



June 22, 2020

VIA ELECTRONIC MAIL

Public Information Officer
Office of the Attorney General
P.O. Box 12548
Austin, TX 78711
publicrecords@texasattorneygeneral.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 Office of the Attorney General of Texas promptly produce the following:

All email communications (including emails, email attachments, calendar invitations, and attachments thereto) between (a) any of the officials listed in Column A to (b) any of the external parties listed in Column B below:

Column A: Office of the Attorney General	Column B: External Parties
<ul style="list-style-type: none"> i. Attorney General Ken Paxton, or anyone communicating on his behalf, such as a scheduler or assistant ii. First Assistant Attorney General Jeffery C. Mateer iii. Solicitor General Kyle Hawkins iv. Chief of Staff Katherine Cary v. Senior Counsel to the Attorney General Zina Bash vi. Deputy Attorney General Ryan Vassar 	<p>Honest Elections Project:</p> <ul style="list-style-type: none"> i. Leonard Leo (including, but not limited to, at the email address leonard.leo@fed-soc.org) ii. Jason Snead (including, but not limited to, at the email address JSnead@honestelections.org) iii. Jason Stuckey (including, but not limited to, at the email address jstuckey@bricker.com) iv. Jason Torchinsky (including, but not limited to, at the email address jtorchinsky@hvjt.law)



<p>vii. Assistant Attorney General Tom Albright</p> <p>viii. Scheduler Elise Karstens</p>	<p>v. Anyone communicating from an email address ending in @honestelections.org</p> <p>American Civil Rights Union:</p> <p>i. Anyone communicating from an email address ending in @theacru.org</p> <p>CRC Advisors:</p> <p>i. Greg Mueller (including, but not limited to, at the email address gmueller@crcpublicrelations.com)</p> <p>ii. Anyone communicating from an email address ending in @crcadvisors.com or crcpublicrelations.com</p> <p>Election Integrity Project:</p> <p>i. Anyone communicating from an email address ending in @eip-ca.com</p> <p>Voter Integrity Project:</p> <p>i. Anyone communicating from an email address ending in @voterintegrityproject.com</p> <p>Judicial Watch:</p> <p>i. Anyone communicating from an email address ending in @judicialwatch.org</p> <p>True the Vote:</p> <p>i. Anyone communicating from an email address ending in @truethevote.org</p> <p>Public Interest Legal Foundation:</p> <p>i. Anyone communicating from an email address ending in @publicinterestlegal.org</p> <p>Public Opinion Strategies:</p>
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	<ul style="list-style-type: none"> i. Neil Newhouse (including, but not limited to, at the email address neil@pos.org) ii. Bill McInturff (including, but not limited to, at the email address bill@pos.org) iii. Glen Bolger (including, but not limited to, at the email address glen@pos.org) <p>Elections, LLC:</p> <ul style="list-style-type: none"> i. Justin Clark (including, but not limited to, at the email address jrclark@michaelbest.com) ii. Nathan Groth (including, but not limited to, at the email address ndgroth@michaelbest.com) iii. Stefan Passantino (including, but not limited to, at the email address spassantino@michaelbest.com or stefanpassantino@onebox.com) <p>Direct Action Texas</p> <ul style="list-style-type: none"> i. Anyone communicating from an email address ending in @directactiontx.com <p>Empower Texans</p> <ul style="list-style-type: none"> i. Anyone communicating from an email ending in @empowertexans.com <p>Engage Texas</p> <ul style="list-style-type: none"> i. Anyone communicating from an email ending in @engagetexas.org <p>Grassroots America - We the People</p> <ul style="list-style-type: none"> i. Anyone communicating from an email ending in @gawtp.com <p>Other Individuals:</p> <ul style="list-style-type: none"> i. Hans von Spakovsky (including, but not limited to, at the email address hans.vonspakovsky@heritage.org)
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	<ul style="list-style-type: none"> ii. Kris Kobach (including, but not limited to, at the email address kkobach@gmail.com or kris@kriskobach.com) iii. Cleta Mitchell (including, but not limited to, at the email address cmitchell@foley.com)
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Please provide all responsive records from February 15, 2020, to the date the search is conducted.

American Oversight insists that your office take steps to ensure that the most complete repositories of information are searched. American Oversight is available to work with you to craft appropriate search terms. **However, 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 constitute a record for purposes of the Texas Public Information Act.¹

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, 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 and 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. By working together at the outset, American Oversight and your office can decrease the likelihood of costly and time-consuming litigation in the future.

¹ Tex. Code § 552.002(a-2); *see also Adkisson v. Paxton*, 459 S.W.3d 761, 773 (Tex. App. 2015).

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.” The requested records are directly related to the work of high-ranking Texas officials, with the potential to shed light on whether and to what extent such officials are communicating with individuals outside the Texas government regarding official policy, including with respect to election-related activities. Voting rights are a subject of substantial and increasing public interest, both in Texas and nationally.² Accordingly, release of records that may help the public to better understand the operations and activities of officials responsible for elections is in the public interest.

Release of the requested records will primarily benefit the public.³ 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 website and promotes their availability on social media platforms, such as Facebook and Twitter.⁴

² See, e.g., James Barragan, *For Some Voters, Being Able to Vote by Mail is Life or Death Matter; Others Just See Fraud Potential*, DALLAS NEWS, May 25, 2020, <https://www.dallasnews.com/news/politics/2020/05/25/for-some-voters-being-able-to-vote-by-mail-is-life-or-death-matter-others-just-see-fraud-potential/>; Amy Gardner, *In Win for Texas GOP Officials, Federal Appeals Panel Blocks Lower-Court Decision to Allow Any Texan to Vote by Mail*, WASH. POST, Jun. 4, 2020, https://www.washingtonpost.com/politics/in-win-for-texas-gop-officials-federal-appeals-panel-blocks-lower-court-decision-to-allow-any-texan-to-vote-by-mail/2020/06/04/0660adc8-a690-11ea-b473-04905b1af82b_story.html.

³ Tex. Code § 552.267(a).

⁴ American Oversight currently has approximately 15,500 page likes on Facebook and 102,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited June 11, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited June 11, 2020).

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,⁵ 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.⁶ 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.⁷ 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.

Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with your office 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 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

⁵ *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>.

⁶ *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>.

⁷ *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>.