



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

August 15, 2011

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

RE: FOIA Pre-Authorization Request - 2011 PAC 15999

Dear Mr. Groves:

We have received and reviewed the written notice from the Illinois State University (ISU) 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 is seeking to redact dates of birth and the name of a suspect from the requested document.

On July 27, 2011, [REDACTED] submitted a FOIA request for McLean County Incident Report # 201130270. In its written notice, ISU asserts that dates of birth and the name of a suspect 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**

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

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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).


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

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

ISU 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 (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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