



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 29, 2011

Trooper Kerry Sutton
801 South Seventh Street, Ste. 1000-S
P.O. Box 19461
Springfield, IL 62794

RE: FOIA Pre-Authorization Request – 2011 PAC 15009

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). On June 5, 2011, [REDACTED] requested records of ISP Laboratory Case Nos. C-09-5167 and C09-13966. ISP is seeking to redact dates of birth, the names of victims and the names of individuals who submitted elimination fingerprints.

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 section 7(1)(c) 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."

DETERMINATION

ISP's use of the exemption in section 7(1)(c) to redact the names of victims is **approved**. The victims' right to privacy outweighs the public interest in obtaining this information. Accordingly, we conclude that ISP has met its initial burden of demonstrating that the names of victims are exempt from disclosure under section 7(1)(c).


Trooper Kerry Sutton
June 29, 2011
Page 2

ISP's use of the section 7(1)(c) exemption to redact the names of individuals who provided elimination fingerprints also is **approved**. These individuals are victims and others who were not suspected of committing of a crime. Disclosure of the names of these individuals would constitute a highly unwarranted invasion of personal privacy and could reveal the identity of victims. Accordingly, we conclude that ISP has sustained its initial of burden that this information is exempt from disclosure under section 7(1)(c).

In addition, ISP's use of the exemption in 7(1)(c) to redact 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).

Accordingly, ISP may issue a partial denial letter and release the records to Mr. Carrizales, if it has not already done so. If you have any questions, please do not hesitate to contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,


STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

15009 preauth al 7(1)(c) dob al priv pd

cc:

