



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 3, 2011

Ms. Beth Janicki-Clark
Assistant Village Attorney
Village of Downers Grove
801 Burlington Avenue
Downers Grove, IL 60515

RE: Pre-Authorization Request – 2010 PAC 10281

Dear Ms. Janicki-Clark:

We have received and reviewed the written notice from the Village of Downers Grove of its intention to deny disclosure of certain information as exempt from disclosure pursuant to Section 7(1)(c) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*

On October 12, 2010, [REDACTED] submitted a FOIA request to the Village seeking a copy of all arrest records and incident reports involving [REDACTED] of Downers Grove and [REDACTED] of Western Springs from Jan. 2008 to present. In its written notice, the Village asserts that medical information contained in Incident Report #09-8266 and the narrative portions of Incident Report #09-7627 are exempt from disclosure under Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)).

Determination

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 disclosure is consented to in writing by the individual subjects of the information." *Id.* The exemption defines "[u]nwarranted 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." *Id.*

The Village's use of the Section 7(1)(c) exemption with regard to the narrative portion of Incident Report #09-7627 is approved. We have determined that release of this portion of the report would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal by its very nature and its release would be objectionable to a reasonable person. As such, the Village has met its initial burden of demonstrating that this information is exempt from disclosure under Section 7(1)(c) of FOIA.

Next, the Village's use of the Section 7(1)(c) exemption with regard to the information that the Village proposes to redact in Incident Report #09-8266 is denied. We have determined that the disclosure of information relating to the suspect's prescriptive drug use, and subsequent statements regarding the alleged incident, does not amount to a clearly unwarranted invasion of personal privacy. Nonetheless, it is our determination that the Village may choose to redact, pursuant to Section 7(1)(c), the reference to the reason the suspect had been provided with the prescriptive drug. This particular information pertaining to the suspect's medical condition is highly personal by its very nature and the suspect's right to privacy outweighs any legitimate public interest in disclosing this information.

In accordance with this letter, therefore, the Village may issue a partial denial letter to [REDACTED] and release the records to him with the appropriate information redacted. If you have any questions, please feel free to contact the Public Access Counselor's Office at (877) 299-3642. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:

[REDACTED]
Tola Sobitan
Assistant Public Access Counselor

cc:

[REDACTED]

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