



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 2, 2011

Trooper Kerry Sutton
Freedom of Information Officer
Illinois State Police
801 S. Seventh Street
Springfield, IL 62794

RE: FOIA Pre-Authorization Request - 2011 PAC 14430

Dear Trooper Sutton:

We have received and reviewed the written notice from the Illinois State Police (ISP) 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). The ISP is seeking to redact dates of birth and "name elimination" evidence from the requested documents.

On May 13, 2011, [REDACTED] submitted a FOIA request for "any and all documentation [ISP has] relating to the death of [REDACTED], case 98-CF-243." In its written notice, ISP asserts that dates of birth and name elimination evidence are exempt from disclosure under section 7(1)(c) of FOIA. On June 1, 2011, we spoke with Trooper Sutton, who informed us that the proposed redactions of "name elimination evidence" involves redacting names associated with fingerprints that were tested to eliminate those people as a source of fingerprints in evidence.

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.

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DETERMINATION

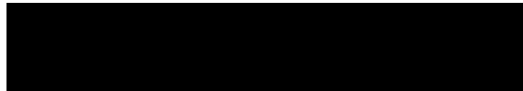
ISP's use of the exemption in section 7(1)(c) for the dates of birth is **approved**. We have determined that ISP has met its initial burden of demonstrating that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal 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).

Additionally, after review of the provided materials, ISP's use of the section 7(1)(c) exemption with respect to name elimination evidence is **approved**. The name elimination evidence pertains to individuals who are not the requester and who are not listed as a suspect or victim in the report. We agree that the name elimination evidence contained within this record is highly personal by its very nature and the subjects' right to privacy outweighs any legitimate public interest in disclosing this information. Therefore, ISP has met its initial burden demonstrating that the withheld information is exempt under section 7(1)(c).

Accordingly, ISP may issue a partial denial letter and release the reports with the dates of birth and name elimination evidence redacted, if it has not already done so.

If you have any questions, please contact our office at (877) 299-3642. This correspondence shall serve to close this matter.

Very truly yours,


REBECCA RIDDICK
Assistant Attorney General
Public Access Bureau

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cc: Mr. Craig Herrick - #B29633
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