OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 17, 2011

Mr. Jay R. Groves, FOIA Officer
Illinois State University
Campus Box 1000
Normal, Illinois 61790

RE: FOIA Pre-Authorization Request - 2011 PAC 14014

Dear Mr. Groves:

We have received and reviewed the written notice from Illinois State University (University) of its intention to deny disclosure of certain information as exempt under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). Specifically, on May 2, 2011, ███ ███ submitted a FOIA request to the University for a police report regarding a December 2010 incident of forgery of a student parking pass. The University is seeking to redact from the requested records dates of birth, race, and the names of possible suspects who were not arrested or charged in connection with the incident..

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 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

DETERMINATION

The University's use of the exemption in section 7(1)(c) for 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 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).

The University's use of the exemption in section 7(1)(c) to redact suspects' names is **approved**. We have concluded that the University has met its initial burden of demonstrating that the disclosure of the names of people suspected of crimes for which they were never arrested or charged would be highly objectionable to a reasonable person.

The University's use of the exemption in section 7(1)(c) to redact a person's race is **approved**. We have concluded that the University has met its initial burden in demonstrating that the disclosure of physically identifying information 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.

Accordingly, Illinois State University may issue a partial denial letter and release the report with the redacted information, if it has not already done so.

If you have any questions, please contact Tammy Friedewald at (217) 558-1926. This correspondence shall serve to close this matter.

Very truly yours,

AMANADA M. LUNDEEN
Assistant Attorney General
Public Access Bureau

cc:

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