



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

June 6, 2011

Ms. Kim M. Hemmy  
FOIA Officer  
Village of Lindenhurst  
2301 East Sand Lake Road  
Lindenhurst, Illinois 60046

RE: FOIA Pre-Authorization Request – 2011 PAC 14411

Dear Ms. Hemmy:

We have received and reviewed the written notice from the Village of Lindenhurst 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 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). On May 19, 2011, [REDACTED] submitted a FOIA request for documents concerning the suicide of her sister, [REDACTED]. The Village seeks to redact narrative portions of Incident Report # 2011-00445 pursuant to section 7(1)(c) (5 ILCS 140/7(1)(c) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010).

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 Village's use of the exemption in section 7(1)(c) to redact portions of the narrative of the incident report is **denied**. The Public Access Counselor has recognized that surviving family members "have a cognizable personal privacy interest in . . . records relating to

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the death of a close relative" which must be considered in determining whether such records are exempt from disclosure under section 7(1)(c). Ill. Att'y Gen. Pub. Acc. Op. No. 10-003, issued October 22, 2010. Under section 7(1)(c), the privacy interest of surviving family members in the disclosure of personal information must be balanced against the legitimate public interest in obtaining the information. We previously have determined that crime scene photographs requested by the parents of a murder victim are not exempt under section 7(1)(c) because the requesters were the decedent's closest living relatives and they had waived their privacy rights by requesting the photographs. Ill. Att'y Gen. PAC Pre-Auth. dl7218, issued February 15, 2011. Similarly, in this matter, the requester is the decedent's sister, who appears to be the decedent's closest surviving family member. Further, disclosure of the redacted information, which consists primarily of references to the decedent's identity, would not constitute an unwarranted invasion of the surviving family members' right to privacy. Accordingly, we conclude that the Village has not sustained its initial burden of demonstrating that this information is exempt from disclosure under section 7(1)(c).

The Village also indicates that it intends to redact additional information from the records pursuant to section 7(1)(b) (5 ILCS 140/7(1)(b) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010) of FOIA). 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 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010), 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*  
*by EK*  
STEVE SILVERMAN  
Assistant Attorney General  
Public Access Bureau

SS:ek

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cc:

