



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

July 8, 2011

Mr. Jay R. Groves  
Assistant to the President  
Illinois State University  
Campus Box 1000  
Normal, Illinois 61790

RE: FOIA Pre-Authorization Request - 2011 PAC 15223

Dear Mr. Groves:

We have received and reviewed the written notice from Illinois State University 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 2010)). ISU seeks to redact dates of birth and references to the race of the arrestee and victim from the requested police report.

On June 29, 2011, the University received a FOIA request from [REDACTED] seeking any police reports related to a DUI incident involving a certain named individual. In its written notice, the University asserts that the dates of birth and references to the race of the arrestee and the witness that appear in the responsive report are exempt 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."

**DETERMINATION**

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

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the subject's right to privacy outweighs any legitimate public interest in obtaining 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).

Further, ISU's use of section 7(1)(c) to redact references to the race of individuals named in the report is **approved**. We agree that this information is highly personal and that the subjects' right to privacy outweighs any legitimate public interest in this information. Thus, the University has met its initial burden of demonstrating that this information is exempt under section 7(1)(c).

Accordingly, the University may issue a partial denial letter and release the documents with the appropriate information redacted, if it has not already done so. If you have any questions, please contact me at (312) 814-2086. This correspondence shall serve to close this matter.

Very truly yours,



SARAH KAPLAN  
Assistant Attorney General  
Public Access Bureau

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