



January 19, 2023

VIA EMAIL

Linn County Sheriff's Office
1115 Jackson Street SE
Albany, OR 97322
RecordsReports@linnsheriff.org

Re: Public Records Law Request

Dear Public Records Custodian:

Pursuant to the Oregon Public Records Law, Or. Rev. Stat. Ann., Tit. 19, Ch. 192, American Oversight makes the following request for records.

Requested Records

American Oversight requests that the Linn County Sheriff's Office produce the following records within five business days:¹

1. All email communications (including emails, email attachments, complete email chains, and calendar invitations) sent by Sheriff Michelle Duncan containing any of the following key terms:

Key Terms

- a. "Measure 114"
- b. M114
- c. "Gun magazine"
- d. "Gun magazines"
- e. "Second amendment"
- f. "2nd amendment"
- g. "2A"
- h. "magazine capacity"
- i. "large capacity magazine"
- j. "large capacity magazines"
- k. "capacity limit"
- l. "capacity limits"
- m. "gun control"

¹ Pursuant to O.R.S. § 192.324(2), if your office is unable to complete its response within five business days, please acknowledge receipt of this request within five business days. Thereafter, pursuant to O.R.S. § 192.329(5), please complete your response to this request no later than ten business days after acknowledgement of receipt. If compliance with these time provisions would be impracticable as defined in O.R.S. § 192.329(6), the response must be completed as soon as practicable and without unreasonable delay.



For part 1 of this request, in an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by Sheriff Duncan. 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 Sheriff Duncan's response to an email containing a key term and the initial received message are responsive to this request and should be produced.

2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between Sheriff Duncan and any of the specified external individuals and entities listed below (including, but not limited to, communications from the email addresses or domains specified below).

External Individuals and Entities:

- a. Richard Mack (cspoa2011@gmail.com, sheriffmack@hotmail.com), or anyone communicating on behalf of the Constitutional Sheriffs and Peace Officers Association (cspoa.org)
- b. Oregon Firearms Federation (@oregonfirearms.com)
- c. Oregon Gun Owners (@ogo.org)
- d. Oregon Gun Law (@oregongunlaw.com)
- e. National Rifle Association, NRA Foundation, and NRA's Institute for Legislative Action (nra.org, nrahq.org, nrafoundation.org, nraila.org, and nrapvf.org)
- f. Charles Cotton
- g. Wayne LaPierre
- h. Jason Ouimet
- i. Gun Owners Foundation of America and Gun Owners Foundation (gunowners.org)
- j. National Association for Gun Rights (nationalgunrights.org)
- k. Second Amendment Foundation (saf.org)
- l. Citizens Committee for the Right to Keep and Bear Arms (ccrkba.org)
- m. American Suppressor Association (americansuppressorsassociation.com)
- n. National Shooting Sports Foundation (nssf.org)
- o. National Shooting Sports Foundation Political Action Committee (nssfpac.com)

For part 2 of this request, 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 Sheriff Duncan received a mass-distribution news clip email from the National Rifle Association, that initial email would not be responsive to this request. However, if Sheriff Duncan that

email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

For both parts of this request, please provide all responsive records from July 18, 2022 through the date of the search.

Fee Waiver Request

In accordance with O.R.S. § 192.324(5), American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. In addition, 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 making the record available primarily benefits the general public.”² The general public has a significant interest in communications sheriffs may be having about a gun-related measure. 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 these communications are taking place. American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available, and the general 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

² O.R.S. § 192.324(5).

³ American Oversight currently has approximately 16,000 followers on Facebook and 113,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Jan. 4, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Jan. 4, 2023).

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

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 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:

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-rally-would-directly-lead-to-2-to-9-deaths>; *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>.

- 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.⁹ 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 Hart Wood at

⁹ O.R.S. § 192.338.

records@americanoversight.org or (202) 873-1743. 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/ Hart Wood
Hart Wood
on behalf of
American Oversight