



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 22, 2010

Trooper Kerry Sutton
Freedom of Information Officer
Illinois State Police
P.O. Box 19461
801 South Seventh Street, Suite 1000-S
Springfield, Illinois 62794

RE: Pre-Authorization Request – 2010 PAC 6252

Dear Trooper Sutton:

We have received and reviewed the written notice from the Illinois State Police (ISP) of its intent to deny certain information as exempt from disclosure under subsection 7(1)(c) of the Freedom of Information Act, 5 ILCS 140/1 *et seq.*, as amended (FOIA). The ISP is seeking to redact the date of birth and name of the suspect from a police report.

Subsection 7(1)(c) of FOIA exempts from inspection and copying "personal 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." 5 ILCS 140/7(1)(c). "Unwarranted invasion of personal privacy" means "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. The disclosure of information that bears on the public duties of public employees shall not be considered an invasion of personal privacy." *Id.*

ISP's use of the exemption in subsection 7(1)(c) with regard to the date of birth is approved. A date of birth is highly personal information, and a person's right to privacy with respect to this information outweighs any legitimate public interest in obtaining it. Thus, the disclosure of the suspect's date of birth would constitute a clearly unwarranted invasion of personal privacy to the suspect.

ISP has further asserted that the "case has been referred to the prosecutor and is awaiting a decision on prosecution." It appears that ISP is asserting the exemption at subsection 7(1)(d)(i), in that disclosure of the suspect's name would interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by the law enforcement agency that is the recipient of the request. 5 ILCS 140/7(1)(d)(i). Use of this exemption does not require pre-approval from our office.

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As such, ISP should issue a partial denial letter directly to [REDACTED] and release the record to [REDACTED] with the appropriate information redacted. If you have any questions, please feel free to contact me at (312) 793-0865. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:

[REDACTED]
Sara Gadola Gallagher
Deputy Public Access Counselor

cc:

[REDACTED]