OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 12, 2011

Ann Kavanaugh, FOIA Officer
Schaumburg Police Department
1000 W. Schaumburg Road
Schaumburg, IL 60194-4198

RE: FOIA Pre-Authorization Request - 2011 PAC 13993

Dear Ms. Kavanaugh:

We have received and reviewed the written notice from the Schaumburg Police Department (SPD) 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). The SPD is seeking to redact dates of birth from the requested documents.

[redacted] submitted a FOIA request for Schaumburg Police Department Arrest Report RD 07-17549 on May 3, 2011. In its written notice, the SPD 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 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

DETERMINATION

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

Accordingly, the SPD 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 about FOIA, please contact us at (877) 299-FOIA. This correspondence shall serve to close this matter.

Very truly yours,

DUSHYANTH REDDIVARI
Assistant Attorney General
Public Access Bureau

cc: