



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

December 15, 2010

Michael S. Recupito  
Director of Police Administration  
Round Lake Police Department  
741 West Town Line Road  
Round Lake, IL 60073-5709

Re: Pre-authorization request – 2010 PAC 8634

Dear Mr. Recupito,

We have received the Round Lake Police Department's notice of intention to deny disclosure of certain information requested under the Freedom of Information Act. 5 ILCS 140/1 *et seq.*, as amended. [REDACTED] requested copies of "[a]ll employment records of police officer Erik Landsverk including, but not limited to, performance evaluations, letters of reprimand, letters of accommodation, résumé, and anything else not prohibited by Illinois Law." The Department requested pre-approval to redact the following information pursuant to Section 7(1)(c) (5 ILCS 140/7(1)(c)):

1. All dates of birth.
2. Officer Landsverk's place of birth and the names of his biological parents as listed on his birth certificate.
3. All health information.
4. Photographs of Officer Landsverk on his driver's license and Firearm Owner's Identification (FOID) card.
5. All records in Officer Landsverk's pre-employment background investigation file.
6. The name of Officer Landsverk's deferred compensation beneficiary, and the nature of his or her relationship to Officer Landsverk.
7. The following information from Officer Landsverk's employment application: names of immediate family members; names and addresses of educational institutions he attended; driving history and record of traffic citations; employment history; credit history; and the names and relationships of personal references, acquaintances and emergency contacts.

Information in public records is exempt personal information if disclosure would “constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information.” 5 ILCS 140/7(1)(c). An “[u]nwarranted invasion of personal privacy” is 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.*

Although personnel files typically contain information that is personal in nature, an individual who accepts public employment has a reasonable expectation that his or her qualifications and performance will be subject to public scrutiny. Under Section 7(1)(c), disclosure of “information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.” *Id.* However, certain records which pre-date an individual’s employment with a public body contain highly personal information that has no relation to his or her public duties; an individual’s privacy interest in such information may outweigh the legitimate public interest in disclosure.

### **Determination**

The Department’s request for pre-authorization to redact birth dates is **approved**. Birth dates are a highly personal form of information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. A subject’s right to privacy outweighs any legitimate public interest in the disclosure of his or her date of birth.

The Department’s request for pre-authorization to redact Officer Landsverk’s place of birth from his birth certificate is **denied**. We determined in 2010 PAC 8475 that information regarding an individual’s place of birth is not exempt from disclosure pursuant to Section 7(1)(c). However, the Department’s request to redact the names of Officer Landsverk’s biological parents is **approved**. The identity of an individual’s biological parents is highly personal information with no relation to Officer Landsverk’s duties as a police officer. A subject’s right to privacy outweighs any legitimate public interest in disclosure of the identity of his or her biological parents.

The Department’s request for pre-authorization to redact Officer Landsverk’s health information is **approved in part and denied in part**. Officer Landsverk’s personnel file contains a medical questionnaire, health insurance application, psychological assessment and records of medical treatment and physician’s orders. We conclude that information regarding specific medical conditions and treatment is exempt from disclosure under Section 7(1)(c). Such information has minimal if any relation to Officer Landsverk’s duties as a police officer; a subject’s right to privacy outweighs any legitimate public interest in disclosure of his or her specific medical conditions and treatment. Therefore, disclosure of that information would constitute a highly unwarranted invasion of personal privacy. The remaining health information involves lesser privacy interests. Disclosure of records which do not pertain to specific medical conditions and treatment would not constitute a highly unwarranted invasion of personal privacy in this context. However, please note that medical records are defined as “private information” (5 ILCS 140/2(c-5)) under FOIA. Private information is exempt from disclosure under Section 7(1)(b) (5 ILCS 140/7(1)(b)).

The Department’s request for pre-authorization to redact photographs of Officer Landsverk on his driver’s license and his FOID card is **denied**. The photographs of Officer Landsverk on his

driver's license and FOID card confirm that he is licensed to perform functions required of a police officer. Accordingly, the photographs relate to Officer Landsverk's public duties and disclosure would not constitute an unwarranted invasion of personal privacy.

The Department's request for pre-authorization to withhold Officer Landsverk's pre-employment background investigation file is **denied** with respect to most of the records in that file. Specifically, the Illinois driver's abstract; past employment history; reference questionnaire; applicant interview questions and responses; applicant background checklist, pre-employment arrest record, criminal history and police reports contain information that relates to Officer Landsverk's qualifications and duties as a police officer. Accordingly, disclosure of that information would not constitute an unwarranted invasion of personal privacy.

However, the Department's request for pre-authorization to withhold the consumer credit report in Officer Landsverk's pre-employment background investigation file is **approved**. An individual's credit history is highly personal by its very nature. We have reviewed Officer Landsverk's pre-employment credit history and determined that it does not relate to his duties as a police officer. We conclude that Officer Landsverk's interest in privacy outweighs any legitimate public interest in disclosure of his credit history. For the same reason, we conclude that the credit history entries on Officer Landsverk's employment application are exempt from disclosure under Section 7(1)(c).

The Department's request for pre-authorization to redact the name of Officer Landsverk's designated deferred compensation beneficiary and the nature of the beneficiary's relationship to Officer Landsverk also is **approved**. The identity of a person selected to receive compensation in the event of a subject's death is highly personal by its very nature. Such information has no relation to Officer Landsverk's public duties, and his interest in privacy outweighs any legitimate public interest in disclosure.

In addition, the Department's request for pre-authorization to redact the names of emergency contacts and immediate family members from Officer Landsverk's employment application is **approved**. Such information is highly personal by its very nature and has no relation to Officer Landsverk's public duties. A subject's interest in privacy outweighs any legitimate public interest in disclosure of the names his or her immediate family members or emergency contacts.

The Department's remaining requests for pre-authorization to redact information from the employment application are **denied**. The educational institutions Officer Landsverk attended, his employment history and his driving history relate to his qualifications and public duties as a police officer. Accordingly, disclosure of such information would not constitute an unwarranted invasion of personal privacy. 5 ILCS 140/7(1)(c). Nor has the Department sustained its initial burden of demonstrating that the identities of acquaintances and personal references listed in Officer Landsverk's employment application are exempt from disclosure under Section 7(1)(c).

Please be advised that personal identifiers such as driver's license numbers, social security numbers, home addresses and home telephone number constitute private information which is exempt from disclosure under Section 7(1)(b). As mentioned above, please also note that medical records are defined as "private information" (5 ILCS 140/2(c-5)) under FOIA. This letter shall serve to close this file. If you have any questions, please feel free to contact me at (312) 814-6756 or [ssilverman@atg.state.il.us](mailto:ssilverman@atg.state.il.us).

Sincerely,

Cara Smith  
Public Access Counselor

By:

Steve Silverman  
Assistant Public Access Counselor

cc: