



OFFICE OF THE GOVERNOR

Governor Michael J. Dunleavy
STATE OF ALASKA

August 21, 2019

Mr. Jeff Landfield
Via Email: jeff@alaskalandmine.com

Dear Mr. Landfield:

This letter is in response to the records request received in the Office of the Governor on July 24, 2019, in which you requested:

“A copy of any reports and/or investigations that Amy Demboski did in her capacity as Deputy Chief of Staff to Governor Dunleavy concerning Amanda Price and her confirmation as Commissioner of the Department of Public Safety.”

Enclosed is the April 11, 2019, memorandum from former Deputy Chief of Staff Amy Demboski to Chief of Staff Tuckerman Babcock. As the memorandum states, Ms. Demboski provided it to Mr. Babcock with a folder on a background investigation of Ms. Amanda Price when Ms. Price was Governor Dunleavy’s nominee to head the Department of Public Safety. The folder contains 150 pages of materials she compiled, including typewritten summaries, which include analyses of interviews she conducted, as part of a pre-confirmation background investigation of Commissioner Price, that Governor Dunleavy asked her to undertake. The summaries total four pages, and the other records total 146 pages. Ms. Demboski provided the folder to Governor Dunleavy in addition to Chief of Staff Babcock. Assistant Attorney General Alan Birnbaum, in the Alaska Department of Law, is the only other person who has reviewed the entire folder’s contents.

Alaska Statute 40.25.120(a)(4) exempts “records required to be kept confidential by a federal law or regulation or by state law” from disclosure under the Alaska Public Records Act. Consequently, the summaries and other records are not subject to disclosure because they are protected under the executive communications privilege. *See, e.g., In re Sealed Case*, 121 F.3d 729 (D.C. Cir. 1997); *Doe v. Alaska Superior Court*, 721 P.2d 617, 623 (Alaska 1986) (noting that a governor “is entitled to an executive privilege analogous to the President’s” as “the public policy rationale upon which the Supreme Court relied in *United States v. Nixon*[, 418 U.S. 683 (1974),] is equally applicable to our state government”); *cf. Fuller v. City of Homer*, 75 P.3d 1059, 1062-63 (Alaska 2003) (noting that AS 40.25.120(a)(4) encompasses common law

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protections).¹ Also, the records are wholly or partially protected under Article I, Section 22, of the Alaska Constitution (protecting the right to privacy), the deliberative process privilege (*see, e.g., Gwich'in Steering Comm. v. State, Office of the Governor*, 10 P.3d 572, 578-79 (Alaska 2000)), and the balance of interests (*see, e.g., Municipality of Anchorage v. Anchorage Daily News*, 794 P.2d 584, 590 (Alaska 1990)).

If you have any questions, please contact me at 907-465-3500 or angela.hull@alaska.gov.

Sincerely,



Angela Hull

Director of Correspondence and Constituent Relations

Public Records Officer

¹ In *In re Sealed Case*, the court held that the executive communications privilege applies to “the factual portions of presidential advisors’ communications,” 121 F.3d at 750, and to presidential advisors’ communications made while preparing advice for the President and applies “even when these communications are not made directly to the President.” *Id.* at 752. The court also noted that communications regarding the exercise of the appointment and removal power—“a quintessential and nondelegable Presidential power”—“are intimately connected” to presidential decisionmaking and that “confidentiality is particularly critical in the appointment and removal context; without it, accurate assessments of candidates and information on official misconduct may not be forthcoming.” *Id.* at 752-53.