



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 26, 2011

Officer Michael O'Connor, #63
Libertyville Police Department
200 E. Cook Ave.
Libertyville, Illinois 60048

RE: FOIA Pre-Authorization Request - 2011 PAC 16377

Dear Officer O'Connor:

We have received the written notice from the Libertyville 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), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011). The Department is seeking to redact dates of birth from the requested documents.

On August 15, 2011, Mr. Joe Favia of Hupy - Abraham submitted a FOIA request to "view traffic crash reports 8-4-11 – 8-11-11." 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), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011.

DETERMINATION

The Department's assertion of 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.

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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).

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

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

Very truly yours,



REBECCA RIDDICK
Assistant Attorney General
Public Access Bureau

16377 pre-auth al dob pd

cc: Mr. Joe Favia
Hupy - Abraham
501 N. Riverside Dr., #101
Gurnee, Illinois 60031