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Congress shall make no law ... abridging the freedom of speech, or of the press.
cThe First Amendment

Madame Chair, thank you for the invitation to address the Committee. My name is Don Craven, and I am a lawyer in private practice in Springfield. I do represent the BGA in the litigation Jay Stewart has outlined for you, and I have represented many other ordinary citizens and organizations in their efforts to gain access to public documents over the years.

I stress that I appear here today as a private citizen, and not on behalf of any particular clients of my law firm.

The behavior of the Blagojevich administration in the BGA litigation is symptomatic of its behavior in response to FOIA requests generally. Jay characterized the response from the Governor to the BGA FOIA request as bizarre, and I can not quibble with his choice of adjectives.

One need look no further than the FOIA requests submitted to the administration by members of the General Assembly. First, I suggest to the Committee that it is at best bizarre that members of the General Assembly would have to resort to the Freedom of Information Act in order to gain rather routine information from the administration about matters which are pending in legislative committees.

Members of the General Assembly have been required to submit FOIA requests in order to gain information about the state budget, specifically a line item of more than $850 million dollars. Those requests were ignored for more than a month, and were then denied.

Members of the General Assembly, Senator Righter among them, were required to file a FOIA request to gain access to the Caremark contract-- the contract between CMS and the company which filled prescriptions for state employees. The administration refused the request, and litigation was necessary to force disclosure. When the contract was disclosed, it became apparent that the administration had delegated to Caremark, the private company, the authority to decide whether the contract would be made public-- a clear violation of the provisions of the Act.

Committee Exhibit 48

Members of the General Assembly were required to file a FOIA request to gain access to a list of job applicants for state positions. CMS rules are clear that the lists are public records, yet the request was denied. The request was made in connection with an inquiry by a House Committee into the application of the statutory veterans' preference by the Blagojevich administration. The Committee cited a newspaper report that the husband of a successful job applicant had issued a $1500 check, to the Governor's daughter, at about the time his wife got a state job. The Governor issued contradictory statements about the purpose of the check. Similar requests were made by reporters for lists of applicants for state jobs, and as in the BGA case, the Attorney General urged disclosure of the lists. One such list was disclosed in 2005, but all subsequent requests were denied. The administration assured us that the denial of the requests was in no way related to the fact that the request related to jobs filled by the son of a congressman and the son of a major donor. The administration never responded to the proposition that the lists should be made public, because CMS rules state that the lists are public.

Senator Jones was required to file a FOIA request for a study relating to prison staffing. The Governor claimed savings of more than $400,000, but refused to produce the report to substantiate the claim. The Governor has asserted, and never substantiated, similar claims of cost savings relating to moving the Division of Traffic Safety to Harrisburg, and closing the prison in Pontiac.

Other FOIA requests have suffered similar, equally bizarre fates.

A request for documents related to a proposed hospital tax plan resulted in a denial, asserting the documents did not exist. Senator Trotter found that response puzzling, given that the State's response to an inquiry from the federal government included the requested documents. When questioned by Senator Trotter, the Director of Public Aid suggested that he was surprised the records were not released, and suggested that Senator Trotter contact the agency PR person, volunteering that his name begins with C.

A request for records of phone numbers dialed by state employees, during work hours, on taxpayer-financed phones was likewise denied, on some un-explained theory that release of the records would violate the state Constitution. Again, the Attorney General weighed in, in favor of disclosure, but the administration refused to disclose the records.

Requests for correspondence to the Governor, relating to references for appointments to boards and commissions, have been denied. The fact that the Governor had selectively released such correspondence from Representative Franks, yet refused to release any other similar correspondence, has yet to be explained.

A request for access to files at the Prisoner Review Board, which traditionally have been made public, was denied, relying only on a North Carolina court decision

which has no relation to Illinois law. The Governor had been criticized in relation to two pardons, and the subsequent request for the files on all pardons was rejected. The Governor granted a pardon to one person, shortly before her organization was given a $1 million dollar grant for the Loop Lab School. In another case, he granted a pardon to a former employee of his office for a conviction for stealing $17,000 from the Chicago city treasurer's office. The Governor granted 69 pardons, and contrary to law, and past practice, refused to release any details to support those discretionary decisions.

This is far from a complete anthology of the practices of this administration and its approach to the disclosure of public records. As I have gone through these examples, I am sure other events from the last 6 years have been brought to mind.

Make no mistake. I confess to being an advocate for public disclosure of public records. Inquisitive and informed voters, and an inquisitive and informed legislative body, are fundamental to a representative democracy. The General Assembly, at the time it enacted the Freedom of Information Act, agreed on the following statement of public policy:

> Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act. Such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest.

In my personal view, the efforts of this administration are absolutely contrary to the precepts underlying the Freedom of Information Act. The actions of this administration are evidence of more than simple disregard for the law. The actions of this administration are evidence of contempt for the law, and for the underlying philosophy expressed by the General Assembly.

Again, thank you for the opportunity to address the Committee.