



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 11, 2011

Ms. Colleen O'Brien
FOIA Officer
Harvard Police Department
201 West Front Street
Harvard, IL 60033

RE: FOIA Pre-Authorization Request - 2011 PAC 15988

Dear Ms. O'Brien:

We have received and reviewed the written notice from the Harvard Police Department of its intention to deny disclosure of certain information under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010)). The Department is seeking to redact dates of birth from the requested document.

On July 24, 2011, Ms. Hillary Busse submitted a FOIA request for Department report # HAPD-11-003646. In its written notice, the Department asserts that dates of birth 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 2010).

DETERMINATION

The Department's use of the exemption in section 7(1)(c) for the dates of birth is **approved**. We have determined that the Department 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.*


Ms. Colleen O'Brien
August 11, 2011
Page 2

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).

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

If you have any questions, please contact me at (877) 299-3642. This correspondence shall serve to close this matter.

Very truly yours,



DUSHYANTH REDDIVARI
Assistant Attorney General
Public Access Bureau

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cc: Ms. Hillary Busse
Law Office of Scott A. Hiera
3421 W. Elm St.
McHenry, IL 60050