



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 15, 2010

Jamie Rein, FOIA Officer
Cynthia Schaupp, FOIA Officer
McHenry County State's Attorney's Office
2200 North Seminary Avenue
Woodstock, Illinois 60098

Re: Pre-Authorization Request – 2010 PAC 11242

Dear Mr. Rein and Ms. Schaupp:

We have received and reviewed the written notice from the McHenry County State's Attorney's Office (Office) of its intention to deny disclosure of certain documents as exempt from disclosure under Sections 7(1)(c) and 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 et seq., as amended.

Robert McCoppin of the Chicago Tribune submitted a FOIA request to the Office on November 16th, 2010 seeking "...any documents relating to the investigation, prosecution and dismissal of disorderly conduct charges filed against [REDACTED] charged July 22, 2010."

In its written notice, the Office has identified one document which it asserted is "personal to the victim" and is thus exempt from disclosure under Section 7(1)(c) of FOIA. The Office has also identified a document which it advised contains "...notes/memorandum [which] are work product of the attorney handling the case..." The Office asserted that this document is exempt from disclosure under Section 7(1)(f) of FOIA.

Determination

Application of Section 7(1)(c)

Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)) exempts from inspection and copying "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless disclosure is consented to in writing by the individual subjects of the information." The exemption defines "[u]nwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a

reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." *Id.*

The Office's proposed application of the exemption found in Section 7(1)(c) to deny disclosure of document pertaining to the victim is approved. We have reviewed a copy of the document provided by the Office and have determined that disclosure of this information would be objectionable to a reasonable person and the victim's right to privacy outweighs any legitimate public interest in obtaining the information. Therefore, the Office has met its initial burden of demonstrating that the identified document is exempt from disclosure under Section 7(1)(c) of FOIA.

Application of Section 7(1)(f)

Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)) exempts from disclosure records that constitute "[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 shall not be exempt when the record is publicly cited and identified by the head of the public body."

The Office's proposed application of the exemption found in Section 7(1)(f) to deny disclosure of the assistant state's attorney's notes is approved. We have reviewed the document provided by the Office had have determined that it consists of notes, in which opinions are expressed and actions are formulated. Therefore, the Office has met its initial burden of demonstrating that the identified document is exempt from disclosure under Section 7(1)(f) of FOIA.

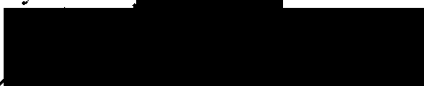
Accordingly, the Office may issue a partial deny letter denying disclosure of the two specified documents.

If you have any questions, please feel free to contact me at (312) 814-1003 or joleary@atg.state.il.us. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


Jessica O'Leary
Assistant Attorney General

cc: Robert McCoppin
Chicago Tribune
1717 N. Penny Lane, Suite 3
Schaumburg, Illinois 60173