



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

June 9, 2011

Mr. Robert W. Legg  
Records Supervisor/FOIA Officer  
Village of Roselle  
31 South Prospect Street  
Roselle, Illinois 60172-2023

RE: Pre-Authorization Request – 2011 PAC 14534

Dear Mr. Legg:

We have received and reviewed the written notice from the Village of Roselle Police Department (Department) of its intention to deny disclosure of certain information 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). On May 24, 2011 [REDACTED] submitted a FOIA request for Report #RO11005940. The Department seeks to redact dates of birth and the narrative portion of the Report.

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 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 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) with regard to the narrative portion of the report is also **approved**. The narrative consists of highly personal information regarding a juvenile subject's medical condition. No arrests were made in connection with this report. The subject's right to privacy outweighs any legitimate public interest in obtaining this information. Therefore, the Department has sustained its initial burden of demonstrating that the narrative portion of the report is exempt under section 7(1)(c).

The Department also indicates that it intends to redact additional information from the report pursuant to sections 7(1)(a), 7(1)(b) and 7(1)(d)(iv) of FOIA (5 ILCS 140/7(1)(a), (b), (d)(iv) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). 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) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,

STEVE SILVERMAN  
by EK

STEVE SILVERMAN  
Assistant Attorney General  
Public Access Bureau

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cc:

