

From: London, Sarah
Sent: Friday, June 10, 2016 4:52 PM
To: 'Anne Galloway' <agalloway@vtdigger.org>
Subject: RE: Your public records request

Anne, You are welcome to come to our office and inspect the emails you have requested, but please be aware that the cost of making the over 6,000 emails you are seeking available for inspection is the same as the cost of production quoted below in the email to you from earlier today (at least \$5000), based on the information contained in the email previously sent to you on May 13 (reprinted below). If you would like additional Alex Maclean emails following the approximately 2700 pages you have now received, including the nearly 700 pages we sent to you today, we ask again that you consider making a more targeted request.

Thank you and have a good weekend,
Sarah

From: London, Sarah
Sent: Friday, May 13, 2016 4:21 PM
To: Mishaan, Jessica <Jessica.Mishaan@vermont.gov>
Subject: Your request

Anne, I write in response to your request below. You have asked to inspect approximately 10,000 stored emails without paying costs associated with restoring and copying the records into a readable format, identifying the public records in the account, and redacting information contained in public records that is confidential by law. The Governor's Office is denying your request for the reasons set forth below, but we encourage you to seek either existing productions from this account, and/or to make a more targeted request. As explained further below, we have produced hundreds of pages of records from Alex MacLean's account in response to more targeted requests, and we are happy to send you those productions at no cost.

Copying and restoration necessary to view these emails:

First, please be aware that the emails you have requested cannot be inspected or fully read without restoration and copying. The emails you have requested are stored in a truncated electronic format in the Symantec Enterprise Vault. In their stored format, the full text of these emails and associated attachments is not always visible, or appears in an altered format. An example of common formatting appearing in these emails is below:

He's not available Tuesday or Wednesday but I'm setting up a phone call for next week or 2 - waiting for confirmation. Is there anything else you want me to try?

To read these emails and attachments, which are accessed through existing outlook accounts in the Governor's Office, each email must be copied into a restored into "whole item" view. Once the above message is copied into the restored view, it appears as below:

He's not available Tuesday or Wednesday but I'm setting up a phone call for next week or 2 - waiting for confirmation. Is there anything else you want me to try?

Non-agency business not subject to the public records act:

Second, your request for every remaining email slated for deletion in Alex MacLean's account involves records that were not produced or acquired in the course of agency business, and therefore not subject to the public records act. See 1 VSA 317(b). For example, there are emails that are from family members and friends that relate entirely to personal matters. In order to comply with your request, and to respect the privacy of former staff and their families, we would need to separate the agency business from the non-agency business. This requires significant staff time due to the volume of records associated with your request.

Information that is confidential by law:

Third, there is information contained in Alex MacLean's emails that is confidential by law. Release of such information could create a litigation risk for the State. An example is the names of candidates for a variety of positions, including judicial candidates and public service board candidates. There are also a number of emails that contain sensitive information of identified constituents, personal contact information, Alex MacLean's own protected information such as her SSN, and daily security information about the Governor. [Please note the original version of this message to you inadvertently omitted that there are SSN's other than Alex MacLean's in her email.] This information is exempt from public disclosure under various provisions and exemptions to the public records act, and would need to be redacted to comply with your request. See, e.g., 4 VSA 602(c); 1 VSA 317(c)(7), (25); 9 VSA 2435, 2440.

Resources necessary to comply with your request:

As explained below, the necessary copying and redacting to comply with your request exceeds the resources of this office. To comply with your request, this office would need to contract for, or hire, additional staff as well as purchase additional software licenses that we estimate to cost a few hundred dollars each. See, e.g., 1 VSA 316(g) (limitation on agency requirements regarding additional copying services and personnel in complying with public record act requests), (j) ("public agency may make reasonable rules to prevent disruption of operations").

We have encouraged all requesters to make more targeted requests, and many have. Since the 5500 page production on April 29, we have produced hundreds of pages of additional records from former staff accounts at no charge, including records reflecting use of Alex's gmail account, and her records related to Vermont Health Connect. If you would like any of those productions, free of cost, let us know.

As for your request to inspect Alex MacLean's text messages, we are happy to send you transcriptions of her texts that we have previously produced in response to public record act requests from the time period you have identified.

More detailed information about our estimated costs associated with complying with your request are below. Please let us know if you would like to make a more targeted request and/or receive previous productions from Alex's account.

Sincerely,

Sarah

Below reflects a conservative estimate of the time and costs associated with the April 29 production – electronic access to 5500 pages of former staff email via dropbox:

The April 29 production required in excess of 200 hours of staff time. Had we charged for that production, the cost would have been about \$5,000. A breakdown of how we arrived at that estimate is below. As for the number of records you have requested – every sent, received, and deleted (stored in trash) email slated for deletion from Alex MacLean's account from January 2011 through October 2012, we estimate total responsive records to exceed 10,000. To comply with this request, we would need at least two more productions similar to the one we made before, which would put us in the \$10,000 range.

The uniform fee schedule for public record act requests is available here:

<https://www.sec.state.vt.us/archives-records/certifications-fees/uniform-fee-schedule.aspx>

Break down of time on previous production: 200 hours (176 for Sarah London and paralegal Jessica Mishaan, 25+ of additional office staff) x 60 = 12,000 minutes

Half of the total time was spent duplicating the records – copying them from the enterprise vault so that they are fully readable and could be redacted:

That is 6000 minutes at .33 a minute (minus the first 30 mins per statute) = \$1970.1

The other half of the time was spent redacting information so as not to reveal personal information of constituents, personnel information of employees, attorney-client communications, etc.

That is 6000 minutes at .45 a minute = \$2700
\$2700 + 1970 = \$4670

Printing costs (to allow for redactions – this office has one Adobe Pro software license) totaled around \$300.

Total = \$5,000

From: Anne Galloway [<mailto:agalloway@vtdigger.org>]
Sent: Friday, June 10, 2016 12:06 PM
To: London, Sarah
Subject: Re: Your public records request

Hi Sarah

I would like to inspect the emails as permitted under the Vermont public records act

Thank you

Anne

Sent from my iPhone

