



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 3, 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 15710

Dear Mr. Groves:

We have received and reviewed the written notice from Illinois State University of its intention to deny certain information under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010)).

On July 18, 2011, the University received a FOIA request from Mr. John T. Moran of the Moran Law Group seeking a copy of all reports relating to the arrest of a particular individual, as well as photographs and documents relating to the surveillance of this individual. The University seeks to redact the dates of birth and the references to the race of the arrestee that appear in the responsive report 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 the subject's right to privacy outweighs any legitimate public interest in obtaining this

Mr. Jay R. Groves
August 3, 2011
Page 2

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).

The University's use of the exemption in section 7(1)(c) to redact references to race is **approved**. We agree that this information is highly personal, and the subject's right to privacy outweighs any legitimate public interest in disclosing this information. We conclude that the University has met its initial burden of demonstrating that the references to race are 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

15710 preauth al 71c dob priv univ

SK:jh

cc: Mr. John T. Moran
The Moran Law Group
309 West Washington Street, Suite 900
Chicago, Illinois 60606