



Mary Fallin
Governor

August 11, 2014

Electronic Delivery

Patrick Riley
The Lost Ogle
c/o Brady R. Henderson, Legal Counsel for the Lost Ogle
bhenderson@acluok.org

Dear Mr. Riley:

As you know, in responding to your open records request referenced above, the Governor provided you with over 51,000 pages of documents, retaining only 31 documents protected by privileges—Executive Privilege, Deliberative Process Privilege and Attorney-Client Privilege. The Governor's reliance on these privileges was consistent with the *Oklahoma Open Records Act*, for, as you know, the Act does not apply to privileged documents. In claiming these privileges, the Governor, as the Chief Executive desired:

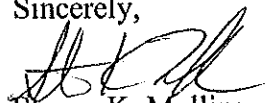
- To ensure that the Executive Privilege/Deliberative Process Privilege continued to be recognized in Oklahoma, and
- To ensure that the frank, candid and **confidential discussions** essential to the Governor's decision making remain confidential, because her senior advisors need to present the Governor with conflicting ideas, thoughts and opinions without concern over the consequences that would follow from compelled public dissemination of their advice.

With the Court's continued recognition on two occasions that the Deliberative Process Privilege exists under Oklahoma law, a significant goal of the Governor has been achieved, because the Privilege protects the advice, ideas and thoughts presented in the Executive's deliberative process from compelled public dissemination. Further, in this instance, the passage of time since the deliberations took place has resulted in the deliberative advice becoming far less sensitive than at the time the advice was given, or at the time the Governor originally responded to your open records request.

In light of: 1) the Court's continued recognition of the Deliberative Process Privilege, 2) the deliberative advice in the retained documents having become far less sensitive with the passage of time, and 3) the Governor's commitment to transparency and openness in government, the Governor—in consultation with many of those who provided the advice in the documents—has decided to **voluntarily waive the privileges afforded the documents**, including the Deliberative Process Privilege, Attorney-Client Privilege and Executive Privilege, and now **voluntarily makes the retained documents available**. Accordingly, I have enclosed copies of the retained documents.

In short, the Governor is making the 31 retained documents available **not** because the Open Records Act or a Court Order requires her to do so; rather, for the reasons noted above, the Governor is voluntarily releasing the documents.

Sincerely,



Steven K. Mullins
General Counsel

Enclosures