



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 5, 2011

Sgt. Kelly Walter
Illinois State Police
Kelly_Walter@isp.state.il.us

Mr. Bruce Rushton
State Journal-Register
Bruce.rushton@sj-r.com

RE: FOIA Pre-Authorization Request - 2011-PAC-12002
FOIA Request for Review - 2011-PAC-12113

Dear Sgt. Walter and Mr. Rushton:

The Office of the Public Access Counselor has been informed that the *State Journal-Register* (*SJR*) has filed a lawsuit against Illinois State Police (*ISP*) seeking copies of records relating to *ISP*'s investigation of the December 14, 2010 death of former Springfield Mayor Timothy Davlin. Section 9.5(g) (5 ILCS 140/9.5(g)) of the Freedom of Information Act (FOIA) states the following:

If the requester files suit under Section 11 with respect to the same denial that is subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor *shall take no further action with respect to the request for review and shall notify the public body.* (Emphasis added.)

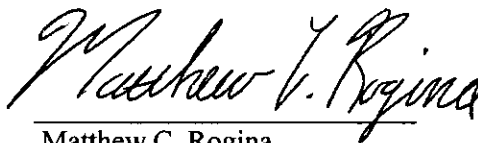
On December 16, 2010, Bruce Rushton, a staff reporter with the *SJR*, submitted a FOIA request to *ISP* seeking all information *ISP* had in its possession relating to the death of Mayor Davlin. *ISP* responded on December 22, 2010 and asserted that the information was exempt from disclosure pursuant to Section 7(1)(d)(i) of FOIA (5 ILCS 140/7(1)(d)(i)) which exempts from inspection and copying information that would "interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency for law enforcement purposes." Mr. Rushton submitted a second FOIA request on January 14, 2011 seeking all information gathered by *ISP* subsequent to the December 16 request.

ISP submitted a Notice of Intent to Deny pursuant to Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)) and Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)) on January 20, 2011 with regard to the January 14, 2011 FOIA request. Mr. Rushton sought a Request for Review of ISP's denial of the December 16, 2010 FOIA request on January 27, 2011. In a March 9, 2011 response letter to our Office's further inquiry into Mr. Rushton's Request for Review, ISP requested that we consolidate Mr. Rushton's December 16 and January 14 request with its previous Notice of Intent to Deny.

The Law Offices of Donald M. Craven P.C. filed a lawsuit on behalf of the *SJR* in Sangamon County Circuit Court on March 29, 2011 with regard to ISP's denial of Mr. Rushton's December 16, 2010 and January 14, 2011 FOIA requests to ISP. Pursuant to Section 9.5(g), the Office of the Public Access Counselor shall take no further action on the *State Journal-Register's* Request for Review.

Based on these facts, this correspondence shall close this file. Should you have any questions, please contact me at (312) 814-5383.

Sincerely,



Matthew C. Rogina
Assistant Public Access Counselor

cc: Ms. Esther Seitz
The Law Offices of Donald M. Craven, P.C.
esther@cravenlawoffice.com