



Lori E. Lightfoot
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

Eddie T. Johnson
Superintendent of Police

26 November 2019

MuckRock News
83403-48432732@requests.muckrock.com

RE: NOTICE OF RESPONSE TO FOIA REQUEST
FOIA FILE NO.: P499116

Dear MuckRock News:

The Chicago Police Department (CPD) is in receipt of your Freedom of Information Act (FOIA) request, received November 18, 2019 for the following:

"...all random drug tests between 2012 and the date of processing this request, please provide the following information: First/Last name; Badge ID; Date of generation of employees list.; Date of drug test; Results of drug test. To be clear, I am interested in all records, regardless of whether a drug test occurred..."

Your request was reviewed by the undersigned and a search was conducted utilizing the above-provided search parameters. It was determined that your request is denied in full. To the extent that any record(s) may exist, it is determined that your request must be denied pursuant to subsection 5 ILCS 140/7(1)(b) and 5 ILCS 140/7 (1)(c) of the Illinois Freedom of Information Act (FOIA).

As the requested documents contain personal information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and the disclosure has not been consented to in writing by the individual subject of the information. Furthermore, the disclosure of reports would compel the Department to violate separate yet applicable exemptions, specifically subsection 5 ILCS 140/7(1)(b).

As the potential harm to the above specified individual clearly outweighs the public interest in disclosure, it is the position of the Chicago Police Department that the requested documents are exempt from disclosure under the following exemptions of the Illinois Freedom of Information Act:

5 ILCS 140/7 (1)(b) Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order;

5 ILCS 140/7 (1)(c) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means 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. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

The decision to withhold these records is further supported by 2016 PAC 39535 where "the requestor sought records related to the "alleged drug use by current and former teachers at Lincoln Middle School from Sep 1, 2015 to the date of the request." Specifically, the District asserted 5 ILCS 140/7 (1)(b) as a basis to withhold requested drug test results. Under 5 ILCS 140/2 (c-5), "medical records" constitute "private information" that is exempt from disclosure under FOIA.

A "medical record" is defined as a "record of a patient's medical information (as medical history, care, or treatments received, test results, diagnosis, and medications taken)." Merriam-Webster Online Medical Dictionary, <https://www.merriam-webster.com/medical/medical%20records> (last visited April 27, 2016). Thus, the laboratory test results are "medical records" as defined by FOIA. Accordingly, the District properly withheld the laboratory test results under asserted 5 ILCS 140/7 (1)(b).

If I can be of further assistance, please contact me at the following address:

Chicago Police Department
Attention: Freedom of Information
Office of Legal Affairs, Unit 114
3510 S. Michigan Avenue
Chicago, IL 60653

You have the right to have a denial reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General, 500 S. Second St., Springfield, IL 62706, (877)299-3642. You also have the right to seek judicial review of your denial by filing a lawsuit in the Cook county Circuit Court under 5 ILCS 140/11.

Sincerely,
M. Acosta
Freedom of Information Act Officer
Department of Police