



January 30, 2023

VIA ONLINE PORTAL

Department of Homeland Security
Privacy Office, Mail Stop 0655
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528-0655
Via Secure Release

Re: Freedom of Information Act Request

Dear FOIA Officer(s):

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, 6 C.F.R. Part 5, American Oversight makes the following request for records.

On November 3, 2023, the Center for Immigration Studies (CIS) announced itself as a cosponsor of the 2nd Annual Conference to Combat Human Trafficking.¹ American Oversight seeks public records with the potential to shed light on communications between a Department of Homeland Security official and CIS and similar groups.

Requested Records

American Oversight requests that the Department of Homeland Security (DHS) produce the following records within twenty business days:

All email communications (including email messages, complete email chains, calendar invitations, and any attachments thereto) between (a) Senior Law Enforcement Liaison Douglas Gilmer or anyone communicating on his behalf, such as an assistant or secretary, and (b) any of the external entities or individuals listed below or anyone communicating on their behalf (including, but not limited to, at the specified complete email addresses or domains).²

Please provide all responsive records from July 1, 2023, through the date the search is conducted.

¹ “CIS Co-Sponsors Conference to Combat Human Trafficking,” Center for Immigration Studies, Nov. 3, 2023, <https://cis.org/Immigration-Studies/CIS-CoSponsors-Conference-Combat-Human-Trafficking>.

² Please use the domains provided in your search where only a domain is provided, and not domains that are only contained within complete email addresses. For example, where the complete email address “ktc21968@gmail.com” is provided, please utilize the complete email address in your search and do not conduct a domain search for gmail.com.



External Individuals and Entities:

- a. Federation for American Immigration Reform (fairus.org)
- b. Immigration Reform Law Institute or Attorneys United for a Secure America (irli.org)
- c. Center for Immigration Studies (CIS) (cis.org)
- d. NumbersUSA (numbersusa.com)
- e. The Remembrance Project (theremembranceproject.org)
- f. Russ Vought, or anyone from Center for Renewing America or Citizens for Renewing America (americarenewing.com, citizensrenewingamerica.com)
- g. Conservative Partnership Institute (conservativepartnership.org)
- h. Kansas Attorney General Kris Kobach (kkobach@gmail.com, kris@kriskobach.com, kris.kobach@ag.ks.gov or any other official or non-official email address)
- i. Alliance for Free Citizens (allianceforfreecitizens.org)
- j. Former Acting Department of Homeland Security (DHS) Secretary Chad Wolf, or anyone from America First Policy Institute (americafirstpolicy.com)
- k. Stephen Miller, Gene Hamilton, John Zadrozny, or anyone from America First Legal (aflegal.org)
- l. Former Immigrations and Customs Enforcement (ICE) Director Tom Homan
- m. National ICE Council 118 President Chris Crane
- n. National ICE Council 118 Executive Vice President LeAnn Mezzacapo
- o. Former Deputy DHS Secretary Ken Cuccinelli (ktc21968@gmail.com)
- p. Former Acting DHS General Counsel Chad Mizelle
- q. Former Acting Commissioner of U.S. Customs and Border Protection (CBP) Mark Morgan
- r. Former White House Chief of Staff Mark Meadows
- s. Former Acting Attorney General Matthew Whitaker
- t. Former Solicitor General of the U.S. Ken Starr
- u. Former United States Senator Jim DeMint
- v. Former United States Attorney General Jeff Sessions
- w. National Border Patrol Council (NBPC) President Brandon Judd
- x. NBPC Vice President and Spokesperson Hector Garza
- y. NBPC Vice President and Spokesperson Art Del Cueto

The search should include those sent or received from Douglas Gilmer's personal accounts and/or devices if they were used to conduct official business, as well those sent from his official email addresses or government-issued devices.

Additionally, 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 Gilmer received a mass-distribution news clip email from one of the specified entities, that initial email would not be responsive to this request. However, if he

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

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures 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 "in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government."³ The public has a significant interest in whether and to what extent federal officials are communicating with CIS and similar anti-immigrant extremist groups.⁴ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including connections between the Department of Homeland Security and the Center for Immigration Studies. American Oversight is committed to transparency and makes the responses agencies provide to FOIA 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.⁵ 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.com.⁶

³ 5 U.S.C. § 552(a)(4)(A)(iii).

⁴ See, e.g., "Center for Immigration Studies," Southern Poverty Law Center, <https://www.splcenter.org/fighting-hate/extremist-files/group/center-immigration-studies> (last visited January 11, 2024); *Fact Sheet: Center for Immigration Studies (CIS)*, Bridge Initiative, Nov. 13, 2020, <https://bridge.georgetown.edu/research/factsheet-center-for-immigration-studies-cis/>.

⁵ See 5 U.S.C. § 552(a)(4)(A)(iii).

⁶ American Oversight currently has approximately 16,000 followers on Facebook and 111,400 followers on Twitter.com. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Jan. 17, 2024); American Oversight (@weareoversight), Twitter.com, <https://twitter.com/weareoversight> (last visited Jan. 17, 2024).

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.⁷ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the Trump Administration’s contacts with Ukraine and analyses of those contacts;⁸ posting records and editorial content about the federal government’s response to the Coronavirus pandemic;⁹ posting records received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹⁰ 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;¹¹ and posting records and analysis of federal officials’ use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.¹²

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:

⁷ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁸ *Trump Administration’s Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

⁹ See generally *The Trump Administration’s Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; see, e.g., *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>.

¹⁰ 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>.

¹¹ *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>.

¹² See generally *Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; see, e.g., *New Information on Pompeo’s 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.

- 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 Federal Records Act and FOIA.¹³ It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.¹⁴
- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,¹⁵ and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- 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.

¹³ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

¹⁴ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

¹⁵ Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

- 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 Mehreen Rasheed at foia@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