



October 26, 2022

VIA EMAIL

Associate Rules Attorney
Arizona State Senate
1700 West Washington Street
Room 202 C
Phoenix, AZ 85007
pgalvan@azleg.gov

Re: Public Records Request

Dear Public Records Officer:

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

Following the November 2020 election, members of the Trump campaign's legal team and individuals seeking to overturn the election results coordinated with members of the Arizona legislature in an attempt to affect the election's certification.¹ Later, many of these same individuals remained involved in the Arizona Senate's partisan "audit" of Maricopa County's election results.²

American Oversight seeks records with the potential to shed light on efforts to alter the results of Arizona's November 2020 election and the subsequent "audit" undertaken by the Arizona Senate. American Oversight does not seek records at issue in ongoing litigation against the Arizona Senate nor records over which the Arizona Senate has asserted a claim of privilege.

Requested Records

American Oversight requests that your office promptly produce the following records:

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

¹ Andrew Feinberg, 'Coup PowerPoint' Author Told Legislators They Could Throw Out 'Fake' Biden Ballots, Documents Show, Independent (Jan. 24, 2022, 5:27 PM), <https://www.independent.co.uk/news/world/americas/us-politics/coup-powerpoint-author-biden-ballots-b1999609.html?r=49089>.

² Jen Fifield & Zac Anderson, *From Rural Florida to Trump Allies' Inner Circle: Who is the Cyber Ninja Leading Arizona's Audit?*, AZ Republic (updated Sept. 21, 2021, 7:46 PM), <https://www.azcentral.com/story/news/politics/arizona/2021/09/20/cyber-ninja-doug-logan-path-sarasota-florida-arizona-election-audit/5621094001/>;



WhatsApp) between (a) Senator Karen Fann or her aide Sawyer Bessler; Senator Warren Petersen or his aide Heather Covert; Senator Sonny Borrelli or his aide Phyllis Heivilin; Senator Kelly Townsend or her aide KayRee Kubat; or Senator Wendy Rogers or her aide Melissa Myers; and (b) any of the individuals or entities listed below (including, but not limited to, at the email addresses provided).

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

Specified Parties:

1. Anyone communicating from an email address ending in "foramericafirst.com"
2. Anyone communicating from an email address ending in @theamericaproject.com
3. Anyone communicating from an email address ending in @gkeinc.com
4. Anyone communicating from an email address ending in @opsec.group
5. Anyone communicating from an email address ending in @voterintegrityproject.com
6. Anyone communicating from an address ending in @ordros.com
7. Arizona GOP Chair Kelli Ward (kelli@kelliward.com, drkelliward@gmail.com)
8. Anyone communicating from the email address conan@krknsys.com
9. Anyone communicating from the email address h2osint@protonmail.com
10. Anyone communicating from the email address kingschild@protonmail.com
11. Anyone communicating from the email address motra7@protonmail.com
12. Baron Benham (baron@baroncapital.com)
13. Carissa Keshel (ckeshel@protonmail.com)
14. David Clements (davidkclements13@protonmail.com)
15. Donald Hiatt (donwhiatt@protonmail.com)
16. Douglas Frank (drdouglassfrank@outlook.com)
17. Draza Smith (drazasmith@protonmail.com)
18. Jeff Lenberg (jeff.lenberg@wlpow.com)
19. Jim Hoft (midwestjim@charter.net)

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

Please note that American Oversight does not seek records currently at issue in litigation against the Arizona Senate, and American Oversight has specifically excluded communications with any individual or entity over whose communications the Arizona Senate has previously claimed privilege.³

³ American Oversight, *Arizona Senate Updated Privilege Log and Index – Received Oct. 1, 2021*, <https://www.documentcloud.org/documents/21077483-arizona-senate-updated-privilege-log-and-index-sept-30?responsive=1&title=1>.

Please note that American Oversight does not seek, and that this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications forwarding such emails are responsive to this request. In other words, for example, if one of the listed officials received a mass-distribution news clip email from someone communicating in an email address ending in @theamericaproject.com, that initial email would not be responsive to this request. However, if that official forwarded that email to another individual with their own commentary, that subsequent message would be responsive to this request and should be produced.

Statement of Noncommercial Purpose

This request is made for noncommercial purposes. American Oversight seeks records regarding attempts to alter the certification of the November 2020 election and the subsequent partisan “audit” of Maricopa County’s election results by the Arizona Senate.⁴ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including regarding the involvement of actors external to the Arizona legislature.

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 materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.⁵

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

⁴ *See supra*, notes 1 & 2.

⁵ American Oversight currently has approximately 16,000 followers on Facebook and 119,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Oct. 25, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Oct. 25, 2022).

and postage charges, if applicable.⁶ 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.
- 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.

⁶ 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.

- 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 or (202) 539-6507.

Sincerely,

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