



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 20, 2011

Mr. Michael Tierney
Records Director
Village of Addison
3 Friendship Plaza
Addison, Illinois 60101

RE: FOIA Pre-Authorization Request - 2011 PAC 15438

Dear Mr. Tierney:

We have received and reviewed the written notice from the Village of Addison (Village) 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 2010)). On June 24, 2011, [REDACTED] submitted a FOIA request to the Village seeking copies of all records relating to the "[REDACTED] case."¹ In its July 5, 2011, written notice to this office, the Village asserts that it seeks to withhold all responsive records pursuant to 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."

The Village explains that the records relate to a November 25, 2009, triple homicide in the Village where [REDACTED] killed his wife and two children before committing suicide. The Village asserts that release of the records would result in a highly unwarranted invasion of personal privacy for the deceased victims.

DETERMINATION

¹According to the Village, the responsive records include an investigative report, 911 tape, coroner's report, and suicide note.

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The Village's request to withhold the records is **approved in part and denied in part**. 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 2). In this matter, the victims are deceased and therefore, the release of the investigative report, coroner's report, and suicide note would not result in an invasion of privacy for the victims.

The Village may withhold the 911 tape that documents the death of [REDACTED] ([REDACTED] wife). We have listened to the 911 tape and conclude that disclosure of the tape would result in a highly unwarranted invasion of privacy for [REDACTED] surviving relatives. This office has previously concluded that decedents' family members have a personal privacy interest with regard to the release of certain records. *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 [REDACTED] a businessman and fundraiser for former Governor Rod Blagojevich, and [REDACTED] 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. Similarly, we find that a 911 tape that documents an individual's death would also constitute a highly unwarranted invasion of personal privacy for the surviving relatives of that individual.

Accordingly, this office finds that the Village has not met its initial burden and must furnish to the requester the investigative report, coroner's report, and suicide note, but may withhold the 911 tape. This correspondence shall serve to close this matter. If you have any questions, you may contact me at (312) 814-5383.

Very truly yours,

[REDACTED]

MATTHEW C. ROGINA
Assistant Attorney General
Public Access Bureau

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cc: Mr. Daniel Petrousek
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Belvidere, Illinois 61008