



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

August 22, 2011

Ms. Kate Rassmussen  
Freedom of Information Officer  
Kendall County Sheriff's Office  
1102 Cornell Lane  
Yorkville, Illinois 60560-9597

RE: Pre-Authorization Request — 2011 PAC 16165

Dear Ms. Rassmussen:

We have received and reviewed the written notice from the Kendall County Sheriff's Office 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). Specifically, on August 4, 2011, Ms. Laura Pawson, from the Kendall County Animal Control, submitted a FOIA request for a copy of Report Number 2011-3042. The Department seeks pre-authorization to redact dates of birth from the requested record.

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 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.*

*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.

The Department also indicates that it intends to redact home addresses from the report. Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than sections 7(1)(c) and 7(1)(f) (5 ILCS 140/7(1)(f) (West 2010) as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011), we make no determination at this time regarding the applicability of any other exemptions.

If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,

*STEVE SILVERMAN*

STEVE SILVERMAN  
Assistant Attorney General  
Public Access Bureau

*by EK*

SS:ek

16165 Pre-auth al 71c dob pd

cc: Ms. Laura Pawson  
Kendall County Animal Control  
802 John Street  
Yorkville, Illinois 60560