



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 8, 2011

Robert Legg
Records Supervisor/FOIA Officer
Roselle Police Department
103 S. Prospect Street
Roselle, IL 60172

RE: Pre-Authorization Request -- 2011 PAC 13214

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 as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act (FOIA), 5 ILCS 140/1 *et seq.*, as amended.

Nancy Guth, from the Law Offices of John T. Benz, submitted a FOIA request dated March 23, 2011, seeking a copy of "the police report from the January 31, 2011, occurrence at the Impecca restaurant." In its written notice, the Department asserted that dates of birth, information relating to physical injuries, an individual's sexual orientation and certain names are exempt from disclosure under Section 7(1)(c) (5 ILCS 140/7(1)(c)).

Determination

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." *Id.* The exemption defines "[u]nwarranted 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." *Id.*

The Department's use of the exemption in Section 7(1)(c) to redact dates of birth, victims' names, references to an individual's sexual orientation and information regarding physical injuries is approved. This information is highly personal, and the subjects' right to privacy outweighs any legitimate public interest in disclosing this information.

However, the suspect in this case was eventually arrested, and therefore the use of the exemption in Section 7(1)(c) to redact his name from these reports is denied. Section 2.15(a) of FOIA requires the names of arrestees to be released when those names appear in chronologically maintained criminal history documents. This indicates that the Illinois legislature recognizes a public interest in disclosing the names of arrestees. Although the details of the incident and the arrest may be highly personal, the subject's right to privacy does not outweigh the public interest in disclosure of the arrestee's name. This analysis applies to all of the documents relating to the incident for which this individual was arrested, not solely documents created during or after the arrest. Therefore, we have determined that the Department has not sustained its burden of establishing that the name of the suspect is exempt under Section 7(1)(c).

As such, the Department may issue a partial denial letter directly to the requester and release the report with the appropriate information redacted in accordance with this letter. If you have any questions, please feel free to contact the Public Access Counselor's Office at (877) 299-3642. This correspondence shall serve to close this matter.

Sincerely,

Sarah Kaplan by EK

Sarah Kaplan
Assistant Public Access Counselor

cc: Nancy Guth
Executive Assistant
Law Offices of John T. Benz
Law and Professional Center
16061 South 94th Avenue
Orland Hills, Illinois 60487