



March 18, 2021

**VIA FACSIMILE**

Assistant Attorney General Philip Michael  
Kansas Attorney General's Office  
Memorial Hall  
120 SW 10th Street, 2nd Floor  
Topeka, KS 66612-1597  
Fax: (785) 296-6296

**Re: Kansas Open Records Act Request**

Dear Assistant Attorney General Michael:

Pursuant to the Kansas Open Records Act (KORA), Kan. Stat. §§ 45-215 et seq., American Oversight makes the following request for records.

In early December 2020, Texas Attorney General Ken Paxton filed a lawsuit seeking to block various states from casting allegedly “unlawful and constitutionally tainted votes” in the Electoral College.<sup>1</sup> Seventeen additional states, including Kansas, filed an amicus brief backing Texas’s efforts.<sup>2</sup> Later, public reporting revealed that a team of lawyers associated with the Trump campaign formulated the plan which ultimately led to Texas’s challenge.<sup>3</sup>

Accordingly, American Oversight seeks records concerning the formulation and implementation of the plan to stop states from casting votes in the Electoral College.

**Requested Records**

American Oversight requests that the Kansas Attorney General’s Office produce the following records within three business days:

1. All email communications (including emails, complete email chains, email attachments, calendar invitations, and calendar attachments) between (a)

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<sup>1</sup> Emma Platoff, *In New Lawsuit, Texas Contests Election Results in Georgia, Wisconsin, Michigan, Pennsylvania*, Tex. Tribune, Dec. 8, 2020, <https://www.texastribune.org/2020/12/08/texas-ken-paxton-election-georgia/>.

<sup>2</sup> Todd J. Gillman, *17 States and Trump Join Texas Request for Supreme Court to Overturn Biden Wins in Four States*, Dallas Morning News (Dec. 9, 2020, 10:34 AM), <https://www.dallasnews.com/news/politics/2020/12/09/trump-says-hell-join-texas-lawsuit-asking-supreme-court-to-block-62-biden-electors-from-four-states/>.

<sup>3</sup> Jim Rutenberg et al., *77 Days: Trump’s Campaign to Subvert the Election*, N.Y. Times, Jan. 31, 2021, <https://www.nytimes.com/2021/01/31/us/trump-election-lie.html>.



any of the Kansas Attorney General's Office officials listed below and (b) any of the external parties listed below.

Kansas Attorney General Officials:

- i. Derek Schmidt, Attorney General, or anyone communicating on that official's behalf (such as an assistant or scheduler)
- ii. Anyone serving as Chief of Staff to Attorney General Schmidt
- iii. Jeff Chanay, Chief Deputy Attorney General
- iv. Toby Crouse, Solicitor General
- v. Anyone temporarily serving as Solicitor General or handling the responsibilities of the Solicitor General

External Parties:

- vi. Kris Kobach (including, but not limited to, at the email addresses [kkobach@gmail.com](mailto:kkobach@gmail.com) or [kris@kriskobach.com](mailto:kris@kriskobach.com))
  - vii. Lawrence Joseph (including, but not limited to, at the email addresses [ljoseph@larryjoseph.com](mailto:ljoseph@larryjoseph.com) or [lj@larryjoseph.com](mailto:lj@larryjoseph.com))
  - viii. Mark Martin (including, but not limited to, at the email address [mmartin@regent.edu](mailto:mmartin@regent.edu))
2. All text messages or communications on messaging applications similar in form to text messages (including, but not limited to, Signal, WhatsApp, Facebook Messenger, and Twitter direct messages) between (a) any of the Kansas Attorney General's Office officials listed above and (b) any of the external parties listed above.
  3. All email communications (including emails, complete email chains, email attachments, calendar invitations, and calendar attachments) sent by any of the Kansas Attorney General's Office officials listed above to any email address ending in .com, .net, .org, .mail, or .edu, containing any of the following key terms:

Key Terms:

- a. "Texas v. Pennsylvania"
- b. "TX v. PA"
- c. "592 U.S."
- d. separation-of-powers
- e. "separation of powers"
- f. "electors"
- g. "Article II"
- h. "fraud and abuse"
- i. "non-legislative actors"
- j. Amicus
- k. Amici
- l. Unconstitutional
- m. "voting by mail"
- n. "vote by mail"
- o. Paxton

- p. “safe harbor”
- q. Kobach
- r. “Larry Joseph”
- s. “Lawrence Joseph”
- t. “Mark Martin”

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited item 3 of its request to emails sent by the listed custodians. 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 Attorney General Schmidt’s response to an email from an external party containing one of the key terms listed above and the initial received message are responsive to this request and should be produced.

For each item of this request, please provide all responsive records from November 3, 2020, through January 20, 2021.

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:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- 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.

- 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.

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 public website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>4</sup>

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

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<sup>4</sup> 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 Mar. 3, 2021); American

understand any part of this request, please contact Mehreen Rasheed at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 848-1320.

Sincerely,

/s/Mehreen Rasheed  
Mehreen Rasheed  
on behalf of  
American Oversight

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Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 3, 2021).