



October 2, 2020

VIA EMAIL

Office of the Governor
Public Records Custodian
State Capitol, Suite 400
Santa Fe, NM 87501
records.gov@state.nm.us

Re: Public Records Act Request

Dear Custodian of Public Records:

Pursuant to the New Mexico Inspection of Public Records Act (IPRA), NMSA 1978, Chapter 14, Article 2, American Oversight makes the following request for copies of public records.

The Trump administration has deployed federal law enforcement officers in problematic ways in recent months, including through “Operation Legend,” a high-profile effort that the U.S. Department of Justice (DOJ) has asserted is aimed at reducing violent crime in key cities.¹ However, DOJ has expanded the operation to cities in states that may be pivotal in the coming presidential election, raising fears that the deployments are politically motivated.² On September 3, DOJ announced that the operation had resulted in thirty-five federal charges in Albuquerque.³ American Oversight seeks records with the potential to shed light on state and local officials’ communications with DOJ and the U.S. Department of Homeland Security (DHS) in light of these deployments and other federal actions.

¹ Matt Zapposky & Annie Gowen, *Trump’s Operation Legend Was Supposed to Combat Crime. It’s Produced One Arrest, And Some See a Political Stunt*, Wash. Post (July 23, 2020, 7:21 PM), https://www.washingtonpost.com/national-security/trumps-operation-legend-was-supposed-to-combat-crime-its-produced-one-arrest-and-some-see-a-political-stunt/2020/07/23/cf03eba6-cd09-11ea-91f1-28aca4d833a0_story.html.

² Kristine Phillips, *Federal Agents, Officers Head to Detroit, Cleveland, Milwaukee as Operation Legend Expands*, USA Today (July 29, 2020, 2:14 PM), <https://www.usatoday.com/story/news/politics/2020/07/29/operation-legend-doj-to-send-officers-to-detroit-cleveland-milwaukee/5535490002/>.

³ *Operation Legend Makes 2,000 Arrests Since July, 35 in Albuquerque*, KRQE (Sept. 3, 2020, 12:03 PM), <https://www.krqe.com/news/crime/u-s-dept-of-justice-provides-update-on-operation-legend-federal-charges/>.



Requested Records

American Oversight requests that your office produce the following records within three business days:⁴

All email communications (including emails and email attachments) sent by (1) Governor Lujan Grisham, Chief of Staff John Bingaman, or Deputy Chief of Staff Elizabeth Armijo, to (2) anyone communicating from an email address ending in usdoj.gov, fbi.gov, or dhs.gov.

Please provide all responsive records from July 15, 2020, through the date the search is conducted.

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by the above officials. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both an official's response to an email from an usdoj.gov email address and the initial received message are responsive to this request and should be produced.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee.

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:

- 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 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. Records of official business

⁴ If the inspection is not permitted within three business days, please explain in writing when the records will be available or when you will respond to the request and make the records available no later than fifteen days after receipt of this request. NMSA § 14-2-8.

conducted using unofficial systems or stored outside of official files are subject to the IPRA.⁵

- 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.⁶ 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.

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.

Conclusion

American Oversight is a 501(c)(3) nonprofit with the mission 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

⁵ See Office of the New Mexico Attorney General, *Inspection of Public Records Act Compliance Guide* at 26 (8th ed. 2015) (“[I]f email is used to conduct public business, the email is a public record even though a personal account is used”).

⁶ NMSA § 14-2-9(A).

public website and promotes their availability on social media platforms, such as Facebook and Twitter.⁷

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 Dan McGrath at records@americanoversight.org or 202.897.4213.

Sincerely,

A handwritten signature in blue ink that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal line extending to the left.

Austin R. Evers
Executive Director
American Oversight

⁷ American Oversight currently has approximately 15,600 page likes on Facebook and 105,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Sept. 30, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Sept. 30, 2020).