



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 26, 2011

Ms. Lisa Weitekamp
FOIA Officer
Illinois Department of Corrections
1301 Concordia Ct.
Springfield, IL 62794-9277

RE: FOIA Pre-approval Request – 2010 PAC 13478

Dear Ms. Weitekamp:

We have received from the Illinois Department of Corrections a written notice of its intention to assert the Section 7(1)(f) exemption in response to a Freedom of Information Act (FOIA) request submitted by [REDACTED] of the Chicago Tribune. [REDACTED] FOIA request sought copies of records furnished by IDOC in response to subpoenas it has received concerning the inner City Youth Foundation. IDOC claims that a four-page responsive e-mail chain is exempt under Section 7(1)(f) because it contains opinions and relates to the formulation of policies or actions by IDOC.

Section 7(1)(f) of the Freedom of Information Act (5 ILCS 140/7(1)(f)) allows withholding of:

[p]reliminary drafts, notes, recommendations, memoranda or other documents 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.

In *Harwood v. McDonough*, 344 Ill. App. 3d 242 (1st Dist. 2003), the Illinois Appellate Court ruled that “as a matter of public policy, section 7(1)(f) exempts from disclosure predecisional materials used by a public body in its deliberative process.” *Id.* at 247. In considering the matter, the *Harwood* court adopted the defendant’s argument that the word “preliminary” does not refer to the “posture of the particular document sought to be disclosed” but rather to “predecisional intra-agency communications.” *Id.* at 247-248. The court noted that no previous Illinois cases interpreted the use of the word preliminary and, as such, stated that it was helpful to look to cases interpreting the parallel language of the Federal Freedom of Information Act. The court determined that the exemption is intended to protect “predecisional, deliberative communications

that are part of an agency's decision-making process." *Id.* at 248 (quoting *Parmalee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill October 1, 1998).


Based on our review of the documents at issue, the documents proposed to be withheld fall within the scope of the Section 7(1)(f) exemption, because they consist of internal discussions pertaining to the formulation of IDOC policy and action. Further, there is no evidence to suggest that these records have been publicly cited and identified by the head of the public body. Accordingly, IDOC has met its initial burden of demonstrating that these records are exempt from disclosure under Section 7(1)(f).

If you have any questions, please feel free to contact me at (217) 782-9078. This letter shall serve to close this file.

Sincerely,


Matthew M. Sebek
Assistant Public Access Counselor

Cc:


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