



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 26, 2010

Ms. Lola Dada-Olley
Associate General Counsel
Office of the Governor
100 W. Randolph Street, 16th Floor
Chicago, Illinois 60601

RE: Pre-Authorization Request – 2010 PAC 9225

Dear Ms. Dada-Olley:

We have received written notice from the Office of the Governor (OG) of its intention to withhold certain information from disclosure under Section 7(1)(c) and Section 7(1)(f) of the Freedom of Information Act 5 ILCS 140/1 *et. seq.*, as amended (FOIA).

Specifically, John O'Connor, on behalf of the Associated Press, submitted a FOIA request on June 30, 2010 for "any correspondence between Alexi Giannoulias, Mark Kirk or LeAlan M. Jones, or any of their governmental or political representatives, and your agency, from January 2001 to the present."

Mr. O'Connor narrowed his request to "all correspondence from Governor Quinn and current employees occupying the positions of chief of staff, deputy chief of staff, chief legal counsel, deputy legal counsel, and legislative liaison" and "correspondence to and from Governor Rod Blagojevich and the above enumerated personnel as contained in the file database maintained by Schiff Hardin LLP." Mr. O'Connor further narrowed his request to correspondence from the above-named individuals to or from the following individuals:

1. Alexi Giannoulias, Robin Kelly, Edward Buckles, Scott Burnham, David Wells, Rhonda Lee Peschel, Paul Miller, Robert Crouch, Larry Leonard, James Irmen, William Browne, Gina Deciani, Kathleen Stand, Thomas Bowen, Kati Phillips, Mike Redina, Matt McGrath, and Dan McDonald.
2. Mark Kirk, Lester Munson, Kim Brisky, Eric Elk, Sue Sweet, Patrick Magnuson, Jeff Phillips, Aaron Winters, Jodie Anderson, Susan Kuczka, Greg Strimple, and Richard Goldberg; and
3. LeAlan Jones.

On August 23, 2010 the OG filed a pre-authorization request with this Office asserting that the documents that the OG seeks to withhold are exempt from disclosure under Section 7(1)(c) of FOIA which 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.” 5 ILCS 140/7(1)(c). 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.* and 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).

In its written notice, the OG states that the following information is exempt from disclosure pursuant to Section 7(1)(c):

1. An October 22, 2008 e-mail chain that contains the age of an employee;
2. A November 30, 2008 e-mail from an employee announcing the birth of his daughter; and
3. A March 14, 2010 e-mail regarding the death of an employee’s grandmother.

In its written notice, the OG states that the following information is exempt from disclosure pursuant to Section 7(1)(f):

1. A January 4, 2007 e-mail concerning an amendatory veto;
2. A May 30, 2008 e-mail chain that includes an opinion by an employee;
3. A July 8, 2008 e-mail chain where an employee expresses an opinion about a possible course of action with regard to the budget;
4. A November 17, 2008 e-mail chain about a possible meeting;
5. A November 17, 2005 e-mail chain regarding personal service conversions and a preliminary document contained in an attachment;
6. A November 22, 2005 e-mail where an employee expresses an opinion about the lottery bill; and
7. A December 11, 2008 preliminary document regarding the General Obligation Certificates of 2008.

Determination

The OG’s request for approval to withhold documents pursuant to Section 7(1)(c) is hereby approved in part and denied in part. The OG’s request for approval to withhold documents pursuant to Section 7(1)(f) is hereby approved.

With regard to Section 7(1)(c), our Office finds the following:

1. The OG’s intention to withhold a portion of the October 22, 2008 e-mail chain that references a birthday party for a public employee and identifies that employee’s age is denied.

2. The OG's intention to withhold the November 30, 2008 e-mail regarding the birth of an employee's child is approved; and
3. The OG's intention to withhold the March 14, 2010 e-mail regarding the death of an employee's grandmother is approved.

With regard to the October 22 e-mail chain, the e-mails reference a 30th birthday party. There is no significant expectation of privacy regarding the disclosure of an individual's age, in contrast, for example, to the disclosure of an individual's date of birth. The disclosure of a date of birth could subject that individual to identity theft. Such a threat is not likely with the disclosure of an individual's age. The OG has not sustained its burden in demonstrating that the reference to an employee's age in the context of a birthday announcement constitutes a highly unwarranted invasion of personal privacy under Section 7(1)(c).

The content within last two e-mails is highly personal in nature and disclosure of such information could constitute a highly unwarranted invasion of personal privacy. As such, there exists no significant public interest in the disclosure of the announcement of the birth of a public employee's child and the death of a public employee's grandmother.

With regard to Section 7(1)(f), our Office finds the following:

1. The OG's intention to withhold a portion of the January 4, 2007 e-mail concerning an amendatory veto is approved.
2. The OG's intention to withhold a portion of the May 30, 2008 e-mail chain that includes an opinion by an employee is approved.
3. The OG's intention to withhold a portion of the July 8, 2008 e-mail chain where employees express opinions about a possible course of action with regard to the budget is approved.
4. The OG's intention to withhold a portion of the November 17, 2008 e-mail chain about a possible meeting is approved.
5. The OG's intention to withhold the November 17, 2009 e-mail chain regarding personal service conversions and a preliminary document contained in an attachment is approved.
6. The OG's intention to withhold the November 22, 2005 e-mail where an employee expresses an opinion about the lottery bill is approved.
7. The OG's intention to withhold the December 11, 2008 preliminary document regarding the General Obligation Certificates of 2008 is approved.

This Office has reviewed the documents and e-mails and determined that they are preliminary in nature and express opinions about possible courses of action to take with regard to various matters.

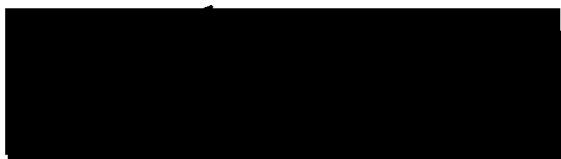
Based on our analysis, the OG has partially met its burden under Section 7(1)(c) and Section 7(1)(f) and may withhold the documents as indicated above.

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

Sincerely,

Cara Smith
Public Access Counselor

By:



Matthew C. Rogina /
Assistant Public Access Counselor

Cc: John O'Connor
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