



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

November 17, 2010

Lisa Weitekamp
Illinois Department of Corrections
1301 Concordia Court, P.O. Box 19277
Springfield, Illinois 62794-9277
LISA.WEITEKAMP@doc.illinois.gov

RE: FOIA Pre-Authorization Request - 2010 PAC 6190

Dear Ms. Weitekamp:

We have received and reviewed the written notice from the Illinois Department of Corrections (IDOC) 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 140/1 *et seq.*, as amended.

Specifically, on January 5, 2010, John O'Connor, on behalf of the Associated Press (AP), submitted a FOIA request to the IDOC seeking communications regarding the Meritorious Good Time (MGT) push.

IDOC responded to Mr. O'Connor's request and supplied him with a late August protocol for short-term offenders, the agenda for the training session and a mid-September memorandum that outlined the release for short term offenders from other correctional centers. On March 9, 2010, IDOC submitted a pre-authorization request with this Office explaining that emails, internal memoranda and preliminary data relating to the MGT Push 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." 5 ILCS 140 7(1)(f).

This Office initiated further inquiry into the matter on March 17, 2010 and requested copies of the documents it seeks to withhold and an answer as to whether these documents have been publicly cited by the head of IDOC. On April 1, 2010, IDOC responded to our further inquiry request and supplied us with copies of more than 150 emails, internal memoranda and preliminary data regarding the MGT push program.

Determinations

IDOC'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). This Office has reviewed the emails, internal memoranda and preliminary data supplied to us by IDOC. The emails span a five-month period with regard to the MGT push program. The correspondence between IDOC personnel and other executive agencies reflects opinions and recommendations about several courses of actions for the MGT push program. With regard to the preliminary data and internal memoranda, both documents represent preliminary findings by IDOC and other executive agencies about proposed policy changes for the program and IDOC.

On April 2, 2010 the AP sent this Office an email requesting that we confirm that IDOC supplied us with an August 26, 2009 email entitled: Confidential: Inmate Population Initiatives Follow-Up. The AP explained that this e-mail was sent to them by IDOC with heavy redactions.

This email was included in the correspondence that IDOC provided to this Office on April 1. This Office has reviewed the August 26 email and concluded that it contains information about possible issues that IDOC may face in trying to reduce the prison population. The email contains a specific outline drafted by IDOC that identifies certain problems that exists at various facilities and how IDOC can address those problems. As such, this Office finds that this specific email also falls within the scope of Section 7(1)(f).

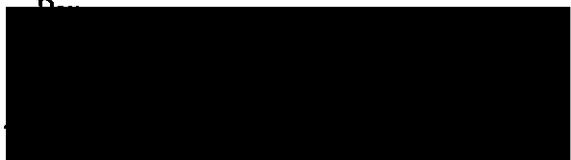
Additionally, there is no evidence that this information has been publicly cited and identified by the head of the public body. 5 ILCS 140/7(1)(f).

Based on this analysis, IDOC has met its burden under Section 7(1)(f) and may withhold the documents in question.

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

Sincerely,

Cara Smith
Public Access Counselor



Matthew C. Rogina
Assistant Public Access Counselor
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cc: John O'Connor
Associated Press
Joconnor@ap.org