



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 5, 2011

Trooper Kerry Sutton
FOIA Officer
Illinois State Police
801 S. Seventh Street, Suite 1000-S
PO Box 19461
Springfield, IL 62794

RE: Pre-Authorization Request – 2010 PAC 7463

Dear Trooper Sutton:

We have received and reviewed the written notice from the Illinois State Police (ISP) of its intention to deny from disclosure certain records as exempt under Section 7(1)(c) of the Freedom of Information Act, 5 ILCS 140/1 *et seq.*, as amended (FOIA).

Joshua A. Tepfer of the Center on Wrongful Convictions submitted a FOIA request to ISP on April 23, 2010 seeking “‘all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, recorded information and all other documentary materials’ that may contain or relate to the DNA profiles for those individuals listed...”

In its written notice, ISP asserted that “...all records for the DNA profile information from the six individuals listed” are exempt from disclosure under Section 7(1)(c) of FOIA. Specifically, ISP advised that

[t]he case files would contain the DNA profile from the known standards submitted for the individuals listed. The profile would be identified within the complete lab reports that state the results for that specific case analysis along with any and all comparisons of the known standard to other cases. The requested case files and any related case files would contain all pertinent documents (e.g. sample amplification worksheets, charts from Genotyper testing, local match results reports, etc.) supporting the results. Essentially the files would contain any DNA analysis conducted in the cases listed and any other cases subsequently linked to those individuals through DNA.

Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)) 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." 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.*

Determination

ISP's proposed application of the exemption found in Section 7(1)(c) of FOIA to deny disclosure of "...all records for the DNA profile information from the six individuals listed" is approved. We have determined that the disclosure of DNA profile information would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). This type of information is highly personal by its very nature and the subjects' right to privacy outweighs any legitimate public interest in disclosing this information. Therefore, ISP has met its initial burden of demonstrating that DNA profile information is exempt from disclosure under Section 7(1)(c) of FOIA.


Accordingly, ISP may issue a denial letter withholding the responsive DNA profile information from disclosure.

If you have any questions, please feel free to contact me at (312) 814-1003 or joleary@atg.state.il.us. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By


Jessica O'Leary
Assistant Attorney General

cc: Joshua A. Tepfer
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