



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

December 28, 2010

University of Illinois at Urbana-Champaign  
Public Affairs  
Robin Kaler, Associate Chancellor and FOIA Officer  
507 E. Green St.  
Champaign, IL 61820

Re: Pre-authorization request – 2010 PAC 10415

Dear Ms. Kaler:

We have received from the University of Illinois a notice of intention to deny certain records requested under the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended. [REDACTED] requested copies of all complaints and records related to complaints filed against employees of the University of Illinois Police Department since January 1, 2009; Mr. [REDACTED] also requested copies of all records related to the University's response to his FOIA request. The University requested pre-approval to withhold or redact records pursuant to Section 7(1)(c) (5 ILCS 140/7(1)(c)) and Section 7(1)(f) (5 ILCS 140/7(1)(f)).

**Determination – Section 7(1)(f)**

Section 7(1)(f) exempts from inspection and copying “[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.” 5 ILCS 140/7(1)(f). Section 7(1)(f) exempts from disclosure “predecisional materials used by a public body in its deliberative process.” *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247, 799 N.E.2d 859, 864 (1<sup>st</sup> Dist. 2003). The exemption “is intended to protect the communications process and encourage frank and open discussion among agency employees before a decision is made.” *Id.* at 248, 799 N.E.2d at 864.

The request for pre-approval to withhold records and redact portions of records pursuant to Section 7(1)(f) is **approved in part and denied in part**. The University requested pre-approval to redact draft documents, memoranda regarding investigations and notes from interviews with victims, witnesses and others. We have reviewed un-redacted copies of the records which the University wishes to withhold or redact under Section 7(1)(f). Draft versions of the police chief's final determinations are exempt from disclosure under Section 7(1)(f). Such preliminary versions of dispositions of complaints are pre-decisional in nature, and there is no indication the records were publicly cited by the head of the public body. Likewise, interview notes and memoranda regarding investigations which contain opinions or recommendations are exempt from disclosure under Section 7(1)(f). Such inter-agency communications are pre-decisional in nature, and there is no indication that the head of the public body publicly cited those documents. Accordingly, we conclude that the University has sustained its initial burden of demonstrating that draft versions of final determinations, and interview notes and memoranda regarding investigations which contain opinions or recommendations are exempt from disclosure under Section 7(1)(f).

However, first-person witness statements and summaries of interviews which detail information provided by witnesses without expressing opinions or recommendations are not within the scope of the Section 7(1)(f) exemption. Memoranda which notify employees of complaints also are not exempt from disclosure under Section 7(1)(f). Specifically, we deny pre-approval to withhold the following records from the three files ("Part 1," "Part 2" and "Part 3") which the University submitted for our review:

- Part 1: First-person witness statements, pages 138 and 142; notification of complaint, page 192.
- Part 2: Notification of complaints, pages 45, 49, 52; summaries of witness interviews, pages 46, 48, 50-51, 53-54, 69.
- Part 3: First-person witness statements, pages 6-12.

#### **Determination – Section 7(1)(c)**

Information in public records is exempt if disclosure would "constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information." 5 ILCS 140/7(1)(c). An "[u]nwarranted invasion of personal privacy" is 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 University's request for pre-approval to withhold records and redact portions of records pursuant to Section 7(1)(c) is **approved in part and denied in part**. The University requested pre-approval to redact the names of "offenders," the names of "victims/witnesses/other," and "any identifying characteristic of those listed above." The University also requested pre-approval to redact birth dates. Birth dates are a highly personal form of information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). A subject's right to privacy outweighs any legitimate public interest in the disclosure of his or her date of birth.

The University's request for pre-approval to redact the names and physical characteristics of crime victims, witnesses and un-arrested suspects is **approved**. Physical descriptions and information identifying crime victims, witnesses and un-arrested suspects is highly personal by

its very nature. The privacy rights of such subjects outweigh any legitimate public interest in disclosure.

The request for pre-approval to redact the names and physical descriptions of individuals who were arrested or issued notices to appear in court is **denied**. We determined in 2010 PAC 8210 that an arrestee's name is not exempt from disclosure under Section 7(1)(c). The public interest in disclosure of the names and physical descriptions of arrestees outweighs those subjects' privacy rights.

The University's request for pre-approval to redact the names of individuals who filed complaints and witnesses who provided information regarding those complaints also is **denied**. The University has failed to establish that this information is highly personal, and that the subjects' right to privacy outweighs any legitimate public interest in disclosure. However, we note that other exemptions, such as Section 7(1)(d)(iv) (5 ILCS 140/7(1)(d)(iv)), may apply to this information.

The University also redacted personal identifiers such as social security numbers, driver's license numbers, telephone numbers and personal email addresses. While the University did not specify a basis for these redactions, we note that such personal identifiers constitute private information which is exempt from disclosure under Section 7(1)(b).

This letter shall serve to close this file. If you have any questions, please feel free to contact me at (312) 814-6756 or [ssilverman@atg.state.il.us](mailto:ssilverman@atg.state.il.us).

Sincerely,

Cara Smith  
Public Access Counselor

By:

  
Steve Silverman  
Assistant Public Access Counselor

cc:

