



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 1, 2011

Ms. Joanne Wessels
FOIA Officer
Batavia Police Department
100 North Island Avenue
Batavia, Illinois 60510

RE: FOIA Preauthorization – 2011 PAC 14204

Dear Ms. Wessels:

We have received and reviewed the written notice from the Batavia Police Department of its intention to deny disclosure of certain information requested by [REDACTED] pursuant to section 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/7(1)(f) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010. Specifically, on May 10, 2011, [REDACTED] requested all reports involving herself and her family for the last 2 years. The Department states that it has provided some responsive documents to [REDACTED] but it seeks to withhold a portion of one report under section 7(1)(f). Section 7(1)(f) of FOIA exempts from disclosure, "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body."

DETERMINATION


The Department seeks to redact a portion of Batavia Police Department record 2009-10095, which contains statements made by representatives of other agencies regarding Ms. Lopez and her family. The section 7(1)(f) exemption does not apply to these materials because they were not predecisional or deliberative communications that were part of the Department's decision-making process. *See Harwood v. McDonough*, 344 Ill. App. 3d 242, 248 (1st Dist. 2003). Rather, the Officer who prepared the report merely discussed these statements as part of a narrative of events and actions taken by the Department. Accordingly, the Department's use of the exemption in section 7(1)(f) to withhold the specified portion of the report in question is **denied**.

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We will not address other exemption claims raised by the Department at this time because it is not necessary to obtain preauthorization from the Public Access Counselor to assert those exemptions. *See* 5 ILCS 140/9.5(b) (West 2009 Supp.).

If you have any questions, please contact me at 312-814-6756. This correspondence will serve to close the matter.

Very truly yours,


JOHN SCHMIDT
Senior Assistant Attorney General
Public Access Bureau

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cc:

