



May 23, 2023

**VIA EMAIL**

Senator Mike Bernskoetter  
201 W. Capitol Ave., Rm. 416  
Jefferson City, MO 65101  
[mike.bernskoetter@senate.mo.gov](mailto:mike.bernskoetter@senate.mo.gov)

**Re: Sunshine Law Request**

Dear Custodian of Records:

Pursuant to the Missouri Sunshine Law, Mo. Rev. Stat. § 610.010 et seq., American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that your office produce copies of the following records within three business days:

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by State Senator Mike Bernskoetter or his staffers Matt Morris or Penny Mueller and containing any of the key terms listed below.

**Key Terms:**

- a. "Senate Joint Resolution 42"
- b. "SJR 42"
- c. SJR42
- d. "House Joint Resolution 62"
- e. "HJR 62"
- f. HJR62
- g. "constitutional sheriff"
- h. CSPOA
- i. "sheriff's authority"
- j. "sheriff authority"
- k. "state jurisdiction"
- l. "federal jurisdiction"
- m. "federal overreach"
- n. "government overreach"
- o. "Missouri Sheriffs' Association"
- p. MSA
- q. "Western States Sheriffs' Association"
- r. WSSA
- s. "Illinois sheriffs"



- t. “Missouri sheriffs”
- u. “Richard Mack”
- v. “Sheriff Mack”
- w. “Sam Bushman”
- x. “Rick Dalton”

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited request item 1 to emails sent by the specified individuals. 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 an individuals’ response to an email 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 (a) State Senator Mike Bernskoetter or his staffers Matt Morris or Penny Mueller and (b) any of the external entities or individuals listed below or anyone communicating on behalf of any of the entities listed below (including, but not limited to, at the listed email addresses and/or domains).

External Entities or Individuals:

- a. Sheriff Michael Bonham (osagesheriff.org)
- b. Sheriff Greg Burke (hickorycomo.net)
- c. Jim Petty
- d. Sheriff Bill Puett (co.buchanan.mo.us)
- e. Craig Rantz
- f. Sheriff Tony Wheatley ([sheriff@moniteaucounty.org](mailto:sheriff@moniteaucounty.org))
- g. Missouri Sheriffs’ Association (mosheriffs.com)
- h. Western States Sheriffs’ Association (westernsheriffs.org)
- i. Sam Bushman, Richard Mack ([cspoa2011@gmail.com](mailto:cspoa2011@gmail.com), [sheriffmack@hotmail.com](mailto:sheriffmack@hotmail.com), [sheriffmack@protonmail.com](mailto:sheriffmack@protonmail.com)), Rick Dalton, or anyone communicating from an email address ending in cspoa.org

3. All final assessments, reports, analyses, recommendations, research, or guidance prepared or received by your office regarding the scope of county sheriffs’ law enforcement powers or authority to determine the constitutionality of laws,<sup>1</sup> including, but not limited to, any such records regarding, created, or received in connection with Senate Joint Resolution 42 or House Joint Resolution 62.

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<sup>1</sup> If further information is needed, please see *Inside the 'Constitutional Sheriff' Movement*, NPR, Oct. 22, 2022, <https://www.npr.org/2022/10/22/1130755532/inside-the-constitutional-sheriff-movement>; *Fact Sheet: “Constitutional Sheriffs” and Elections*, States United, Oct. 4, 2022, <https://statesuniteddemocracy.org/resources/factsheet-constitutional-sheriff/>.

For all parts of this request, please provide all responsive records from December 1, 2022, through the date the search is conducted.

### **Fee Waiver Request**

In accordance with Mo. Rev. Stat. § 610.026.1(1), 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. 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 likely to contribute significantly to public understanding of the operations or activities of [a] public governmental body.”<sup>2</sup> The public has a significant interest in legislation that would introduce a constitutional amendment on the authority and jurisdiction of county sheriffs.<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 communications concerning Senate Joint Resolution 42. 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.<sup>4</sup> 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.<sup>5</sup>

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses

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<sup>2</sup> Mo. Rev. Stat. § 610.026.1(1).

<sup>3</sup> Charles Boehme, *Missouri Republicans Push Effort for ‘Constitutional Sheriffs’*, Columbia Missourian, Apr. 5, 2023, [https://www.columbiamissourian.com/news/state\\_news/missouri-republicans-push-effort-for-constitutional-sheriffs/article\\_db3c08b2-d3e7-11ed-a98c-e33e9a76ea22.html](https://www.columbiamissourian.com/news/state_news/missouri-republicans-push-effort-for-constitutional-sheriffs/article_db3c08b2-d3e7-11ed-a98c-e33e9a76ea22.html).

<sup>4</sup> Mo. Rev. Stat. § 610.026.1(1).

<sup>5</sup> American Oversight currently has approximately 16,000 followers on Facebook and 112,700 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 22, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited May 22, 2023).

posted to its website.<sup>6</sup> 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;<sup>7</sup> posting records and analysis of federal and state governments’ responses to the Coronavirus pandemic;<sup>8</sup> 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;<sup>9</sup> 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.<sup>10</sup>

Accordingly, American Oversight qualifies for a fee waiver.

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

<sup>7</sup> 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>.

<sup>8</sup> 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>.

<sup>9</sup> 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>.

<sup>10</sup> *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>.

## **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.
- 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.<sup>11</sup>
- 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.<sup>12</sup> 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

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<sup>11</sup> Mo. Rev. Stat. § 610.010(6).

<sup>12</sup> Mo. Rev. Stat. § 610.024.1.

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 Mehreen Rasheed at [records@americanoversight.org](mailto:records@americanoversight.org) or 202.848.1320. 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/ Mehreen Rasheed  
Mehreen Rasheed  
on behalf of  
American Oversight