



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 5, 2011

Chief Jamie Evans
FOIA Officer
Village of Roscoe Police Department
10595 Main Street
Roscoe, Illinois 61073

RE: Pre-Authorization Request – 2011 PAC 14052

Dear Chief Evans:

We have received and reviewed the written notice from the Village of Roscoe 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 2010)). On April 27, 2011, [REDACTED] submitted a FOIA request for Police Report #11-2359. The Department seeks to redact dates of birth, one juvenile subject's name, one reporting party's name, phone numbers, and personal addresses from 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 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 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

Chief Evans
July 5, 2011
Page 2

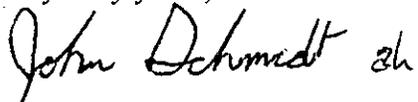
unwarranted invasion of personal privacy"); *Texas Comptroller of Public Accounts v. Attorney General of Texas*, ___ S.W.3d ___, 54 Tex. Sup. Ct. J. 245 (2010) (state employees have a "nontrivial privacy interest" in their dates of birth under the Texas Public Information Act (see Tex. Gov't Code §§552.101, 552.102), which substantially outweighs the negligible public interest in disclosure).

Additionally, the Department's redaction of one juvenile subject's name is also **approved**. Under these circumstances, a juvenile subject's right to privacy outweighs any legitimate public interest in this information. Therefore, we conclude that the Department has met its initial burden of demonstrating that the disclosure of this information would constitute a clearly unwarranted invasion of personal privacy.

The Department also indicates that it intends to redact one reporting party's name, phone numbers, and personal addresses from the report. We have determined that a reporting party's name falls under the exemption in section 7(1)(d)(iv) of FOIA (5 ILCS 140/7(1)(d)(iv) (West 2010)). Furthermore, phone numbers and personal addresses fall under section 7(1)(b) (5 ILCS 140/7(1)(b) (West 2010)) exemption for personal information. Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than those set forth in sections 7(1)(c) and 7(1)(f) (5 ILCS 140/7(1)(f) (West 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) 814-2770. This correspondence shall serve to close this matter.

Very truly yours,



JOHN SCHMIDT
Senior Assistant Attorney General
Public Access Bureau

JS:ah

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cc:

