



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 8, 2010

Mr. Rory O'Brien
City of Chicago Police Department
Freedom of Information Act Officer
3510 S. Michigan Avenue
Chicago, Illinois 60653



RE: FOIA Pre-Authorization Request – 2010 PAC 9835

Dear Mr. O'Brien and [REDACTED]

We have received the written notice from the City of Chicago Police Department (CPD) of its intention to withhold certain information as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(f)), together with copies of the responsive documents identified and furnished by CPD.

Specifically, on September 8, 2010, [REDACTED] ([REDACTED]) submitted a FOIA request to CPD seeking the copies of the following records:

- (1) the original list the Chicago Police Merit Board sent to the Superintendent of Police on or about August 6, 2010, (2) the follow-up list on or about August 10, 2010 for consideration for merit promotion to Sergeant of police, and (3) the names of each member of each Merit Board and how they individually ranked or scored on both lists sent to the Superintendent of police.

On September 22, 2010, CPD sent this Office a Pre-Authorization request asserting that Item (1) and the second portion of Item (3) are exempt from disclosure pursuant to Section 7(1)(f), which exempts from inspection and copying "preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies 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."

CPD further stated that based on a thorough search of its records, no documents were located that were responsive to Item (2) of Mr. O'Brien's request. With regard to the first portion of Item (3), CPD explains that no such document exists and that FOIA does not obligate CPD to produce such a document.

On October 4, 2010, this Office initiated further review of the matter and advised CPD that under Section 4(a) of FOIA (5 ILCS 140/4(a)) a public body must prominently display and make available for inspection and copying a "brief description of itself, which will include, but not be limited to, a short summary of its purpose a block diagram giving its functional subdivision, the total amount of its operating budget number and location of all of its separate offices, the approximate number of full and part-time employees, and the identification and *membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of a public body, or which exercises control over its policies or procedures, or to which the public body is required to report and be answerable for its operations.*" (Emphasis added.)

CPD subsequently informed this Office that they supplied [REDACTED] with a copy of the names of the members of the Merit Board (Board). On October 18, 2010, CPD supplied this Office with a copy of 2010 Board evaluations and a written explanation as to why Section 7(1)(f) exempts the documents from disclosure.

Determinations

CPD's request for approval of its decision to withhold information pursuant to Section 7(1)(f) is approved.

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, 511 N.E.2d 759 (1st Dist. 1987). The document supplied to this Office by CPD contains the names of the candidates for Sergeant; the individual Board member's ranking of each candidate; and the Board's recommendation for that particular candidate. Therefore, we find that CPD has met its initial burden of demonstrating that the document is preliminary in nature and properly falls within the scope of Section 7(1)(f).


Additionally, there is no evidence that this information has been publicly cited and identified by the head of the public body. 5 ILCS 140/7(1)(f).

Should you have any questions or concerns, please feel free to contact me at (312) 814- 5383. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


Matthew C. Rogina
Assistant Public Access Counselor
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cc: