



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 11, 2011

Derek Lee, FOIA Officer
Roscoe Police Department
10595 Main Street
Roscoe, IL 61073

RE: FOIA Pre-Authorization Request - 2011 PAC 13925

Dear Mr. Lee:

We have received and reviewed the written notice from the Roscoe Police Department (RPD) of its intention to deny certain information as exempt from disclosure 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). The RPD is seeking to redact the reporting party's name, address, phone number and date of birth as well as any information pertaining to the reporting party's juvenile daughter from the requested documents.

[REDACTED] submitted a FOIA request for all records pertaining to Roscoe Police Department Case Number 11-2359 on April 26, 2011. In its written notice, the RPD asserts that the reporting party's name, address, phone number and date of birth as well as any information pertaining to the reporting party's juvenile daughter 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 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

DETERMINATION

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The RPD's use of the exemption in section 7(1)(c) to redact the reporting party's name, address, phone number and date of birth as well as any information pertaining to the reporting party's juvenile daughter from the requested documents is **approved**. We have determined that RPD has met its initial burden to demonstrate that the disclosure of the reporting party's name, address, phone number as well as any information pertaining to the reporting party's juvenile daughter would be highly objectionable to a reasonable person. Under these circumstances, the right to privacy outweighs any public interest in the information that RPD intends to withhold.

Additionally, we have found the RPD to have met its initial burden by 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).

Accordingly, the RPD may issue a partial denial letter and release the reports with the reporting party's name, address, phone number and date of birth as well as any information pertaining to the reporting party's juvenile daughter redacted from the requested documents, if it has not already done so.

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

cc: 