



March 23, 2022

VIA ONLINE PORTAL

FOIA Officer
Department of Health and Human Services
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue SW
Washington, DC 20201

Re: Freedom of Information Act Request

Dear FOIA officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of the Department of Health and Human Services (HHS), 45 C.F.R. Part 5, American Oversight makes the following request for records.

After the election in November 2020, two HHS employees, Arina Grossu and Rob Weaver, reportedly formed a group called Jericho March to protest the election results.¹ Although the Jericho March rally was held nearly a month before the Capitol insurrection on January 6, 2021, many of the speakers at the December 12, 2020 rally were “leading figures in the subsequent insurrection.”² American Oversight seeks to determine whether and to what extent Grossu and Weaver were using government resources to engage in political activity.

Requested Records

American Oversight requests that HHS produce the following records within twenty business days:

All email communications (including email messages, complete email chains, email attachments, calendar invitations, and calendar attachments) sent or received by Arina Grossu or Rob Weaver containing any of the key terms listed below.

Key terms:

- i. #dcwildprotest
- ii. #DoNotCertify

¹ Sarah Posner, *How the Christian Right Helped Foment Insurrection*, Reveal, Jan. 30, 2021, <https://revealnews.org/article/how-the-christian-right-helped-foment-insurrection/>.

² *Id.*



- iii. #Jan6
- iv. #january6th
- v. #stopthesteal
- vi. #wildprotest
- vii. “Eighty Percent Coalition”
- viii. “Electoral College certification”
- ix. “Immaculate deception”
- x. “Jericho March”
- xi. “Joshua 6”
- xii. KAG
- xiii. “Keep America Great”
- xiv. MAGA
- xv. “Make America Great Again”
- xvi. “March for Trump”
- xvii. “March to Save America”
- xviii. “Patriot Party”
- xix. “Protest Rally”
- xx. “Proud boys”
- xxi. “Q Clearance”
- xxii. QAnon
- xxiii. “Rally to Revival”
- xxiv. “ROAR!”
- xxv. “Save America March”
- xxvi. “Save Our Republic”
- xxvii. “Stop the steal”
- xxviii. thedonald.win
- xxix. “Trump march”
- xxx. “Until the walls fall down”
- xxxi. “Where we go one”
- xxxii. “Wild Protest”
- xxxiii. “Women for America First”
- xxxiv. “World War 3”
- xxxv. WW3
- xxxvi. WWIII
- xxxvii. WWG1WGA

Please provide all responsive records from November 3, 2020, through January 20, 2021.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency’s regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, 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 because it is likely to contribute significantly to public understanding of operations or activities of the government.”³ The public has a significant interest in whether federal government resources were used to plan political rallies that protested the legitimacy of the 2020 election. Records with the potential to shed light on this question would contribute significantly to public understanding of operations of the federal government, including whether federal employees were engaging in political activities during work hours. American Oversight is committed to transparency and makes the responses agencies provide to FOIA 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.⁴ 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.⁵

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.⁶ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the Trump Administration’s contacts with Ukraine and analyses of those contacts;⁷ posting records and editorial content about the federal government’s response to the Coronavirus pandemic;⁸ posting records received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the

³ 5 U.S.C. § 552(a)(4)(A)(iii).

⁴ *See id.*

⁵ American Oversight currently has approximately 15,700 page likes on Facebook and 118,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited March 23, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited March 23, 2022).

⁶ *See generally* News, American Oversight, <https://www.americanoversight.org/blog>.

⁷ *Trump Administration’s Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

⁸ *See generally* *The Trump Administration’s Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *see, e.g.,* *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>.

administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁹ 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;¹⁰ and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.¹¹

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:

- 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 use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,¹² and many

⁹ 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>.

¹⁰ *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>.

¹¹ See generally *Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; see, e.g., *New Information on Pompeo's 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.

¹² Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in 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 Rachel Baron at foia@americanoversight.org or 202.897.2465. 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/ Rachel Baron

Rachel Baron
on behalf of
American Oversight