



October 27, 2021

VIA EMAIL

Records Supervisor
Frederick County Sheriff's Office
110 Airport Drive East
Frederick, MD 21701
mhoffman@frederickcountymd.gov

Re: Public Information Act Request

Dear Records Custodian:

Pursuant to Maryland Public Information Act ("PIA") codified at Md. Code Ann., Gen. Prov. §§ 4-101 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office produce the following records immediately or within a reasonable period upon approval, and in no more than thirty days after receipt of this request:¹

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) and text messages or messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, Twitter direct messages, Facebook messages, WhatsApp, Signal, Telegram, or Parler) between (a) Sheriff Chuck Jenkins and (b) any of the external entities listed below.

External Entities:

- a. Former Acting Director of ICE Thomas Homan
- b. Former Acting Commissioner of Customs and Border Protection Mark Morgan
- c. Representative Paul Gosar
- d. National Border Patrol Council President Brandon Judd
- e. Federation for American Immigration Reform (FAIR) President Dan Stein
- f. Anyone communicating from an email address ending in @fairus.org

Please provide all responsive records from June 11, 2021, through July 9, 2021.

¹ Md. Code Ann., Gen. Prov. §§ 4-203(a)(1)-(b)(1).



2. Records reflecting the expenses and costs incurred by your office related to Sheriff Jenkins' trip to FAIR's "End the Biden Border Crisis Rally" in Hereford, AZ on June 25, 2021.

To the extent your office has aggregated records sufficient to show all relevant expenses and costs, such as spreadsheets, American Oversight would accept production of such records as sufficient. To the extent your office does not have an aggregated record of these costs, American Oversight requests records reflecting those costs, such as receipts, invoices, charge card or credit card statements, and reimbursement requests.

Relevant expenses may include, but are not limited to, hotel or other lodging costs; costs for air travel, rental car, or other transportation companies; costs incurred for government transportation; the cost of meals or refreshments; and per diem payments.

Relevant expenses include costs associated with the travel of Sheriff Jenkins, and of any staff members, family members, or other individuals travelling with him.

Please provide all responsive records from June 11, 2021, through July 9, 2021.

3. All email communications (including emails, email attachments, complete email chains, and calendar invitations) sent by Sheriff Jenkins from June 24 to June 26, 2021.

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited part 3 of its request to emails sent by Sheriff Jenkins. 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 Jenkins' response to an email during this time period and the initial received message are responsive to this request and should be produced.

Fee Waiver Request

In accordance with Md. Code Ann., Gen. Prov. § 4-206(e), American Oversight requests a waiver of fees associated with processing this request for records. A fee waiver is in the public interest because disclosure of the requested records will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Because American Oversight is a 501(c)(3) nonprofit dedicated to government transparency, and the request is primarily and fundamentally for non-commercial purposes, a fee waiver will serve the public interest by furthering American Oversight's nonprofit mission to inform and educate the public through the release of public records.

A waiver of fees is “in the public interest,”² because disclosure of the requested records will inform the public concerning government activities and operations of interest. The public has a significant interest in communications Sheriff Jenkins may be having with certain external individuals. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether and to what extent Sheriff Jenkins is communicating with certain external entities. American Oversight is committed to transparency and makes the responses agencies provide to public 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.³

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁴ 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 investigations into misconduct and corruption in state governments;⁵ posting records and analysis of federal and state governments’ responses to the Coronavirus pandemic;⁶ posting records received as part of American

² Md. Code Ann., Gen. Prov. § 4-206(e)(2)(ii).

³ American Oversight currently has approximately 15,700 page likes on Facebook and 108,500 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Oct. 13, 2021); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Oct. 13, 2021).

⁴ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁵ See generally *State Investigations*, American Oversight, <https://www.americanoversight.org/states>; 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>.

⁶ 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>

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;⁷ 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.⁸

Accordingly, American Oversight qualifies for a fee waiver.

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

[rally-would-directly-lead-to-2-to-9-deaths](https://www.americanoversight.org/wisconsin-documents-offer-window-into-early-uncertainty-over-covid-19); *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>.

⁷ 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>.

⁸ *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>.

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. Records of official business conducted using unofficial systems or stored outside of official files are subject to the PIA.⁹
- 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.¹⁰ 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

⁹ See Md. Public Information Act Manual 1-6 (15th ed., Nov. 2020) (“email communications from private email accounts and text messages stored on private devices [that] are made or received by a custodian in connection with the transaction of public business, they are public records.”).

¹⁰ Md. Code Ann., Gen. Prov. § 4-203(c)(1)(ii); *Blythe v. State*, 161 Md. App. 492, 519, cert. granted, 388 Md. 97 (2005).

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 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