



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 15, 2011

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

RE: FOIA Pre-Authorization Request - 2011 PAC 15753

Dear Tpr. 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 Vehicle Identification Numbers (VIN) from the requested document.

On July 1, 2011, Mr. Alex Laufer submitted a FOIA request for ISP report # 11-12319 SL. In its written notice, ISP asserts that dates of birth and the VIN for an automobile 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 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

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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 assertion of section 7(1)(c) to redact vehicle identification numbers, however, is **denied**. A VIN identifies a vehicle and therefore is not highly personal by its very nature and the subject's right to privacy does not outweigh legitimate public interest in disclosing the information. As such, ISP has not met its initial burden of demonstrating that the disclosure of vehicle identification numbers would constitute a clearly unwarranted invasion of privacy.

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

ISP also indicates that it intends to redact additional information from the report pursuant to section 7(1)(b) (5 ILCS 140/7(1)(b) (West 2010)). Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than sections 7(1)(c) and 7(1)(f) (5 ILCS 140/7(1)(f) (West 2010)), we make no determination at this time regarding the applicability of any other exemptions.

If you have any questions, please contact me at (312) 814-5206. This correspondence shall serve to close this matter.

Very truly yours,


DUSHYANTH REDDIVARI
Assistant Attorney General
Public Access Bureau

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cc: Mr. Alex Laufer
Direct Auto Insurance Company
330 S. Wells St., Suite 910
Chicago, IL 60606