



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 2, 2011

Ms. Lola Dada-Olley
Associate General Counsel
Office of the Governor Pat Quinn
100 W. Randolph Street, Ste. 16-100
Chicago, Illinois 60601

RE: FOIA Pre-Authorization Request - 2011 PAC 15760

Dear Ms. Dada-Olley:

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

On July 4, 2011, [REDACTED] submitted a FOIA request seeking several records. In its written notice, the Office asserts that dates of birth and references to the race of certain individuals, contained within the requested records, 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

The Office's use of the exemption in section 7(1)(c) to withhold the dates of birth is **approved**. We conclude that the Office has met its initial burden to demonstrate that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy.

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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 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, the Office's use of section 7(1)(c) to redact references to the race of individuals named in the responsive documents is **approved**. We agree that this information is highly personal by its very nature and its release would be an unwarranted invasion of personal privacy. Thus, the Office has met its initial burden to withhold this information under section 7(1)(c).

Accordingly, the Office may issue a partial denial letter and release the report with the dates of birth and race redacted, if it has not already done so. If you have any questions, please contact me at (312) 814-6437. This correspondence shall serve to close this matter.

Very truly yours,



TOLA SOBITAN
Assistant Attorney General
Public Access Bureau

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