



February 26, 2014

Kimberly Ponzio  
WGN News  
2501 W. Bradley Place  
Chicago, IL 60618

Dear Ms. Ponzio:

The Illinois Tollway is in receipt of your FOIA request for the following information:

“Pursuant to Illinois' Freedom of Information Act, 5 ILCS 140/1, et seq., please provide copies of all 911 calls related to the fatal crash at 9:45 pm, Monday, January 27<sup>th</sup>, 2014 at Interstate 88 in Aurora. Specifically, we seek written and audio records. Such records would include, for example, written notes, formal reports and anything related to the 911 calls placed regarding the fatal crash in Aurora.”

We have completed the review of your request. Per Illinois State Police District 15 and DuPage County States Attorney Office, this case is still ongoing, therefore, your request is denied. Section 5 ILCS 140/7 (c) of the FOIA act provides an exemption to disclosure of “Personal 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. Unwarranted invasion of personal privacy means 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. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

Additionally, section 5 ILCS 140/7(d) of the FOIA act allows for the exemption of “Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:

- (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;
- (vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.
- (iii) provides an exemption to disclosure of records in possession of a law enforcement agency to the extent that such disclosure would create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing.”

The State's Attorney's Office has filed charges in the matter and they have determined that not only will disclosure of the information obstruct an on-going criminal investigation they are conducting, but they have determined that disclosure of the information requested would create a substantial likelihood that the defendant will be deprived of a fair trial or impartial hearing because it is likely that it will be broadcasted in a newscast that includes potential jurors.

Please note that Joelle McGinnis, Freedom of Information Officer, Illinois State Police District 15 Captain Patrick Kimes and DuPage County Assistant States Attorney Joseph A. Ruggiero were responsible for the denials referenced herein. You have a right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to: Public Access Counselor Office of the Attorney General 500 South 2nd Street Springfield, Illinois 62706 Fax: 217-782-1396 E-mail: [publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us)

You also have the right to seek judicial review of your denial by filing a lawsuit in the State circuit court. 5 ILCS 140/11. If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Respectfully,

Joelle McGinnis  
Freedom of Information Officer