



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 12, 2011

Via electronic mail
Trooper Kerry Sutton
Freedom of Information Act Officer
Illinois State Police
801 S. Seventh Street, Suite 1000-S
Springfield, Illinois 62794
Kerry_Sutton@isp.state.il.us

RE: FOIA Pre-Authorization Request - 2011 PAC 14019

Dear Trooper Sutton:

We have received and reviewed the written notice from the Illinois State Police (ISP) of its intention to deny certain information as exempt from disclosure 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). ISP is seeking to redact dates of birth and names from the requested documents.

██████████ submitted a FOIA request for a copy of a laboratory reports to ISP on May 5, 2011. In its written notice, ISP asserts that dates of birth and names 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 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

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DETERMINATION

ISP's use of the exemption in section 7(1)(c) for the dates of birth and names contained in the report is **approved**. We have determined that the ISP has met its initial burden to demonstrate 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).

With regard to the name of an individual that is not the suspect or the victim, we conclude that ISP has met its initial burden to demonstrate that the disclosure of this name would be highly objectionable to a reasonable person. Under these circumstances, the right to privacy outweighs any public interest in the information that ISP intends to withhold.

Accordingly, ISP may issue a partial denial letter and release the reports with the dates of birth and name redacted, if it has not already done so.

If you have any questions, please contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Very truly yours,



MATTHEW C. ROGINA
Assistant Attorney General
Public Access Bureau

cc:

