



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 24, 2011

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

RE: FOIA Pre-Authorization Request - 2011 PAC 16231

Dear Mr. Groves:

We have received and reviewed the written notice from 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), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011). Specifically, on August 4, 2011, Mr. Mark Sandusky of American Family Mutual Insurance Company submitted a FOIA request for the report regarding the theft of items from room [REDACTED] on January 28, 2011. In its written notice, ISU asserted that under section 7(1)(c) of FOIA it redacted from the report the dates of birth and the race of suspects, arrestees, victims, and witnesses, and the names of suspects who were not arrested.

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

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

Mr. Jay R. Groves
August 24, 2011
Page 2

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).

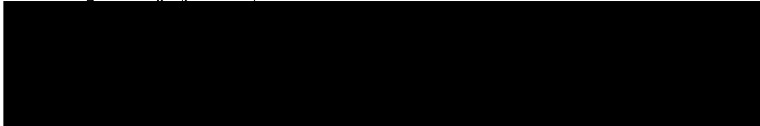
Further, ISU's use of section 7(1)(c) to redact references to the race of individuals named in the responsive report is **approved**. We agree that this information is highly personal by its very nature and its release would be an unwarranted invasion of personal privacy. Thus, ISU has met its initial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

Finally, ISU's use of section 7(1)(c) to redact the names of suspects who were not arrested or charged in connection with this incident is **approved**. Being accused of a crime is highly personal and having that information released in the absence of an arrest or any charges being filed would be highly objectionable to a reasonable person. The individuals' right to privacy in this instance would outweigh any legitimate public interest in obtaining the information. Therefore, ISU has met its burden in establishing that section 7(1)(c) shields this information from disclosure.

Accordingly, ISU may issue a partial denial letter and release the responsive records with the approved information redacted, if it has not already done so.

If you have any questions, please contact me at (312) 814-8413. This correspondence shall serve to close this matter.

Very truly yours,


REBECCA RIDDICK
Assistant Attorney General
Public Access Bureau

16231 pre-auth al 71c dob race sus priv univ

cc: Mr. Mark Sandusky
American Family Mutual Insurance Company
6000 American Pkwy
Madison, WI 53783