



October 1, 2020

VIA EMAIL

Mike Sunseri
Deputy Executive Director
Kentucky Office of Homeland Security
Transportation Cabinet
200 Mero Street
Frankfort, KY 40622
Mike.Sunseri@ky.gov

Re: Open Records Act Request

Dear Custodian of Records:

Pursuant to the Kentucky Open Records Act (KORA), KRS § 61.870 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that the Kentucky Office of Homeland Security produce copies of the following records within three business days:

The complete email chain beginning on August 20, 2020, with the subject line "(U//FOUO) RE: Election 2020", with Cristina De Stefano as a sender and recipient. KOHS previously produced a portion of this email exchange. *See* Exhibit A.

Please provide all responsive records from August 19, 2020, to the date the search is conducted.

Pursuant to KRS § 61.880(1), American Oversight requests that you notify us within three workdays as to whether you will comply with this request.

Statement of Noncommercial Purpose

This request is for noncommercial purposes, and American Oversight respectfully requests a waiver of any fees associated with processing this request for records. To the extent any fees are charged, pursuant to KRS § 61.874(3), American Oversight asks that such fees be limited to the actual cost of reproduction and exclude the cost of agency staff time.

This request is primarily and fundamentally for non-commercial purposes. American Oversight seeks the records requested to inform the public regarding Kentucky's efforts to prosecute and publicize instances of election fraud. Claims of widespread



election fraud are of significant public interest both in Kentucky and nationwide.¹ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including what specific steps Kentucky's Ballot Integrity Task Force has taken or intends to take in order to support ballot integrity.

Furthermore, as a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight's financial interest. 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.²

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.³ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the organization's State Accountability Project, covering voting rights issues in various states;⁴ the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;⁵ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁶ posting

¹ See, e.g., Daniel Desrochers, *Group's Claims of Irregularities in Kentucky Governor Election Quickly Debunked*, Lexington Herald-Leader (Nov. 13, 2019, 5:54 PM), <https://www.kentucky.com/news/politics-government/article237320779.html>.

² American Oversight currently has approximately 16,300 followers on Facebook and 104,700 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Sept. 1, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Sept. 1, 2020).

³ News, American Oversight, <https://www.americanoversight.org/blog>.

⁴ *State Accountability Project*, American Oversight, https://www.americanoversight.org/areas_of_investigation/state-local-investigations.

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>; *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>.

⁶ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight,

records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;⁷ posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;⁸ and posting records and analysis regarding the Department of Justice's decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President's political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.⁹

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. For instance, if the request seeks "communications," please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- In conducting your search, please understand the terms "record," "document," and "information" in their 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 for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes

<https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

⁷ *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, American Oversight, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>.

⁸ *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, American Oversight, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>.

⁹ *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, American Oversight, <https://www.americanoversight.org/sessions-letter>.

all prior messages sent or received in that email chain, as well as any attachments to the email.

- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- 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. *See* KRS § 61.878(4). If a request is denied in whole, please state specifically why 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 the agency 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.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. 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 agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF 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.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Khahilia Shaw at records@americanoversight.org or (202) 539-6507. 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,

A handwritten signature in blue ink, appearing to read "Austin R. Evers", with a long horizontal flourish extending to the left.

Austin R. Evers
Executive Director
American Oversight

EXHIBIT A



**OFFICE OF THE GOVERNOR
KENTUCKY OFFICE OF HOMELAND SECURITY**

**Andy G. Beshear
Governor**

200 Mero Street
Frankfort, KY 40622
Phone 502-564-2081
Fax 502-564-7764
www.homelandsecurity.ky.gov

**Josiah L. Keats
Executive Director**

September 9, 2020

American Oversight
ATTN: Khahilia Shaw
1030 15th Street NW, Suite B255t
Washington, DC 20005
records@americanoversight.org

On September 1, 2020, the Kentucky Office of Homeland Security received your email request dated the same day. In your letter, you requested the following documents:

All email communications (including email messages, and email attachments sent or received by 1) Executive Director Josh Keats, or anyone communicating on his behalf, such as an assistant or scheduler, or 2) Deputy Director Mike Sunseri concerning the activities of Kentucky's Absentee Ballot Integrity Task Force or any issue within the purview of the task force.

For this request, American Oversight believes that records containing the terms below are likely to be responsive records, and requests that your office, at a minimum, employ the following search terms to identify responsive records:

- | | | |
|--|------------------------|-------------------------|
| • "Absentee Ballot Integrity Task Force" | • "Mail fraud" | • "Signatures match" |
| • "Ballot Fraud" | • "Ballot integrity" | • "Signature matching" |
| • "Fraud task force" | • "Election integrity" | • "Election tampering" |
| • "Election fraud" | • "Voter integrity" | • "Vote rigging" |
| • "Voter fraud" | • "Absentee integrity" | • "Ballot stuffing" |
| • "Voting fraud" | • Harvesting | • "Ballot destruction" |
| • "Absentee fraud" | • "Signature match" | • "Voter impersonation" |
| | • "Signature matches" | • "Vote dilution" |

While there is no Kentucky Absentee Ballot Integrity Task Force, there is a Ballot Integrity Task Force. Thus, we are interpreting your request to seek records concerning the Ballot Integrity Task Force.

We are complying with your request. Our office has located three (3) pages of responsive records. The records are attached to this correspondence. The Kentucky Office of Homeland Security takes seriously its role in protecting the people and property of the Commonwealth of Kentucky. The Kentucky Office of Homeland Security is Kentucky's strategic center of gravity for the accumulation and dissemination of critical information through collaborative efforts with local, state, federal, and private sector partnerships, which provides relevant and timely intelligence, executive advisement, and resource allocations for the preparation, prevention, response and recovery of all hazards or incidents that affect the safety, security, and the health of the Commonwealth.

While the Kentucky Office of Homeland Security recognizes the importance and intent of transparent government and Kentucky's Open Records Act, this office has redacted a personal cell phone number from an email communication pursuant to KRS 61.878(1)(a), which exempts "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy. Finally, the office redacted names of certain federal law enforcement employees pursuant to 5 U.S.C. § 552(b)(6) and KRS 61.878(1)(k), which exempts disclosure of information which is prohibited by federal law or regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Josiah Keats", written in a cursive style.

Josiah Keats, Executive Director

From: [REDACTED]
To: [De Stefano, Cristina \(KOHS\)](#)
Cc: [REDACTED]; [Keats, Josh L \(KOHS\)](#); [REDACTED]
Subject: Re: (U//FOUO) RE: Election 2020
Date: Monday, August 24, 2020 1:59:31 PM
Attachments: [image001.png](#)

Good Afternoon! Hope you had a great weekend. Just wanted to follow up on my email from last week regarding social media searches to identify potential fraudulent activity surrounding the election. Thank you.

[REDACTED]

-

On Aug 20, 2020 5:25 PM, [REDACTED] wrote:
Hi Cristina,

Thank you for the quick response. I just need to finalize a couple of things before I send out the meeting invite. The meeting will be similar to the last one. There will be an option for in person or virtual attendance. Thanks for looking into the social media options and other resources/tools. Phillip mentioned some options during the June meeting. I was just curious if your office is planning on conducting any searches to identify potential fraudulent activity surrounding the election. Hope you have a good afternoon.

[REDACTED]
[REDACTED]

From: De Stefano, Cristina (KOHS) <Cristina.DeStefano@ky.gov>
Sent: Thursday, August 20, 2020 5:04 PM
To: [REDACTED]
Cc: Ross, Phillip B (KOHS) <phillip.ross@ky.gov>; [REDACTED]
[REDACTED]
[REDACTED] Keats, Josh L (KOHS)
<Josiah.Keats@ky.gov>; [REDACTED]
Subject: [EXTERNAL EMAIL] - (U//FOUO) RE: Election 2020

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Good Afternoon [REDACTED],

Glad to hear the June meeting went well. Please let us know as you set date/time for the upcoming TTX and local meeting so we can coordinate for Phillip to be in attendance. Are these virtual or in person exercises/meetings?

In regards to the assistance we can provide relating to potential fraudulent activity— I will look

through our automated social media research tool and follow up with what level of assistance we can provide on that front. Additionally, I am following up with Phillip on some of the other resources and tools we have at our disposal to assist in these efforts.

Please let me know if you have any additional questions/concerns and I will keep you updated.

V/r,

Cristina De Stefano
Fusion Center Team Lead
Organized Crime Analyst
Kentucky Office of Homeland Security
Kentucky Intelligence Fusion Center
200 Mero Street
Frankfort, KY 40622
Ph: 502-564-2081
Fax: 502-564-7764
homelandsecurity.ky.gov



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This correspondence is exempt from the Kentucky Open Records Law by Section 3(1)(i)1 of 2005

HB59. HB59 became law on March 16, 2005 (KRS 61.878).

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From: [REDACTED]

Sent: Thursday, August 20, 2020 4:07 PM

To: De Stefano, Cristina (KOHS) <Cristina.DeStefano@ky.gov>

Cc: Ross, Phillip B (KOHS) <phillip.ross@ky.gov>; [REDACTED]
[REDACTED]
[REDACTED]

Subject: Election 2020

Hi Cristina,

Good Afternoon. I hope you are doing well. I wanted to touch base about the upcoming election. [REDACTED] is preparing for another election TTX next month. I will be sending out the invites for our local meeting in the next couple of days. We really appreciate your office participation in the June meeting. Hopefully, Phillip or someone from your office will be able to participate in the upcoming meeting. Also, I wanted to inquire if your office is planning to conduct social media searches to identify potential fraudulent activity regarding the election. For example, voter suppression or voter fraud issues? Based on conversations during our meeting in June, I anticipate you will be but just wanted to confirm. If you have any questions, please give me a call at [REDACTED]. Thank you!

[REDACTED]
[REDACTED]