



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 14, 2010

Kerry Sutton
Illinois State Police
801 S. Seventh Street, Suite 1000-S
P.O. Box 19461
Springfield, Illinois 62794

RE: Pre-Authorization Request – 2010 PAC 6685

Dear Trooper Sutton:

We have received and reviewed the written notice from the Illinois State Police (ISP) of its intention to deny certain information contained in documents relating to a January 23, 2010 incident involving Patrick Burns, as exempt from disclosure under subsection 7(1)(c) of the Freedom of Information Act, 5 ILCS 140/1 *et seq.*, as amended.

In its written notice, the ISP asserted that the dates of birth and names of two juveniles are personal information contained within the public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy” and are exempt from disclosure under subsection 7(1)(c) of FOIA.

Determinations with respect to 7(1)(c)

Subsection 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 disclosure is consented to in writing by the individual subjects of the information.” 5 ILCS 140/7(1)(c). The exemption defines “[u]nwarranted 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.” *Id.*

The ISP’s use of the exemption in 7(1)(c) with regard to dates of birth is approved. We have determined that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c). 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.

Trooper Kerry Sutton

April 14, 2010

Page 2 of 2

ISP also seeks to exempt from disclosure the names of juveniles contained in the requested files. When providing written notice of its intent to deny or partially deny a record asserting the exemptions found in subsections 7(1)(c) and 7(1)(f), the public body must provide "a detailed summary of the public body's basis for asserting the exemption". 5 ILCS 140/9.5(b)(iii). ISP has not provided copies of the requested records nor has it provided any information regarding the juveniles named in its files. As this detailed summary was not provided, the ISP has not shown by clear and convincing evidence that the exemption applies. Therefore, the ISP's use of the subsection 7(1)(c) exemption with respect to juvenile names is denied.

We would point out, however, that Section 7(1)(a) of FOIA provides that information is exempt from disclosure under the Act if its disclosure is prohibited by federal or state law or rules and regulations implementing federal or state law. 5 ILCS 140/7(1)(a). The Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.*), does prohibit law enforcement agencies from releasing certain information regarding juveniles. In addition, the law enforcement records exemptions in Section 7(1)(d) may be applicable to the records in question, dependent upon the nature of the information contained therein. However, this letter does not express an opinion with regard to whether either of these exemptions may properly be invoked in these circumstances.

Accordingly, ISP should provide a copy of the requested records with the redactions of dates of birth to the requester. Unless ISP asserts a non-7(1)(c) exemption, ISP should disclose the information currently concealed by all other redactions.

If you have any questions, please feel free to contact me at (312) 814-5206. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


Amana Kioja
Chief Deputy Public Access Counselor

cc:

