



May 4, 2021

**VIA EMAIL**

Senator Matt Clasten  
702 Capital Ave.  
Annex Room 203  
Frankfort, KY 40601  
[Matt.Castlen@lrc.ky.gov](mailto:Matt.Castlen@lrc.ky.gov)

**Re: Open Records Act Request**

Dear Custodian of Records:

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

**Requested Records**

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

1. Any formal or informal assessment or analysis regarding the impact of Senate Bill 1, sponsored by Senator Matt Clasten.
2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by Senator Clasten or any members of Clasten's staff containing any of the key terms listed below:

**Key Terms:**

- a. "emergency declaration"
- b. "state of emergency"
- c. "election authority"
- d. "suspended election"
- e. "delayed election"
- f. Cruz
- g. Engelbrecht
- h. TTV
- i. "True the Vote"
- j. "Christian Adams"
- k. Churchwell
- l. PILF
- m. "Public Interest Legal Foundation"
- n. Spakovsky
- o. Heritage



- p. Cleta
- q. FreedomWorks
- r. “Conservative Partnership Institute”
- s. CPI
- t. Opportunity Solutions Project
- u. ALEC
- v. “American Legislative Exchange Council”

In an effort to accommodate your offices and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited Item 2 of its request to email communications sent by Senator Clasten and Clasten’s staff. 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 Senator Clasten’s response to an email containing a specified term and the initial received message are responsive to this request and should be produced.

Please provide all responsive records from August 6, 2020, through January 5, 2021.

**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 a bill proposed by Senator Clasten which may limit the ability of Kentucky citizens to vote.<sup>1</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including the impact of the bill and potential influences on the bill’s creation.

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

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<sup>1</sup> See, e.g., *After Veto Overrides, Beshear Sues Kentucky Republican Leaders to Maintain Emergency Powers*, WDRB (Feb. 2, 2021), [https://www.wdrb.com/news/coronavirus/after-veto-overrides-beshear-sues-kentucky-republican-leaders-to-maintain-emergency-powers/article\\_5ceb542a-65af-11eb-ac89-5381cd7838ec.html](https://www.wdrb.com/news/coronavirus/after-veto-overrides-beshear-sues-kentucky-republican-leaders-to-maintain-emergency-powers/article_5ceb542a-65af-11eb-ac89-5381cd7838ec.html).

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 numerous substantive analyses 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 related to the organization's investigations into misconduct and corruption in state governments;<sup>4</sup> 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>5</sup> 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;<sup>6</sup> posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;<sup>7</sup> posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;<sup>8</sup> 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

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<sup>2</sup> American Oversight currently has approximately 15,700 followers on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Apr. 27, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Apr. 27, 2021).

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

<sup>4</sup> *State Investigations*, American Oversight, <https://www.americanoversight.org/states>.

<sup>5</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>.

<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> *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>.

<sup>8</sup> *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>.

opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.<sup>9</sup>

### **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.
- 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. *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

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

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,

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