have concluded that the Department has met its initial burden of demonstrating that the disclosure of the name and other information identifying an individual suspected of a crime for which he was never arrested or charged would be highly objectionable to a reasonable person. Under these circumstances, the subject's right to privacy outweighs any legitimate public interest in the information that the Department intends to redact from the report. Accordingly, the Department may issue a partial denial letter and release the reports with the dates of birth and suspect's name redacted, if it has not already done so.

The Department has asserted that additional information is exempt from disclosure under section 7(1)(b) (5 ILCS 140/7(1)(b) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). Because prior approval by the Public Access Counselor is not required for the assertion of exemptions other than section 7(1)(c) and section 7(1)(f) (5 ILCS 140/7(1)(f) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010), we make no determination at this time regarding the applicability of any other exemptions.

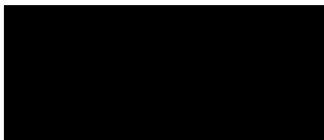
If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,

*STEVE SILVERMAN* by EK

STEVE SILVERMAN  
Assistant Attorney General  
Public Access Bureau

cc:



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