



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

August 4, 2010

**Lisa Madigan**  
ATTORNEY GENERAL

Ms. Teresa Fisher  
Freedom of Information Officer  
Wilmington Police Department  
120 North Main Street  
Wilmington, IL 60047

Dear Ms. Fisher:

RE: FOIA Pre-Approval Request – No. 8738

We have received and reviewed the written notice from the Wilmington Police Department of its intention to deny the request of Kirsten Zambo of the Daily Journal for two arrest reports under the Freedom of Information Act (FOIA). The Department states that it seeks approval of the Public Access Counselor to withhold that information pursuant to Section 7(1)(c) of FOIA on the basis that disclosure would interfere with pending litigation or law enforcement proceedings and create the likelihood of depriving someone of a fair trial because the two reports in question involve matters that are currently being prosecuted.

Under the current version of FOIA, however, Section 7(1)(c) exempts from disclosure “personal information . . . the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to by the individual subjects of the information,” 5 ILCS 140/7(c). Section 7(1)(d) is the provision that exempts records in the possession of a law enforcement agency that would interfere with pending law enforcement proceedings or create a substantial likelihood that a person will be deprived of a fair trial. 5 ILCS 140/7(d).


The Public Access Counselor is not required to preauthorize an exemption claim under subsection 7(1)(d) of FOIA. Therefore, your request for preauthorization is unnecessary and the Public Access Counselor will not act upon it. If you have any questions, please feel free to

contact me at 312-814-2770. This correspondence will serve to close the matter.

Sincerely,

Cara Smith  
Public Access Counselor

By:

  
John Schmidt  
Assistant Attorney General

cc: Ms. Kirsten Zambo  
The Daily Journal  
8 Dearborn Square  
Kankakee, IL 60901