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Abstract **APPROVED**
for Publication

March 11, 2013



Ms. Maureen Schmidt
Records Supervisor
Village of Arlington Heights
33 South Arlington Heights Road
Arlington Heights, Illinois 60005

RE: FOIA Request for Review – 2011 PAC 19102

Dear [REDACTED] and Ms. Schmidt:

Pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2010), as amended by Public Act 97-579, effective August 26, 2011), the Public Access Bureau has received a Request for Review of the response by the Village of Arlington Heights (Village) to a FOIA request submitted by [REDACTED]

On March 26, 2012, [REDACTED] requested a copy of the incident report for Case No. 12-05638. On March 27, 2012, the Village partially denied [REDACTED] request pursuant to section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b) (West 2011 Supp.)).

On April 19, 2012, we forwarded a copy of [REDACTED] Request for Review to the Village and requested that the Village provide the Public Access Bureau with additional information concerning its basis for the asserted exemption. On April 16, 2012, Ms. Maureen Schmidt, Records Supervisor for the Village of Arlington Heights, responded by stating: "[t]he items that have been redacted include the suspect's name and other identifiers. In response to [REDACTED] I used [the section 7(1)(b)] exemption. * * * [T]he suspect's name should have been exempt under [section 7(1)(c) of FOIA]."

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DETERMINATION

All public records in the possession or custody of a public body are "presumed to be open to inspection or copying." 5 ILCS 140/1.2 (West 2010); *see also Southern Illinoisan v. Illinois Dept. of Public Health*, 218 Ill. 2d 390, 415 (2006). A public body "has the burden of proving by clear and convincing evidence" that a record is exempt from disclosure. 5 ILCS 140/1.2 (West 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 2011 Supp.).

We have determined that the disclosure of the name and other identifying information for a suspect who has been neither arrested nor charged with any criminal conduct would constitute a clearly unwarranted invasion of personal privacy. *See Ill. Att'y Gen. PAC Req. Rev. Ltr. 14013*, issued June 9, 2011. The subject's privacy interest outweighs any legitimate public interest in disclosure of this identifying information. Accordingly, we conclude that the suspect's name, age, birth date, gender, race, height, weight, hair and eye color are exempt from disclosure under section 7(1)(c) of FOIA.

In addition, section 7(1)(b) of FOIA provides that public bodies may redact "private information," unless "disclosure is required by another provision of this Act, a State or federal law or a court order." Private information is defined in section 2(c-5) of FOIA (5 ILCS 140/2(c-5) (West 2010)) as "unique identifiers, including a person's social security number * * * personal telephone numbers, * * * [and] home addresses[.]" Accordingly, we conclude that the Village properly redacted the suspect's social security number, personal telephone number and home address from the police report under section 7(1)(b) of FOIA.

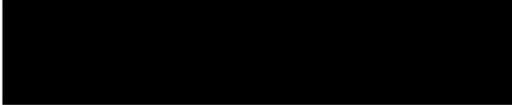

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The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. If you have questions, you may contact me at (312) 814-5206 or at the Chicago address listed below. This correspondence shall serve to close the matter.

Very truly yours,


DUSHYANTH REDDIVARI
Assistant Attorney General
Public Access Bureau

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