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January 28, 2016

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

Re: January 22, 2016 FOIA Request

Dear Mr. Keane:

I am pleased to help you with your January 22, 2016 Freedom of Information Act ("FOIA"). Your request was received by the Village of Bensenville on January 22, 2016. You requested copies of the items indicated below:

"I want a written or recorded copy of this consultation, the name of the Village's Attorney and it's Law firm, along with both the Villages and Attorney State agent(s), their address and suite, the contact phone number and the date and time that this conversation took place."

After a search of Village files, the following documents are enclosed to fulfill your request:

- 1) Letter from Patrick J. Collins, Assistant State's Attorney, Civil Bureau. (2 pgs.)

These are all of the documents that can be discovered responsive to your request.

Do not hesitate to contact me if you have any questions or concerns in connection with this response.

Very truly yours,


Corey Williamsen
Freedom of Information Officer
Village of Bensenville



ROBERT B. BERLIN
STATE'S ATTORNEY
DUPAGE COUNTY, ILLINOIS
January 19, 2016

Sean P. Conway
Bensenville Police Department
patrickbond@bond-dickson.com

Re: Freedom of Information Act/ (*People v. Rosario Garcia*)

Sean,

I have reviewed the documents you submitted as being responsive to this Freedom of Information Act. These reports are related to an ongoing criminal matter (*People v. Rosario Garcia*). I can say that with the exception of the suspects name and addresses, the charges made, and the place and time of the arrest we would ask that this Freedom of Information Act (5 ILCS 140/et seq.) request be denied. The Freedom of Information Act explicitly states 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).

Moreover, the requested documents contain witness statements including those of police officers, victims, and other witnesses, along with their expected testimony, suspect statements, victim information, and other potentially inadmissible information. *ILCS S. Ct. Rules of Prof. Conduct, RPC Rule 3.6(b)* clearly states that type of information poses a serious and imminent threat to the fairness of a future trial. Under the Rules of Professional Conduct, prosecutors are extremely limited in what information they can provide to the public. *ILCS S. Ct. Rules of Prof. Conduct, RPC Rule 3.6(a)*. The rules serve to limit the release of information which could "pose a serious and imminent threat to the fairness of an adjudicative proceeding in the matter" and as prosecutors we are to "exercise reasonable care to prevent investigators, [and] law enforcement personnel" from doing the same. *ILCS S. Ct. Rules of Prof. Conduct, RPC Rule 3.8(f)*. Therefore, the Bensenville Police Department, an investigative agency working in conjunction with the State should also be prohibited from releasing such documents.

Further, the State's Attorney has an obligation to "ensure that a flow of information is maintained between the various investigative personnel and its office". *ILCS S. Ct. Rule 412(f)*. The release of the requested documents would not only be in violation of discovery and professional conduct rules, but could also "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 Freedom of Information Act states that records in the possession of “any law enforcement or correctional agency for law enforcement purposes” are exempt to the extent that disclosure would “interfere with pending or actually and reasonable contemplated law enforcement proceedings” 5 ILCS 140/7(1)(d)(i). Additionally, the requested materials contain information “the disclosure of which would constitute a clearly unwarranted invasion of personal privacy” as defined by the Act. 5 ILCS 140/7(1)(c). Also, the report contains information which, if release, would release the identity of persons who give information to law enforcement. 5 ILCS 140/7(1)(iv).

Therefore, the DuPage County State’s Attorney’s Office believes the requested documents are exempt from disclosure under sections 7(1)(a), 7(1)(d)(i), 7(1)(d)(iii), 7(1)(d)(iv), and 7(1)(c) of the Freedom of Information Act. The release of such documents would undermine the administration of justice and we will take every effort to prevent this from happening. Please contact First Assistant State’s Attorney Joe Ruggiero directly if the Bensenville Police Department or the City of Bensenville has any disagreement with this. Thank you for your consideration.

Very Truly Yours,



Patrick J. Collins
Assistant State’s Attorney
Civil Bureau