



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 22, 2011

Ms. Bonnie Sikora
FOIA Officer
Village of Lakemoor
Lakemoor Village Hall
234 W. Rand Rd.
Lakemoor, IL 60051

RE: FOIA Pre-Authorization Request - 2011 PAC 14980

Dear Ms. Sikora:

We have received and reviewed the written notice from the Village of Lakemoor 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)).

On June 15, 2011, [REDACTED] submitted a FOIA request for Lakemoor Police Department report RD # 11-2209. In its written notice, the Village asserts that the names and identifying information of the victim and a third party, and 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 2010).

DETERMINATION

The Village's use of the exemption in section 7(1)(c) to withhold the victim's name and identifying information is **approved**. We have concluded that the Village has met its initial burden of demonstrating that the disclosure of the victim's name and identifying information would be highly objectionable to a reasonable person. Under these circumstances,

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the victim's right to privacy outweighs any public interest in the information that the Village intends to withhold.

The Village's use of the exemption in section 7(1)(c) to withhold a third-party's name and identifying information is also **approved**. We have concluded that the Village has met its initial burden of demonstrating that the disclosure of the third party's name and identifying information would be highly objectionable to a reasonable person. Under these circumstances, this individual's right to privacy outweighs any public interest in the information that the Village intends to withhold.

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

The Village also indicates that it intends to redact additional information from the report, including social security numbers, driver's license numbers, State ID numbers, FBI numbers, home addresses and personal telephone numbers, under section 7(1)(b) (5 ILCS 140/7(1)(b) (West 2010)). 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)), we make no determination at this time regarding the applicability of any other exemptions.

Accordingly, Village may issue a partial denial letter and release the records with the names and identifying information of the victim and a third party, and dates of birth redacted, if it has not already done so.

If you have any questions, please contact me at (877) 299-3642. This correspondence shall serve to close this matter.

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Very truly yours,

A large black rectangular redaction box covering the signature of the sender.

DUSHYANTH REDDIVARI
Assistant Attorney General
Public Access Bureau

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