



Secretary of the Senate

GREGORY SCHMIDT

STATE CAPITOL
SACRAMENTO, CA 95814

(916) 445-4311

June 27, 2008

Raymond Lutz
Citizens' Oversight Projects
P.O. Box 252
El Cajon, CA 92022

Re: Request for Records

Dear Mr. Lutz:

We have received your June 10, 2008, request for records directed to Mr. Jerry VanDeWeghe of Senator Dennis Hollingsworth's office. Specifically, you requested "any and all written correspondence, such as emails, text messages, letters, with Blackwater, Brian Bonfiglio, their attorneys, and any related parties. Also, I'd like you to disclose your meeting itineraries and any meeting notes related to meetings with the same."

The State Legislature is not subject to the requirements of the California Public Records Act (see subd. (f), Sec. 6252, Gov. C.). However, we have construed your request as one made pursuant to the Legislative Open Records Act (Art. 3.5 (commencing with Sec. 9070), Ch. 1.5, Pt. 1, Div. 2, Title 2, Gov. C.). Moreover, under the Legislative Open Records Act, requests to inspect legislative records must be directed to the appropriate Committee on Rules of each house of the Legislature, the Joint Committee on Rules, or the Joint Legislative Audit Committee, as those committees are the only entities deemed to have custody of legislative records and have sole responsibility for making legislative records available for inspection (see Sec. 9074, Gov. C.). Thus, this letter responds to your request on behalf of the Senate Committee on Rules.

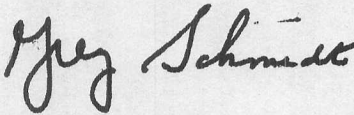
As noted above, the first portion of your request calls for "any and all written correspondence, such as emails, text messages, letters, with Blackwater, Brian Bonfiglio, their attorneys, and any related parties." The Legislative Open Records Act exempts from mandatory disclosure "[p]reliminary drafts, notes, or legislative memoranda," "[c]orrespondence of and to individual Members of the Legislature and their staff," and "[c]ommunications from private citizens to the Legislature," except for legislative records relating to bills, resolutions, or proposed constitutional amendments and maintained in an official committee file (subds. (a), (h) and (j), Sec. 9075, Sec. 9080,

Gov. C.). Therefore no records responsive to this portion of your request will be disclosed.

The second portion of your request calls for "meeting itineraries and any meeting notes related to meetings with the same." Section 9074 of the Government Code provides an exemption where "the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record." This "public interest" exemption has been held by the California Supreme Court to apply to a public records request for the appointment calendars and schedules of an elected state official (see *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325). In *Times Mirror*, the nondisclosure of then-Governor Davis's appointment schedules and calendars was held to further public policy by preserving the confidentiality of the Governor's deliberative processes (Id., at p. 1345) and protecting the Governor's security interests (Id., at p. 1346). Both of these concerns apply as well to Mr. VanDeWeghe's appointment calendars and daily schedules. Accordingly, we decline to produce these records, based on the public interest exemption to the Legislative Open Records Act.

Therefore, no records responsive to your request will be produced.

Very truly yours,

A handwritten signature in cursive script that reads "Greg Schmidt".

Greg Schmidt
Secretary of the Senate

cc: Senator Dennis Hollingsworth
J. Christopher Dawson, Deputy Legislative Counsel