



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 18, 2016

[REDACTED]
Centralia Correctional Center
P.O. Box 7711
Centralia, Illinois 62801

RE: FOIA Request for Review – 2016 PAC 40554

Dear [REDACTED]

This determination letter is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2014)). For the reasons that follow, the Public Access Bureau has determined that no further action is warranted.

On January 14, 2016, you submitted a FOIA request to the Joliet Police Department (Department) seeking, in pertinent part, copies of your fingerprints and D.N.A. from case #1150317004221. On February 2, 2016, the Department denied your request pursuant to section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b) (West 2014), as amended by Public Acts 99-298, effective August 6, 2015; 99-346, effective January 1, 2016). On February 26, 2016, you submitted this Request for Review contesting the Department's denial.

Section 7(1)(b) exempts from disclosure "[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law or a court order." Section 2(c-5) of FOIA (5 ILCS 140/2(c-5) (West 2014), as amended by Public Act 99-78, effective July 20, 2015) defines "private information" to include:

[U]nique identifiers, including a person's social security number, driver's license number, employee identification number, *biometric identifiers*, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Emphasis added.)

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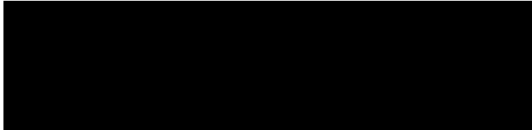
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The term "biometric identifier" is not defined in FOIA. However, section 10 of the Biometric Information Privacy Act (740 ILCS 14/10 (West 2014)) defines "biometric identifier" as "a retina or iris scan, *fingerprint*, voiceprint, or scan of hand or face geometry" (emphasis added), and it should be read together with section 2(c-5) of FOIA. See *People v. Taylor*, 221 Ill. 2d 157, 161 n.1 (2006) ("The doctrine of *in pari materia* provides that when two statutes deal with the same subject, they will be considered with reference to each other to give them a harmonious effect."). Thus, fingerprints are considered unique identifiers and may be withheld as exempt as "private information" under section 2(c-5). The Public Access Bureau has also previously determined that DNA is a biometric identifier and, therefore, "private information" under the section 2(c-5) definition of that term. Ill. Att'y Gen. PAC Req. Rev. Ltr. 12531, issued May 22, 2012, at 3. Accordingly, this office concludes that the Department did not violate FOIA by withholding your fingerprints and DNA pursuant to section 7(1)(b) of FOIA, and that no further action is warranted in this matter.

However, this office also notes that the Department is not required to assert that all "private information" is exempt, and may exercise its discretion to disclose records to you concerning your own biometric identifiers. Ill. Att'y Gen. PAC Req. Rev. Ltr. 15182, issued October 5, 2011, at 3; Ill. Att'y Gen. PAC Req. Rev. Ltr. 23175, issued May 12, 2015, at 3.

If you have any questions, you may contact me at the Springfield address listed on the first page of this letter. This correspondence serves to close the matter.

Very truly yours,


CHRISTOPHER R. BOGGS
Assistant Attorney General
Public Access Bureau

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