



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 4, 2011

Ms. Mandy Bentley
Freedom of Information Officer
Illinois Department of Corrections
1301 Concordia Court
Springfield, IL 62794-9277

RE: FOIA Preauthorization – 2011 PAC 13473

Dear Ms. Bentley:

We have received the written notice from the Illinois Department of Corrections (Department) of its intention, pursuant to section 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(f) (West 2010)), to deny disclosure of certain records requested by [REDACTED]

Specifically, [REDACTED] requested records relating to the appointment of an employee to the "PSA OPT 7" position as Shift Supervisor. In its written notice, the Department asserts that the responsive "employment decision form" is exempt from disclosure under section 7(1)(f) of FOIA. On April 21, 2011, this office sent a further inquiry letter to the Department, requesting a detailed explanation of the information that the Department seeks to withhold under section 7(1)(f), together with an unredacted copy of the record or records at issue.

Section 7(1)(f) 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." This provision "is the equivalent of the 'deliberative process' exemption set forth in section 552(b)(5) of the federal Freedom of Information Act." *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247, 799 N.E.2d 859, 864 (1st Dist. 2003). The section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. *See N.L.R.B. v. Sears*, 421 U.S. 132 (1975); *Hoffman v. Ill. Dept. of Corrections*, 158 Ill. App. 3d 473 (1st Dist. 1987).

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DETERMINATION

The Department's assertion of section 7(1)(f) to withhold the requested records is **denied**. The Department has failed to provide this office with a detailed summary of its basis for withholding these records under section 7(1)(f) or to furnish us with a copy of the document or documents it seeks to withhold. Accordingly, the Department, having failed to meet its initial burden of demonstrating that the records are exempt from disclosure under section 7(1)(f), must immediately release the records to [REDACTED]

If you have any questions, please contact me at 312-814-6437. This correspondence will serve to close this matter.

Very truly yours,

Tola Sobitan
TOLA SOBITAN
Assistant Attorney General
Public Access Bureau

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cc: [REDACTED]