



November 19, 2020

**VIA FACSIMILE**

Office of the Attorney General  
1302 E Hwy 14  
Suite 1  
Pierre, SD 57501-8501  
Fax: (605) 773-4106

**Re: Informal Public Records Act Request**

Dear Records Custodian:

Pursuant to the South Dakota Public Records Act, S.C.D.L. Chapter 1-27, American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that your office produce the following as soon as practicable:

- 1) All email communications (including emails, email attachments, calendar invitations, and attachments thereto) sent by (a) any of the South Dakota Office of the Attorney General officials listed in Column A to (b) any of the external parties listed in Column B below.
  
- 2) All email communications (including emails, email attachments, calendar invitations, and attachments thereto) sent by (a) any of the South Dakota Office of the Attorney General officials listed in Column A containing any of the following key terms:
  - i. Postmarked
  - ii. Boockvar
  - iii. Giuliani
  - iv. Tabas
  - v. "John Gore"
  - vi. "Justin Clark"
  - vii. "Nathan Groth"
  - viii. Passantino
  - ix. Papatov
  - x. Langhofer
  - xi. Basile
  - xii. "Brett Johnson"
  - xiii. "Eric Spencer"



- xiv. Landry
- xv. RAGA
- xvi. MAGA
- xvii. Trump
- xviii. POTUS
- xix. “election fraud”
- xx. “election integrity”

<b>Column A: Office of the Attorney General Officials</b>	<b>Column B: External Parties</b>
<ul style="list-style-type: none"> <li>i. Attorney General, Jason Ravensborg, or anyone communicating on his behalf (such as a scheduler or assistant)</li> <li>ii. Chief of Staff to the Attorney General Tim Bormann</li> <li>iii. Chief Deputy Attorney General, Charles McGuigan, or anyone communicating on his behalf (such as a scheduler or assistant)</li> </ul>	<ul style="list-style-type: none"> <li>i. Anyone communicating from an email address ending in @donaldtrump.com, @donaldjtrump.com, @trumpvictory.com, or @trumporg.com</li> <li>ii. John Gore, Alex Popatov, or anyone communicating from an email address ending in @jonesday.com</li> <li>iii. Justin Clark, Nathan Groth, Stefan Passantino, or anyone communicating from an email address ending in @michaelbest.com</li> <li>iv. Kory Langhofer, Thomas Basile, or anyone communicating from an email address ending in @statecraftlaw.com</li> <li>v. Brett Johnson, Eric Spencer, or anyone communicating from an email address ending in @swlaw.com</li> <li>vi. Anyone communicating from an email address ending in @gop.com, @rnchq.com, @wisgop.org, or @wisgop.info</li> <li>vii. Jason Stuckey (including, but not limited to, at jstuckey@bricker.com)</li> <li>viii. Jason Torchinsky (including, but not limited to, at jtorchinsky@hvjt.law)</li> <li>ix. Tom Fitton or anyone communicating from an email address ending in @judicialwatch.org</li> </ul>

	<ul style="list-style-type: none"> <li>x. Catherine Engelbrecht or anyone communicating from an email address ending in @truethevote.org</li> <li>xi. J. Christian Adams, Logan Churchwell, or anyone communicating from an email address ending in @publicinterestlegal.org or @electionlawcenter.com</li> <li>xii. Hans von Spakovsky or anyone communicating from an email address ending in @heritage.org</li> <li>xiii. James O’Keefe or anyone communicating from an email address ending in @projectveritas.com or @projectveritasaction.com</li> <li>xiv. Jay Sekulow or anyone communicating from an email address ending in @aclj.org</li> <li>xv. Matt Schlapp or anyone communicating from an email address ending in @conservative.org</li> <li>xvi. Rudolph Giuliani, or anyone communicating on his behalf (such as Jo Ann Zafonte, Christianne Allen, Beau Wagner, or anyone communicating from an email address ending in @giulianisecurity.com, giulianipartners.com, gdcillc.com)</li> <li>xvii. Anyone communicating from an email address ending in mail.house.gov or senate.gov</li> <li>xviii. Lawrence Tabas, Bernadette Comfort, or anyone communicating from an email address ending in @pagop.org</li> <li>xix. Jeff Landry, or anyone communicating from an email address ending in @republicanags.com or ag.state.la.us</li> </ul>
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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 named officials. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means that both a custodian's response to an email and the initial received message are responsive to this request and should be produced.

Please provide all responsive records from October 27, 2020, through the date the search is conducted.

### **Fee Waiver Request**

In accordance with S.D.C.L. § 1-27-36, American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Furthermore, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is "in the public interest."<sup>1</sup> The requested records are directly related to the work of state officials, with the potential to shed light on the Attorney General's communications with groups engaged in purported election integrity efforts. Voting rights and election administration are of substantial public interest both in South Dakota and nationwide. Accordingly, release of records that may help the public understand the operations and activities of state officials is in the public interest. American Oversight is committed to transparency and makes the responses agencies provide to open records requests publicly available, and the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request is primarily and fundamentally for non-commercial purposes. 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.<sup>2</sup>

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses

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<sup>1</sup> S.D.C.L. § 1-27-36.

<sup>2</sup> American Oversight currently has approximately 16,360 followers on Facebook and 106,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Nov. 10, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Nov. 10, 2020).

posted to its website.<sup>3</sup> Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records and analysis related to the organization’s State Accountability Project covering voting rights issues in various states;<sup>4</sup> posting records and analysis of federal and state governments’ responses to the Coronavirus pandemic;<sup>5</sup> posting records received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the Trump administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;<sup>6</sup> and 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.<sup>7</sup>

Accordingly, American Oversight qualifies for a fee waiver.

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<sup>3</sup> See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

<sup>4</sup> See generally *State Accountability Project*, American Oversight, [https://www.americanoversight.org/areas\\_of\\_investigation/state-local-investigations](https://www.americanoversight.org/areas_of_investigation/state-local-investigations); see, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *Georgia’s Voting Machines and Election Security*, American Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

<sup>5</sup> See, e.g., *The Trump Administration’s Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *Tulsa Health Officials Initially Estimated Trump Rally Would Directly Lead to 2 to 9 Deaths*, American Oversight, <https://www.americanoversight.org/tulsa-health-officials-initially-estimated-trump-rally-would-directly-lead-to-2-to-9-deaths>; *Wisconsin Documents Offer Window into Early Uncertainty over COVID-19*, American Oversight, <https://www.americanoversight.org/wisconsin-documents-offer-window-into-early-uncertainty-over-covid-19>; *In the Documents: Florida Health Department Efforts to Suppress Release of Coronavirus Records*, American Oversight, <https://www.americanoversight.org/in-the-documents-florida-health-department-efforts-to-suppress-release-of-coronavirus-records>.

<sup>6</sup> 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, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

<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>; *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>.

## **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.
- 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 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](mailto: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 that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Austin R. Evers  
Executive Director  
American Oversight