



August 18, 2022

**VIA EMAIL**

Pete Galvan  
Associate Rules Attorney  
Arizona State Senate  
1700 West Washington Street  
Room 202 C  
Phoenix, AZ 85007  
[pgalvan@azleg.gov](mailto:pgalvan@azleg.gov)

**Re: Public Records Request**

Dear Associate Rules Attorney Galvan:

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

Records produced to American Oversight indicate that following the November 2020 election, an individual named Brad Rotter was included in conversations between Arizona Senator Kelly Townsend and others attempting to deliver a false slate of electors to then-Vice President Mike Pence.<sup>1</sup> Other records indicate that in February 2021, Rotter wrote to both Sen. Townsend and West Virginia Secretary of State Mac Warner to suggest a conversation between the two regarding an election security “consortium.”<sup>2</sup>

American Oversight seeks records with the potential to shed light on communications between Sen. Townsend and Sec. Warner, including those related to elections.

**Requested Records**

American Oversight requests that the Arizona State Senate promptly produce the following records:

All electronic communications (including emails, email attachments, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms, such as Slack, GChat or Google Hangouts, Lync, Skype, or

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<sup>1</sup> See American Oversight, *Arizona Senate Records Regarding Maricopa County Election ‘Audit’ PART 13/50*, at 1326-1327, <https://www.documentcloud.org/documents/21052948-final-az-part-1m#document/p1326/a2105177>.

<sup>2</sup> See American Oversight, *Arizona Senate Communications with Specific External Entities and Individuals*, at 12, <https://www.documentcloud.org/documents/22136671-arizona-senate-communications-with-specific-external-entities-and-individuals>.



WhatsApp) between (a) Senator Kelly Townsend or her aide KayRee Kubat, and (b) any of the individuals or any representatives of any of the organizations listed below (including, but not limited to, at the listed email addresses or domains).

In the case of emails and texts, the search should include those sent or received from the specified officials' personal accounts and/or devices if they were used to conduct official business, as well those sent from their official email addresses or government-issued devices.

External Parties:

1. Secretary of State of West Virginia, Mac Warner
2. John Hoover, Special Assistant to Sec. Warner
3. Kathy Hess, Executive Scheduler to Sec. Warner
4. Chuck Flannery, Deputy Secretary and Chief of Staff for Sec. Warner
5. Anyone communicating from an email address ending in @wvsos.gov

Please provide all responsive records from November 3, 2020, through the date the search is conducted.

**Statement of Noncommercial Purpose**

This request is made for noncommercial purposes. American Oversight seeks records regarding the role of Arizona public officials in efforts to cast doubt on the results of the November 2020 election.<sup>3</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether or to what extent Arizona officials may have communicated with other state officials regarding election matters.

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

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<sup>3</sup> Yvonne Wingett Sanchez, *Justice Dept. Subpoenas Two Arizona State Senators in Jan. 6 Probe*, Wash. Post (July 1, 2022, 4:15 PM), <https://www.washingtonpost.com/national-security/2022/07/01/karen-fann-subpoena/>.

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

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 and postage charges, if applicable.<sup>5</sup> 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.

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<sup>4</sup> American Oversight currently has approximately 16,000 followers on Facebook and 118,800 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Aug. 16, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Aug. 16, 2022).

<sup>5</sup> 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.

- 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.
- 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 Khahilia Shaw at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 539-6507.

Sincerely,

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