



12 South Center Street  
Bensenville, IL 60106

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[www.bensenville.il.us](http://www.bensenville.il.us)

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Frank Kosman

January 21, 2016

Mr. Mark Keane  
910 West Hillside Drive  
Bensenville, IL 60106

Re: January 7, 2016 FOIA Request

Dear Mr. Keane:

I am pleased to assist you with your Freedom of Information Act request for information ("FOIA Request"), received by the Village of Bensenville on January 7, 2016. The Village extended its time to respond. You requested copies of the records indicated below:

A copy of the following video of Bensenville Police Case #BV15-012812

In consultation with the DuPage County State's Attorney's Office and at its request, the Village hereby denies your FOIA Request because the information requested is exempt under sections 7(1)(a), 7(1)(d)(i), 7(1)(d)(iii), 7(1)(d)(iv) of FOIA. The record requested relates to an ongoing criminal matter which is under an investigation being conducted by the DuPage County State's Attorney's Office.

Section 7(1)(a) of FOIA provides that "information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law" is exempt from inspection and copying. 5 ILCS 140/7(1)(a).

Rule 3.6(a) of the Illinois Supreme Court Rules of Professional Conduct of 2010 ("RPC") provides:

A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and would pose a serious and imminent threat to the fairness of an adjudicative proceeding in the matter.

IL R S CT RPC Rule 3.6(a).

Rule 3.8(f) of the RPC provides that:

The prosecutor in a criminal case shall...

except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, *refrain from making extrajudicial comments that pose a serious and imminent threat of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.*

IL R S CT RPC Rule 3.8(f). Here, it is the opinion of the DuPage County State's Attorney's Office that the public release of the information requested is prohibited under a professional duty to refrain from making extrajudicial comments that pose a serious and imminent threat of heightening public condemnation of the accused and to exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule 3.8.

Section 7(1)(d)(i) of FOIA provides an exemption to disclosure of records in the possession of "any law enforcement or correctional agency for law enforcement purposes" to the extent that disclosure would "interfere with pending or actually and reasonable contemplated law enforcement proceedings." 5 ILCS 140/7(1)(d)(i). The release of the requested record would interfere with pending or actually and reasonable contemplated law enforcement proceedings.

Section 7(1)(d)(iii) also provides an exemption to disclosure of records that "create a substantial likelihood that" defendants "will be deprived of a fair trial or an impartial hearing" or infringe upon the victim's rights. 5 ILCS 140/7(1)(d)(iii). The release of the requested record would create a substantial likelihood that an individual will be deprived of a fair trial or an impartial hearing. 5 ILCS 140/7(1)(d)(iii).

Also, the record contains information which, if released, would disclose the identity of persons who give information to law enforcement and is therefore additionally exempt under section 7(1)(iv) of FOIA. 5 ILCS 140/7(1)(iv).

Do not hesitate to contact me or Sean Conway, one of the Village's attorneys, at (630) 681-1000, if you have any questions or concerns in connection with this Response.

Pursuant to Section 9 of the FOIA, 5 ILCS 140/9, I am required to advise you that I, the undersigned Freedom of Information Officer, reviewed and in consultation with an attorney for the Village, made the foregoing determination to deny a portion of your FOIA Request as indicated. Should you believe that this Response constitutes an improper denial of your request, you may appeal such by filing a request for review within sixty (60) days of the date of this letter with the Public Access Counselor of the Illinois Attorney General's Office, Public Access Bureau, 500 South Second Street, Springfield, Illinois 62706; telephone 1-887-299-FOIA; e-mail: publicaccess@atg.state.il.us. You may also have a right of judicial review of the denial under Section 11 of FOIA, 5 ILCS 140/11.

Very truly yours,



Corey Williamsen  
Freedom of Information Officer  
Village of Bensenville



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**VILLAGE BOARD**

January 14, 2015

**President**  
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**Interim Village Manager**  
Frank Kosman

Mr. Mark Keane  
910 West Hillside Drive  
Bensenville, Illinois 60106

Re: January 7, 2016 FOIA Request

Dear Mr. Keane:

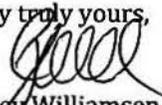
I am pleased to help you with your January 7, 2016 Freedom of Information Act ("FOIA"). Your request was received by the Village of Bensenville on January 7, 2016. You requested copies of the items indicated below:

*"I'm requesting a copy of the following video of Bensenville Police Case #BV15-012812. The incident date was 12/8/2015."*

The Village needs to consult with the Village Attorney to determine whether any of the records you have requested are exempt from disclosure under Section 7 of the FOIA or should be revealed only with appropriate deletions. Therefore, pursuant to Section 3(e)(v) of FOIA, 5 ILCS 140/3(e)(v), the Village is extending the time it has to respond to your request by an additional five (5) business days. The Village will respond to your request on or before January 21, 2016.

Please let me know if you have any questions.

Very truly yours,

  
Corey Williamsen  
Freedom of Information Officer  
Village of Bensenville