



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 16, 2011

Ms. Lisa Weitkeamp
Illinois Department of Corrections
LISA.WEITEKAMP@doc.illinois.gov

RE: FOIA Pre-Authorization Request 2010 PAC 10781

Dear Ms. Weitkeamp:

We have received and reviewed the written notice from Illinois Department of Corrections 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 March 5, 2010, Mr. Sam Hudzik, on behalf of WBEZ, submitted a FOIA request to IDOC seeking copies of any and all complaints the department has received regarding [REDACTED] as well as any and all records relating to those complaints. [REDACTED] was an employee of the department until January of this year. On March 12, 2010, IDOC denied the request pursuant to Section 7(1)(n) of FOIA, of FOIA (5 ILCS 140/7(1)(n)) which exempts from inspection and copying "[r]ecords relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed."

This Office issued a determination letter on October 27, 2010. In that letter, this Office found that IDOC had not met its burden with regard to asserting Section 7(1)(n). Specifically, we found that the Employee Review Hearing process undertaken by IDOC to evaluate and resolve employee disciplinary matters did not rise to the level of "adjudication of employee grievances or disciplinary cases" contemplated by Section 7(1)(n). We did note, however, the following in the letter:

Notwithstanding, it appears that some portions of the responsive records may have constituted deliberative process materials solicited, obtained and utilized in drawing conclusions and making the final determination of whether discipline should be imposed on the officer in question. As such, IDOC may wish to re-evaluate the requested records to determine whether some or all of the denied material may be exempt under Section 7(1)(f) of the Freedom of Information Act.

On November 16, 2010 IDOC submitted a Pre-Approval Request with this Office explaining that the documents are exempt from disclosure pursuant to Section 7(1)(f) of FOIA (5 ILCS 140/7(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."

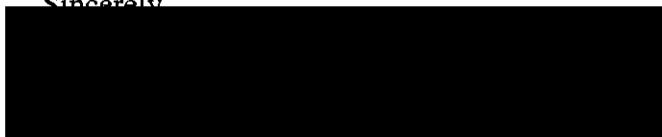
Determinations

IDOC's request for approval of its decision to withhold the information pursuant to Section 7(1)(f) is denied. This Office has reviewed the documents that IDOC seeks to withhold and we have concluded that the documents do not consist of opinions and recommendations. Rather, the documents consist of the disciplinary charges against a particular employee and the determination made by IDOC about those charges.

Based on this analysis, IDOC has not met its initial burden demonstrating that these documents are exempt from disclosure under Section 7(1)(f) and must disclose these documents to *WBEZ*. This Office also renews its initial findings with regard to Section 7(1)(n).

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

Sincerely,



Matthew C. Rogina
Assistant Public Access Counselor

cc: Mr. Sam Hudzik
shudzik@chicagopublicradio.org

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