



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

July 1, 2011

Mr. Robert W. Legg  
FOIA Officer  
Roselle Police Department  
103 S. Prospect St.  
Roselle, IL 60172

RE: FOIA Pre-Authorization Request - 2011 PAC 14380

Dear Mr. Legg:

We have received and reviewed the written notice from the Roselle Police 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)). The Department is seeking to redact the following from the requested documents: names and identifying information for juvenile victims and family members of juvenile victims; dates of birth; and information of a sexual nature allegedly disclosed by the suspect.

On May 18, 2011, Mr. Michael Tibbs submitted a FOIA request for all records pertaining to Roselle Police Department Case Number RO10003381. In its written notice, the Department asserts that names and identifying information for juvenile victims and family members of juvenile victims, dates of birth, and information of a sexual nature allegedly disclosed by the suspect 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 2010).

Mr. Robert W. Legg

July 1, 2011

Page 2

## DETERMINATION

The Department's use of the exemption in section 7(1)(c) to redact names and identifying information of juvenile victims and family members of juvenile victims is **approved**. We have concluded that the Department has met its initial burden of demonstrating that the disclosure of juvenile victims' and family members' names and identifying information contained in these documents would be highly objectionable to the reasonable person. Under these circumstances, the right to privacy outweighs any public interest in the information that the Department intends to withhold.

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 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 information of a sexual nature allegedly disclosed by the suspect is **approved**. We have concluded that the Department has met its initial burden of demonstrating that the release of this information would be highly objectionable to a reasonable person. Under these circumstances, the suspect'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 names and identifying information for juvenile victims and family members of juvenile victims, dates of birth, and information of a sexual nature allegedly disclosed by the suspect redacted, if it has not already done so.

The Department also indicates that it intends to redact additional information from the records pursuant to section 7(1)(b) and 7(1)(d)(iv) (5 ILCS 140/7(1)(b), (d)(iv) (West 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

Mr. Robert W. Legg  
July 1, 2011  
Page 3

2010)), we make no determination at this time regarding the applicability of any other exemptions.

If you have any questions about FOIA, please contact us at (877) 299-FOIA. This correspondence shall serve to close this matter.

Very truly yours,



DUSHYANTH REDDIVARI  
Assistant Attorney General  
Public Access Bureau

14380 Pre-auth al 71c dob vic priv sus priv pd

cc: Mr. Michael Tibbs, Assistant Commissioner  
Department of Business Affairs and Consumer Protection  
Richard J. Daley Center, Room 208  
50 West Washington Street  
Chicago, IL 60602