



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 7, 2011

Trooper Kerry Sutton
Freedom of Information Officer
Illinois State Police
801 S. Seventh Street
Suite 1000-S
Springfield, IL 19461

RE: Pre-Authorization Request — 2011 PAC 14545

Dear Trooper Sutton:

We have received and reviewed the written notice from the Illinois State Police 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). On May 27, 2011, [REDACTED] submitted a FOIA request for copies of the documents described in his letter. The ISP is seeking to redact dates of birth and the name of a victim.

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

The ISP's use of the exemption in section 7(1)(c) for the dates of birth is **approved**. We have determined that the 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

Trooper Kerry Sutton
June 7, 2011
Page 2

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 ISP's use of the exemption in section 7(1)(c) to withhold the name of a victim is also **approved**. We have concluded that the ISP has met its initial burden of demonstrating that the disclosure of the victim's name would be highly objectionable to a reasonable person. Under these circumstances, the right to privacy outweighs any public interest in the information that the ISP intends to withhold.

Accordingly, the ISP may issue a partial denial letter and release the documents with the dates of birth and victim's name redacted, if it has not already done so.

If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,

Steve Silverman
by EK
STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

SS:ek

14545 pre-auth al 7(1)(c) dob vic priv pd

cc:

