



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 18, 2011

Mr. Kerry Sutton
FOIA Officer
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield, IL 62794

RE: FOIA Pre-Authorization Request - 2011 PAC 15048

Dear Mr. 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 2010)). ISP is seeking to redact dates of birth, and the names of victims and suspects from the requested documents.

On June 16, 2011, [REDACTED] submitted a FOIA request for all ISP records pertaining to testing done in Case Number 01CR2388001 concerning [REDACTED] and [REDACTED]. In its written notice, ISP asserts that dates of birth, and the names of victims and suspects are exempt from disclosure 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." 5 ILCS 140/7(1)(c) (West 2010).

DETERMINATION

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

Mr. Kerry Sutton
July 18, 2011
Page 2

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).

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

ISP's use of the exemption in section 7(1)(c) to withhold the names of suspects is **approved**. We have concluded that ISP has met its initial burden to demonstrate that the disclosure of names of people suspected of crimes for which they were never arrested or charged would be highly objectionable to a reasonable person. Under these circumstances, the suspects' right to privacy outweighs any public interest in the information that ISP intends to withhold.

Accordingly, ISP may issue a partial denial letter and release the records with the dates of birth, and the names of victims and suspects redacted, if it has not already done so.

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

Very truly yours,



DUSHYANTH REDDIVARI
Assistant Attorney General
Public Access Bureau

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cc:

