



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

June 15, 2011

*Via Electronic Mail*  
Ms. Ann Kavanaugh  
Records Supervisor  
Village of Schaumburg Police Department  
AKavanaugh@ci.schaumburg.il.us

RE: FOIA Pre-Authorization Request – 2011 PAC 12456

Dear Ms. Kavanaugh:

We have received and reviewed the written notice from the Village of Schaumburg Police Department (Village) 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 February 16, 2011, [REDACTED] submitted a FOIA request to the Village seeking copies of incident report 10-4187. On February 17, 2011, the Village submitted a Pre-Authorization Request to the Office of the Public Access Counselor seeking our approval to withhold most records responsive to [REDACTED] request under section 7(1)(c) of FOIA, which 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."

**DETERMINATION**

The Village's use of the exemption in section 7(1)(c) to withhold the report in its entirety is **denied**. This Office has previously concluded that when the victim of a crime is deceased, the personal privacy interest of the victim in the disclosure of his or her identity ceases to exist. *See* 2010 PAC 6137 (Ill Att'y Gen. PAC Pre-Auth dl6137, issued August 24, 2010, at

Ms. Ann Kavanaugh  
June 15, 2011  
Page 2

2). We conclude that this would also apply to incident reports where the victim's death is caused by other circumstances.

The Village argues that disclosure of this report would constitute an unwarranted invasion of privacy for the family of the victim. This Office has previously concluded that decedents' family members have a personal privacy interest in the disclosure of post-mortem photos of the decedent. *See* 2010 PAC 8890 and 9217 (Ill Att'y Gen. Pub. Acc. Op. No. 10-003, issued October 22, 2010, at 5). In 2010 PAC 8890 and 9217, this Office reviewed the Cook County Medical Examiner's denial of two FOIA requests submitted by the *Chicago Sun-Times* and *Chicago Tribune*. The *Sun-Times* and *Tribune* sought records relating to the deaths of Christopher Kelly, a businessman and fundraiser for former Governor Rod Blagojevich, and Michael W. Scott, the president of the Chicago Board of Education.

In that opinion, we concluded that disclosure of post-mortem photographs depicting the bodies of [REDACTED] and [REDACTED] are highly personal and that surviving family members have a legally-recognized privacy right in the depiction of their remains. *See* Ill Att'y Gen. Pub. Acc. Op. No. 10-003, at 11. We also concluded, however, that the County did not provide a basis for its assertion that certain documentary materials related to the deaths, such as the First Call Sheet, the deceased remains transportation sheet, and the medical examiner case report, were exempt from disclosure pursuant to section 7(1)(c). *See* Ill Att'y Gen. Pub. Acc. Op. No. 10-003, at 7. Similarly, we find that the Village has not met its burden of demonstrating that disclosure of this report, after certain permissible redactions, would constitute an invasion of personal privacy of the relatives of the victim. There is nothing in the report that contains information or images that would be analogous to the post-mortem photographs at issue in 2010 PAC 8890 and 9217. The Village may redact, pursuant to section 7(1)(c), the names of individuals in the report other than that of the victim..

If you have any questions, please contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Very truly yours,

[REDACTED]

MATTHEW C. ROGINA  
Assistant Attorney General  
Public Access Bureau

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cc:

[REDACTED]