



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

May 13, 2011

Mr. Jerome A. Nudera, Jr.  
Deputy Chief Court Services – FOIA Officer  
Will County Sheriff's Office  
14 West Jefferson Street  
Joliet, Illinois 60432

RE: FOIA Pre-Authorization Request - 2011 PAC 14053

Dear Mr. Nudera, Jr.:

We have received and reviewed the written notice from Will County Sheriff's Office (Sheriff's Office) 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).

On April 19, 2011, Mr. Steve Schmadeke submitted a FOIA request for all "police reports giving narrative or witness accounts of the Oct. 5, 2010 shootings near Beecher, excluding any files on vehicle registration searches." In its written notice, the Sheriff's Office asserts that 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) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

**DETERMINATION**

The Sheriff's Office's use of the exemption in section 7(1)(c) to withhold dates of birth 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

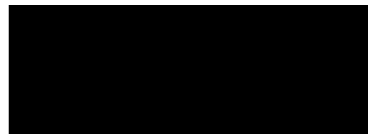
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of personal privacy. This type of information is highly personal by its very nature and the subject's right to privacy outweighs any legitimate public interest in disclosing this information. *See, e.g., Oliva v. United States*, 756 F. Supp. 105, 107 (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).

The Sheriff's Office also indicates that it intends to redact additional information from the records pursuant to sections 7(1)(a), 7(1)(b) and 7(1)(d)(iv) (5 ILCS 140/7(1)(a), 5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(d)(iv) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010) of FOIA. 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 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) 814-6437. This correspondence shall serve to close this matter.

Very truly yours,



TOLA SOBITAN  
Assistant Attorney General  
Public Access Bureau

cc: Mr. Steve Schmadeke  
Chicago Tribune Reporter  
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Tinley Park, IL 60487

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