



August 31, 2020

VIA EMAIL

Chicago Police Department
Attn: Freedom of Information Officer
Freedom of Information Section, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653
foia@chicagopolice.org

Re: Illinois Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Illinois Freedom of Information Act (FOIA), 5 ILCS § 140, American Oversight makes the following request for records.

The Trump administration has deployed federal law enforcement officers in problematic ways in recent months, and reports now indicate that one operation for such deployments—"Operation Legend"—has been largely unsuccessful in quelling violent crime.¹ Despite this apparent lack of success, the operation is being expanded to cities in states that may be pivotal in the coming presidential election, raising fears that the deployments are politically motivated.² American Oversight seeks records with the potential to shed light on state and local officials' communications with the Executive Office of the President in light of these deployments and other federal actions.

Requested Records

American Oversight requests that your office produce the following records within five business days:

¹ Matt Zapotosky & Annie Gowen, *Trump's Operation Legend Was Supposed to Combat Crime. It's Produced One Arrest, And Some See A Political Stunt*, Wash. Post (July 23, 2020, 7:21 PM), https://www.washingtonpost.com/national-security/trumps-operation-legend-was-supposed-to-combat-crime-its-produced-one-arrest-and-some-see-a-political-stunt/2020/07/23/cf03eba6-cd09-11ea-91f1-28aca4d833a0_story.html.

² Kristine Phillips, *Federal Agents, Officers Head to Detroit, Cleveland, Milwaukee as Operation Legend Expands*, USA Today (July 29, 2020, 2:14 PM), <https://www.usatoday.com/story/news/politics/2020/07/29/operation-legend-doj-to-send-officers-to-detroit-cleveland-milwaukee/5535490002/>.



All email communications (including emails and email attachments) sent by 1) Superintendent David Brown, anyone serving as Chief of Staff to Superintendent Brown, First Deputy Superintendent Eric Carter, or Chief of Operations Brian McDermott, to 2) anyone communicating from an email address ending in eop.gov.

Please provide all responsive records from July 15, 2020, through the date the search is conducted.

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 the above officials. 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 official's response to an email from an eop.gov email address and the initial received message are responsive to this request and should be produced.

Fee Waiver Request

In accordance with 5 ILCS § 140/6(c), American Oversight requests a waiver of fees associated with processing this request for records. A waiver of fees for this request “is in the public interest” because “the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.”³

The public has a significant interest in Illinois officials' communications with the federal government in light of the major deployments of federal law enforcement officers to localities like Chicago.⁴ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the interactions between state, local, and federal government, including whether the federal government is inappropriately using law enforcement officers over the objections of local leaders. American Oversight is a 501(c)(3) nonprofit organization committed to transparency and makes the responses agencies provide to FOIA requests publicly available. The public's understanding of the government's activities related to public health, safety, welfare, and legal rights would be enhanced through American Oversight's analysis and publication of these records.

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.⁵ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records and analysis

³ 5 ILCS § 140/6(c).

⁴ See Zapotosky & Gowen *supra* note 1; Philips *supra* note 2.

⁵ See *generally* News, American Oversight, <https://www.americanoversight.org/blog>.

related to the organization's State Accountability Project covering voting rights issues in various states;⁶ posting records and analysis of federal and state governments' responses to the Coronavirus pandemic;⁷ 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;⁸ 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.⁹

Moreover, this request is not made for a personal or commercial benefit.¹⁰ 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

⁶ See generally *State Accountability Project*, American Oversight, https://www.americanoversight.org/areas_of_investigation/state-local-investigations; 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>.

⁷ 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>.

⁸ 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>.

⁹ *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>.

¹⁰ See 5 ILCS § 140/6(c).

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.¹¹

Accordingly, American Oversight qualifies for a fee waiver.

In addition, because American Oversight is a 501(c)(3) nonprofit organization and the principal purpose of this request is “to access and disseminate information concerning news and current or passing events” and for “public research or education,” American Oversight should not be considered a “recurrent requester,” nor should this request be treated as a “voluminous request” under the Illinois FOIA. *See* 5 ILCS § 140/2(g)-(h).

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 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.¹² 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

¹¹ American Oversight currently has approximately 15,600 page likes on Facebook and 104,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Aug. 12, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Aug. 12, 2020).

¹² 5 ILCS § 140/7(1).

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 Dan McGrath at records@americanoversight.org or 202.897.4213. 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,

A handwritten signature in blue ink, appearing to read "Austin R. Evers", with a long horizontal line extending to the left.

Austin R. Evers
Executive Director
American Oversight