



February 7, 2022

**VIA ONLINE PORTAL**

Samina Mays, Public Records Officer  
424 Legislative Building  
P.O. Box 40600  
Olympia, WA 98504-0600  
Via Online Form

**Re: Public Records Act Request**

Dear Public Records Officer:

Pursuant to the Public Records Act, RCW, Ch. 42.56, American Oversight makes the following request for records.

**Requested Records**

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

All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp), telephone call logs, calendar invitations, calendar entries, meeting notices, meeting agendas, informational material, draft legislation, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) between (a) Representatives Robert Sutherland, Brad Klippert, or Vicki Kraft and (b) Ivan Raiklin (ivan.raiklin@gmail.com or socialmediaraiklin@gmail.com) or Al Hartman, Jenny Limcher, or anyone communicating on behalf of Hartman REIT (@hi-reit.com).

Please provide all responsive records from June 1, 2020, through the date the search is conducted.

**Fee Waiver Request**

In accordance with RCW § 42.56.120(4), American Oversight requests a waiver of fees associated with providing copies of the requested records to the extent permitted by your agency's rules and regulations.

American Oversight is a 501(c)(3) nonprofit with the mission to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses information gathered through research and public records requests, 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>1</sup>

The public has a significant interest in communications officials elected to the Washington legislature may be having with certain external individuals or entities associated with proponents of misinformation regarding the 2020 election. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the Washington state government, including whether and to what extent members of the legislature may be communicating with certain external individuals and entities.

Accordingly, American Oversight respectfully requests a fee waiver.

To the extent your agency anticipates charging any fees in connection with this request for records, American Oversight requests that you inform us in advance of doing so.

### **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.
- 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. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Public Records Act.<sup>2</sup>

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<sup>1</sup> American Oversight currently has approximately 15,700 page likes on Facebook and 114,800 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Feb. 3, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Feb. 3, 2022).

<sup>2</sup> See, e.g., *O'Neill v. City of Shoreline*, 170 Wn.2d 138, ¶ 11 (2010) (holding agency records on city officials' personal computers subject to PRA, and noting "If government employees could circumvent the PRA by using their home computers for government

- 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>3</sup> If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release. If a request is denied in whole or in part, please state specifically which statute renders the records or portions exempt from disclosure and provide a brief explanation of how the exemption applies to the record or portion withheld.<sup>4</sup>
- 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 Sarah Colombo at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 869-5244. Also, if American Oversight's

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business, the PRA could be drastically undermined.”); *Nissen v. Pierce County*, 183 Wn.2d 581, 585 (2015) (holding agency records on personal cell phones subject to PRA); see also Washington State Att’y Gen. Bob Ferguson, *Washington State Sunshine Laws 2016, An Open Government Resource Manual* at 7, Oct. 31, 2016, [https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/About the Office/Open Government Internet Manual/Open%20Government%20Resource%20Manual%202016%20-%20Oct.%2031%202016%20%282%29.pdf](https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/About%20the%20Office/Open%20Government%20Internet%20Manual/Open%20Government%20Resource%20Manual%202016%20-%20Oct.%2031%202016%20%282%29.pdf).

<sup>3</sup> RCW § 42.56.210(1).

<sup>4</sup> RCW § 42.56.210(3).

request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Sarah Colombo

Sarah Colombo  
on behalf of  
American Oversight