



April 30, 2024

VIA EMAIL

Office of the Idaho Attorney General
Attn: Public Records Custodian
700 W. Jefferson Street, Suite 210
P.O. Box 83720
Boise, Idaho 83720
kamala.reeve@ag.idaho.gov

Re: Public Records Act Request

Dear Public Records Custodian:

Pursuant to Idaho's Public Records Act, as codified at Chapter 1 of Title 74 of the Idaho Code, I.C. T. 74, Ch. 1, American Oversight makes the following request for records.

Requested Records

Pursuant to Section 74-103(1) of the Idaho Code, American Oversight requests that the Office of the Idaho Attorney General produce the following records within three working days, or, if a longer period of time is needed and American Oversight is so notified, within ten working days:

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by the Office of the Idaho Attorney General officials listed below and containing any of the key terms listed below.

Office of the Idaho Attorney General Officials:

1. Attorney General Raúl Labrador
2. Phil Skinner, Chief of Staff
3. Alan Hurst, Solicitor General
4. Theo Wold, Former Solicitor General
5. David Dewhirst, Former Chief Deputy Attorney General
6. Tim Frost, Former Chief of Staff
7. Josh Turner, Deputy Solicitor General
8. James Craig, Acting Chief of Civil Litigation
9. Phil Broadbent, Chief Deputy Attorney General
10. Jeff Nye, Chief of Criminal Law Division
11. Former Attorney General Lawrence Wasden
12. Nicole McKay, Former Chief Deputy Attorney General
13. Janet Carter, Former Executive Assistant
14. Lincoln Davis Wilson, Former Chief of Civil Litigation



15. Steve Olsen, Former Chief of Civil Litigation
16. Mark Kubinski, Former Chief of Criminal Law

Key Terms:

- a. "Alliance Defending Freedom"
- b. ADF
- c. Waggoner
- d. Hawley
- e. Burch
- f. Harle
- g. Payne
- h. Bursch

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited part 3 of its request to emails sent by the listed 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 a listed official's response to an email containing a listed key term 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) the Office of the Idaho Attorney General Officials listed above, and (b) anyone communicating on behalf of Alliance Defending Freedom (including, but not limited to, anyone communicating from an email address ending in adflegal.org).

For part 4 of this request, please note that American Oversight does not seek, and 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 Attorney General Labrador received a mass-distribution news clip email from Alliance Defending Freedom, that initial email would not be responsive to this request. However, if Attorney General Labrador forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be provided.

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

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee.

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.
- 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 Idaho’s Public Records Act if they were “prepared” by your agency, including by an employee of your agency.¹
- 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.² 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.

¹ See I.C. § 74-101(13); *cf. Cowles Pub. Co. v. Kootenai Cty. Bd. of Cty. Comm’rs*, 144 Idaho 259, 263 (2007).

² I.C. § 74-112.

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.

Conclusion

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 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.³

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 Loree Stark at records@americanoversight.org or (304) 913-6114.

Sincerely,

/s/ Loree Stark
Loree Stark
on behalf of
American Oversight

³ American Oversight currently has approximately 16,000 followers on Facebook and 111,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Apr. 23, 2024); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Apr. 23, 2024).