



March 18, 2021

VIA EMAIL

Deputy Public Information Officer
Attorney General's Office
2005 N Central Avenue
publicrecords@azag.gov

Re: Public Records Request

Dear Public Records Officer:

Pursuant to the Arizona Public Records Law, A.R.S. §§ 39-121 et seq., American Oversight makes the following request for records.

Last month, Attorney General Brnovich asked the U.S. Department of Homeland Security (DHS) to lift a 100-day moratorium on deportations, citing an agreement that Arizona entered with DHS on January 8 requiring that the agency give the state 180 days' notice before implementing any change in deportation policy.¹ American Oversight seeks records with the potential to shed light on the origins of this agreement.

Requested Records

American Oversight requests that the Office of the Attorney General promptly produce the following records:

1. All email communications (including complete email chains, email attachments, and calendar invitations) between (a) any of the Office of the Attorney General officials listed below and (b) former Senior Official Performing the Duties of Deputy Director of the U.S. Department of Homeland Security Kenneth T. Cuccinelli or any representative of the U.S. Department of Homeland Security, including any person communicating from an email address ending in dhs.gov or ice.dhs.gov.

Specified OAG officials:

- a. Attorney General Mark Brnovich
- b. Chief Deputy Joe Kanefield
- c. Solicitor General Beau Roysden
- d. Executive Assistant Rachelle Lumpp

¹ Rafael Carranza, *Brnovich Says 100-day Pause of Deportations Violates Agreement Between DHS and Arizona*, Ariz. Republic (Jan. 26, 2020, 8:31 PM), <https://www.azcentral.com/story/news/politics/immigration/2021/01/26/brnovich-asks-dhs-rescind-pause-deportations/4269257001/>.



2. All draft Sanctuary for Americans First Enactment (SAFE) agreements exchanged between the Office of the Attorney General and the U.S. Department of Homeland Security.

Please provide all responsive records from Nov. 3, 2020, through Jan. 20, 2021.

Statement of Noncommercial Purpose

This request is made for noncommercial purposes. American Oversight seeks records regarding the origins of an agreement that helped to slow the incoming presidential administration's implementation of its immigration policy priorities.² Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including the process by which this agreement was entered into.

Because American Oversight is a 501(c)(3) nonprofit, this request is not in American Oversight's financial interest and is not made for a commercial purpose. 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.³

Because this request is made for noncommercial purposes, American Oversight requests that any fees charged in connection with processing this request be limited to copying

² Jacob Soboroff & Julia Ainsley, *Trump Administration Trying to Sabotage Biden Immigration Plans with Last-Minute Deals, Say Officials*, NBC (Jan. 20, 2021, 5:00 AM), <https://www.nbcnews.com/politics/immigration/trump-administration-trying-sabotage-biden-immigration-plans-last-minute-deals-n1254733>; Hamed Aleaziz, *The DHS Has Signed Unusual Agreements with States That Could Hamper Biden's Future Immigration Policies*, BuzzFeed (Jan. 15, 2020, 4:59 PM), <https://www.buzzfeednews.com/article/hamedaleaziz/dhs-states-agreements-biden>.

³ American Oversight currently has approximately 15,700 page likes on Facebook and 105,500 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Feb. 19, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Feb. 19, 2021).

and postage charges, if applicable.⁴ Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

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 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.
- If any records are withheld in full or in part, pursuant to A.R.S. § 39-121.01(D)(2), please provide an index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld.

⁴ A.R.S. § 39-121.01(D)(1); *see also Hanania v. City of Tucson*, 128 Ariz. 135, 624 P.2d 332 (Ct. App. 1980). Furthermore, because this request is for noncommercial purposes, additional fees provided for under A.R.S. § 39-121.03(A) are not applicable and should not be assessed.

- 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 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,

/s/ Khahilia Shaw
Khahilia Shaw
on behalf of
American Oversight