



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 25, 2011

Via electronic mail
Trooper Kerry Sutton
Freedom of Information Officer
Illinois State Police
801 South Seventh Street, Suite 1000-S
P.O. Box 19461
Springfield, Illinois 62794
FOIA_Officer@isp.state.il.us

RE: FOIA Pre-Authorization Request - 2011 PAC 16267

Dear Trooper Sutton:

We have received the written notice from the Illinois State Police (ISP) 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), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011).

On August 11, 2011, ISP received a request from [REDACTED] for the results of his own DNA laboratory analysis. ISP seeks to redact the dates of birth from the responsive records under section 7(1)(c) of FOIA, which exempts "[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

ISP's use of the exemption in section 7(1)(c) to withhold 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 obtaining this information. *See, e.g., Oliva v. United*

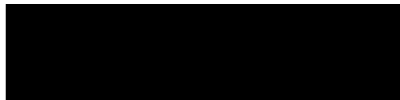
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States, 756 F. Supp. 105, 107 (E.D.N.Y. 1991) (holding that, under Exemption 6 of the Federal Freedom of Information Act (5 U.S.C. §552(b)(6)), "dates of birth[] are a private matter, particularly when coupled with * * * other information" and "would 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).

Accordingly, ISP 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

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cc:

