



November 15, 2021

VIA EMAIL

Chris Kleminich
Arizona State Senate
Rules Attorney
1700 W. Washington Street, Room 202 C
Phoenix, AZ 85007
ckleminich@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.

Public records obtained by American Oversight include correspondence between members of the Arizona Legislature and a nationwide network of donors, activists, attorneys, and candidates for elected office, “whose goal is completing a cyber forensic audit in their state,” according to a calendar invitation received by the Arizona legislators.¹ The many other invitees on the call included John Eastman, Lin Wood, and former national security advisor Mike Flynn, all of whom have supported the false narrative that the November 2020 election was corrupted by systemic fraud and that former President Trump in fact won the election.²

American Oversight seeks records with the potential to shed light on the extent to which Arizona legislators have communicated with individuals and entities seeking to conduct “forensic audits” of the November 2020 election throughout the country.

¹ American Oversight, *Arizona Senate Records Regarding Maricopa County Election ‘Audit’ Part 39/50* at 998, https://www.documentcloud.org/documents/21054163-ocr-az-part-6_part-3#document/p998.

² Spencer Ackerman & Kelly Weill, *‘When the Bombs Go Off, the Blood is on Mike Flynn’s Hands:’ Retired Officers Blast His Call for Martial Law*, Daily Beast (updated Dec. 2, 2020, 5:26 PM), <https://www.thedailybeast.com/when-the-bombs-go-off-the-blood-is-on-mike-flynn-s-hands-retired-officers-blast-his-calls-for-martial-law>; Tom Hamburger & Jacqueline Alemany, *Group Files Complaint with California Bar Association Against John Eastman, Lawyer Who Advised Trump on Election Challenges*, Wash. Post (Oct. 4, 2021, 6:07 PM), https://www.washingtonpost.com/politics/eastman-trump-bar-complaint/2021/10/04/26dc7d50-2535-11ec-8831-a31e7b3de188_story.html; Ed White, *Trump Lawyer Might Be Penalized Over Michigan Election Case*, Associated Press, July 12, 2021, <https://apnews.com/article/joe-biden-government-and-politics-elections-michigan-e45f806062edd8a7ba81cefd8f3f2638>.



Requested Records

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

1. All records reflecting Senator Leo Biasiucci, Senator Sonny Borrelli, Senator Wendy Rogers, and Senator Kelly Townsend's participation in any "election integrity" or "2020 election remediation" meeting;³ including, but not limited to: complete calendar invitations; communications with organizers or participants; meeting notes, readouts, transcripts, or other memorialization; or files shared in advance of, during, or in connection with any such meetings.
2. All records reflecting the full content of any post published to Wickr Pro related to "election integrity" meetings by Sens. Biasiucci, Borrelli, Rogers, and Townsend (including, but not limited to the "2020 Election Remediation" meeting room).
3. All files uploaded by Sens. Biasiucci, Borrelli, Rogers, and Townsend to Wickr Pro related to "election integrity" meetings (including, but not limited to the "2020 Election Remediation" meeting room).
4. All files downloaded by Sens. Biasiucci, Borrelli, Rogers, and Townsend from Wickr Pro related to "election integrity" meetings (including, but not limited to the "2020 Election Remediation" meeting room), whether to a government or personal device.
5. All records reflecting the content of Sens. Biasiucci, Borrelli, Rogers, and Townsend's Wickr Pro profiles.
6. Records sufficient to identify the expiration timer for any Wickr Pro meeting rooms related to "election integrity" meetings (including, but not limited to the "2020 Election Remediation" meeting room).
7. Records sufficient to identify the full list of participants for any Wickr Pro meeting rooms related to "election integrity" meetings (including, but not limited to the "2020 Election Remediation" meeting room).
8. Records sufficient to identify the moderators of any Wickr Pro meeting rooms related to "election integrity" meetings (including, but not limited to the "2020 Election Remediation" meeting room).

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

Statement of Noncommercial Purpose

³ See *supra*, note 1.

This request is made for noncommercial purposes. American Oversight seeks records regarding communications between Arizona legislators and individuals and entities that are seeking to conduct further investigations into the November 2020 election results. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including the extent to which Arizona legislators may have communicated or coordinated with entities engaged in undermining public confidence in elections.

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.⁴

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.⁵ 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.

⁴ American Oversight currently has approximately 15,600 page likes on Facebook and 109,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Nov. 15, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Nov. 15, 2021).

⁵ 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 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.
- 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 Zachery Morris at records@americanoversight.org or (202) 897-4213.

Sincerely,

/s/ Zachery Morris
Zachery Morris
on behalf of
American Oversight