



November 12, 2019

**VIA E-MAIL**

Ronald Morgan  
Elections Division  
Travis County Clerk  
PO Box 149325  
Austin, TX 78714-9325  
[ronald.morgan@traviscountytexas.gov](mailto:ronald.morgan@traviscountytexas.gov)

**Re: Public Information Request**

Dear Public Information Officer:

Pursuant to the Texas Public Information Act, as codified at Tex. Code ch. 552, American Oversight makes the following request for public records.

**Requested Records**

American Oversight requests that the Travis County Elections Division promptly produce the following:

All communications (including emails, email attachments, text messages, calendar invitations, letters, memoranda, or other communications) sent by any permanent Travis County election staff<sup>1</sup> including the following terms:

Terms:

- |                           |                            |                            |
|---------------------------|----------------------------|----------------------------|
| ○ “Leadership Conference” | ○ “Polling place closing”  | ○ “Polling place closures” |
| ○ “Democracy Diverted”    | ○ “Polling places closing” | ○ “Close polling place”    |
| ○ “Polling place close”   | ○ “Polling place closings” | ○ “Close polling places”   |
| ○ “Polling places close”  | ○ “Polling place closed”   | ○ “Closes polling place”   |
| ○ “Polling place closes”  | ○ “Polling places closed”  | ○ “Closes polling places”  |
|                           | ○ “Polling place closure”  |                            |

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<sup>1</sup> To clarify, American Oversight is not requesting communications from solely temporary election workers such as ballot by mail clerks, box truck drivers, call center representatives, central receiving station election workers, early voting poll workers, election day poll workers, field support technicians, senior support technicians, student election day poll workers, supply preparation and delivery workers, or any other solely temporary election employees. Communications are responsive if sent by any permanent employee of the Travis County Clerk’s office with election administration responsibilities.



- “Closing polling place”
- “Closing polling places”
- “Closed polling place”
- “Closed polling place”
- “Closable polling place”
- “Closable polling places”
  
- “Voting place close”
- “Voting places close”
- “Voting place closes”
- “Voting place closing”
- “Voting places closing”
- “Voting place closings”
- “Voting place closed”
- “Voting places closed”
- “Voting place closure”
- “Voting place closures”
  
- “Close voting place”
- “Close voting places”
- “Closes voting place”
- “Closes voting places”
- “Closing voting place”
- “Closing voting places”
- “Closed voting place”
- “Closed voting place”
- “Closable voting place”
- “Closable voting places”
  
- “Precinct close”
- “Precincts close”
- “Precinct closes”
- “Precinct closing”
- “Precincts closing”
- “Precinct closings”
- “Precinct closed”
- “Precincts closed”
- “Precinct closure”
- “Precinct closures”
  
- “Close precinct”
- “Close precincts”
- “Closes precinct”
- “Closes precincts”

- “Closing precinct”
- “Closing precincts”
- “Closed precinct”
- “Closed precincts”
- “Closable precinct”
- “Closable precincts”
  
- “Long wait time”
- “Long wait times”
- “Longer wait time”
- “Longer wait times”
- “Longest wait time”
- “Longest wait times”
  
- “Long waiting time”
- “Long waiting times”
- “Longer waiting time”
- “Longer waiting times”
- “Longest waiting time”
- “Longest waiting times”
  
- “Vote wait time”
- “Vote wait times”
- “Votes wait time”
- “Votes wait times”
- “Voter wait time”
- “Voter wait times”
- “Voting wait time”
- “Voting wait times”
  
- “Vote waiting time”
- “Vote waiting times”
- “Votes waiting time”
- “Votes waiting times”
- “Voter waiting time”
- “Voter waiting times”
- “Voting waiting time”
- “Voting waiting times”
  
- “Preclearance”
- “Pre-clearance”
  
- “Countywide vote”
- “Countywide votes”

- “Countywide voter”
- “Countywide voters”
- “Countywide voting”
- “Countywide voting place”
- “Countywide voting places”
- “Countywide vote center”
- “Countywide vote centers”
- “Countywide voter center”
- “Countywide voter centers”
- “Countywide voting center”
- “Countywide voting centers”
  
- “County-wide vote”
- “County-wide votes”
- “County-wide voter”
- “County-wide voters”
- “County-wide voting”
- “County-wide voting place”
- “County-wide voting places”
- “County-wide vote center”
- “County-wide vote centers”
- “County-wide voter center”
- “County-wide voter centers”
- “County-wide voting center”
- “County-wide voting centers”
  
- “Countywide poll”
- “Countywide polls”
- “Countywide polling”
- “Countywide polling place”
- “Countywide polling places”
  
- “County-wide poll”
- “County-wide polls”
- “County-wide polling”
- “County-wide polling place”
- “County-wide polling places”

American Oversight requests all communications including, but not limited to, email communications. With regard to your search for responsive email communications, American Oversight agrees that the search may be limited to emails sent by Travis County officials in an effort to accommodate Travis County and reduce the number of potentially responsive records. Despite this search accommodation, American Oversight still requests that complete email chains be produced, displaying both sent and received messages.

Please provide all responsive records from January 1, 2018, to the date the search is conducted.

American Oversight seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the term “record” in its broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our request includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

In addition, American Oversight insists that Travis County use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. **Custodian searches are still required; governmental authorities may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

Please search all records regarding official business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Emails conducting government business sent or received on the personal account of a governmental authority’s officer or employee constitutes a record for purposes of the Texas Public Information Act.<sup>2</sup>

In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

Please take appropriate steps to ensure that records responsive to this request are not deleted by your office before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion,

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<sup>2</sup> Tex. Code § 552.002(a-2); *see also Adkisson v. Paxton*, 459 S.W.3d 761, 773 (Tex. App. 2015).

including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. In particular, American Oversight recognizes that this request contains a large list of search terms, and would welcome a discussion of how best to complete this request within the county's technological capabilities. By working together at the outset, American Oversight and Travis County can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

### **Fee Waiver Request**

In accordance with Tex. Code § 552.267(a), American Oversight requests a waiver of fees associated with processing this request for records because such a waiver “is in the public interest because providing the copy of the information primarily benefits the general public.” Recently, the Leadership Conference Education Fund released a report finding that Texas led the nation in polling place closures<sup>3</sup>, which voting rights activists worry may lead to disenfranchisement.<sup>4</sup> The requested records are directly related to the work of Texas public servants, with the potential to shed light on barriers to voting access.

Release of the requested records will primarily benefit the public.<sup>5</sup> As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the requested records is not in American Oversight's financial interest, but is rather in the public interest. American Oversight is committed to transparency and makes the responses governmental authorities provide to public records requests publicly available. As noted, the subject of this request is a matter of public interest, and the public would benefit from an enhanced understanding of the government's activities through American Oversight's analysis and publication of these records. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public

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<sup>3</sup> *Democracy Diverted: Polling Place Closures and the Right to Vote*, LEADERSHIP CONF. EDUC. FUND, Sept. 2019, <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>.

<sup>4</sup> Andrea Valdez, *Texas Leads in Polling Place Closures Since 2013*, TEX. OBSERVER (Sept. 10, 2019, 12:02 AM), <https://www.texasobserver.org/texas-polling-place-closures/>.

<sup>5</sup> Tex. Code § 552.267(a).

website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>6</sup> American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content. For example, after receiving records regarding an ethics waiver received by a senior United States Department of Justice (DOJ) attorney,<sup>7</sup> American Oversight promptly posted the records to its website and published an analysis of what the records reflected about DOJ's process for ethics waivers.<sup>8</sup> As another example, American Oversight has a project called "Audit the Wall," where the organization is gathering and analyzing information and commenting on public releases of information related to the administration's proposed construction of a barrier along the U.S.-Mexico border.<sup>9</sup> American Oversight similarly intends to engage with media outlets in Texas to ensure that the general public within the state has access to the information American Oversight obtains.

Accordingly, American Oversight qualifies for a fee waiver. If Travis County denies a fee waiver, please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

### Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with Travis County on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Emma Lewis at [records@americanoversight.org](mailto:records@americanoversight.org) or 202.919.6303. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,



Austin R. Evers  
Executive Director  
American Oversight

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<sup>6</sup> American Oversight currently has approximately 12,600 followers on Facebook and 55,800 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Nov. 8, 2019); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Nov. 8, 2019).

<sup>7</sup> *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>.

<sup>8</sup> *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

<sup>9</sup> *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>.