



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

March 23, 2011

Mr. Robert J. Grindle  
Legal Fellow  
Office of the Governor  
100 W. Randolph  
Suite 16-100  
Chicago, IL 60601

Re: Pre-Authorization Request – 2011 PAC 128<sup>999</sup>~~77~~  
FOIA Requester: Mr. John O'Connor

Dear Mr. Grindle:

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

On January 29, 2009, Mr. John O'Connor, a reporter with the Associated Press (AP), submitted a FOIA request to the Governor's Office for the following information:

[C]opies of all memorandums, e-mails, or other correspondence or communications, electronic or otherwise, from Jan. 1, 2008, to the present, to or from Gov. Blagojevich, his chief of staff, deputy governors, legal counsel, deputy chiefs of staff, directors or deputy directors with:

- John Filan, his immediate predecessor, Beverly Womack, Kara Nystrom- Boulahanis, Christopher B. Meister, J. Stuart Boldry Jr., Rich Frampton, Jim Senica, Sharnell Curtis Martin, Steve Trout, Nona Myers, Kristen Conrad, Townsend Albright, William A. Brandt Jr., Michael W. Goetz, William Barclay, Ronald E. DeNard, James J. Fuentes, Roger D. Herrin, Terrence M. O'Brein, Juan B. Rivera, April D. Verrett, or Bradley A. Zeller of the Illinois Finance Authority.
- Sam Zell, Nils Larsen, Dennis J. Fitzsimmons, Randy Michaels, Jerry L. Kersting, Donald J. Liebentrin, Lee Abrams, Harry A. Amsden, Chandler Bigelow III, Steve Gable, Paul Mitnick, Gary Weitman, Michael G. Bourgon, Thomas G. Caputo, David P. Eldersveld, Chris Hochschild, Daniel G. Karzan, Brian F. Litman, Jack Rodden, Naomi

<sup>999</sup>  
128~~77~~ pre-auth at dl 71c 71f app inf prelim draft sa

B. Sachs, Patrick M. Shanahan, Shaun Sheehan, Howard G. Weinstein, Jeffrey S. Berg, Brian L. Grenspun, Betsy D. Holden, William G. Osborn, William C. Pate, Mark Shapiro, Maggie Wilderotter, Frank Wood or Tony Hunter of The Tribune Co. or the Chicago Tribune.

- Crane Kenney, Gerald A. Spector, John F. McDonough, James J. Hendry, Mark E. McGuire, Michael R. Lufrano, Oneri Fleita, David P. Eldersveld, Harry A. Amsden, Chandler Bigelow III, Brian F. Litman, John F. Poelking, Jack Rodden, Patrick M. Shanahan, or Jodi L. Reischl of the Chicago National League Ball Club, Inc.
- Andrew L. Stern, Tom Balanoff, Chris Anderson, Rod Bashir, Jose Bernal, Charles Bridgemon, Nancy Cross, Aleksandra B. Figus, Laura Garza, Vince Pesha, or Dan Schlademan of the Service Employees International Union.
- Chris Chafe, Anna Burger, Edgar Romney, Joseph Hansen, James P. Hoffa, GERALYN LUTTY, Douglas J. McCarron, Terence M. O'Sullivan, Bruce Raynor, Arturo S. Rodriguez, or Andrew L. Stern.
- Brian McPartlin, Jeffrey Dailey, Dawn Catuara, Thomas Bamonte, Albert Murillo, Michael Colsch, Jeff Redding, Capt. John Jesernik, Stan Rynlewski, Mike King, Tracey E. Smith, Paul Kovacs, Tracy Smith, Ted Young, Thomas Canham, Steven Harris, James M. Roof, David R. Andalcio, Carl Towns, John Mitola, George Pradel, Betty-Ann Moore, James J. Banks of the Illinois State Toll Highway Authority.
- Patrick S. Magoon, John Manley, Robert S. Murley, Paula M. Noble, J. Christopher Reyes, Donna S. Wetzler, or Peter S. Willmott of Children's Memorial Hospital.
- James L. Madara, David S. Hefner, Larry A. Callahan, Jeffrey A. Finesilver, Mayumi Fukui, Lawrence J. Furnstahl, Benjamin Gibson, D. Allan Gray, David Ho, Vickie L. Humphrey, Michael J. Koetting, Jamie M. O'Malley, Michel M. Schiele, Jane T. Schumaker, Kenneth J. Sharigian, Susan S. Sher, Kelly M. Sullivan, Mark A. Urquhart, Eric E. Whitaker, Carolyn S. Wilson, Eric B. Yablonka, Valerie B. Jarrett, Paul F. Anderson, Robert H. Bergman, Edward C. Blair Jr., Ellen Block, Deborah A. Bricker, Kevin J. Brown, John Bucksbaum, Frank M. Clark, Stephanie Comer, James S. Crown, Robert G. Weiss or Craig J. Duchossois of the University of Chicago Medical Center or Weiss Memorial Hospital.

On March 17, 2011, the Governor's Office sought pre-approval from this office to withhold certain information in three records within the responsive documents under the exemptions contained in Sections 7(1)(f) and 7(1)(c) of FOIA. The Governor's Office asserts that portions two of the redacted documents should be exempt under Section 7(1)(f), as one of the documents is a preliminary draft and the other contains opinions and recommendations. The other document, the Governor's Office says, should be withheld under the Section 7(1)(c) exemption as it concerns an unsuccessful applicant for State appointment.

#### **Determination**

Section 7(1)(f) of FOIA exempts from inspection and copying "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies 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.”

The Governor’s Office’s use of the Section 7(1)(f) exemption with regard to the withheld information is **approved**. After thorough review of the records in question, this office agrees that the withheld information is in preliminary draft form and contains opinions and recommendations. The Governor’s Office indicates that the records have not been cited or identified by the Governor. Therefore, the Governor’s Office has met its initial burden to withhold these documents under the exemption in Section 7(1)(f).

Further, Section 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.” The exemption defines “unwarranted 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.”

The Governor’s Office’s use of the Section 7(1)(c) exemption with regard to information regarding a candidate not selected by the Governor is **not approved**. There is a legitimate public interest in knowing who is considered for appointment to state government positions. It is important for the public to know not only who received nomination to State government boards, but also who was considered for appointment. Our office believes that the legitimate public interest outweighs the individual’s personal privacy. Unlike applying for permanent full-time employment with the State, releasing information concerning an appointment to this Board should not affect the applicant’s current employment. Here, the Board in question is non-paid and allows its members to have outside employment. Therefore, it is the opinion of this office that the Governor’s Office has not met its burden under the exemption in Section 7(1)(c) to withhold this information. However, because the withheld information concerns a recommendation that has not been cited or identified by the Governor, we find that the withheld document would be exempt under Section 7(1)(f).

If you have any questions or concerns, please feel free to contact our office at (877) 299-3642. This correspondence shall serve to close the matter.

Sincerely,



Rebecca Riddick  
Assistant Public Access Counselor

cc:  
Mr. John O’Connor  
Joconnor@ap.org