AMERICAN OVERSIGHT

February 18, 2025

VIA ONLINE PORTAL

Douglas Hibbard
Chief, Initial Request Staff
Office of Information Policy
1425 New York Avenue, NW
Suite 11050
Washington, DC 20530
Via online portal

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, 28 C.F.R. Part 16, American Oversight makes the following request for records.

On January 21, 2025, Acting Deputy Attorney General Emil Bove issued a memo to Department of Justice (DOJ) employees directing prosecutors to prioritize the investigation and prosecution of public officials who do not comply with the Trump administration's immigration enforcement initiatives.[1] In the same memo, Bove referred to the "newly established Sanctuary Cities Enforcement Working Group, within the Office of the Associate Attorney General."[2] American Oversight seeks records with the potential to shed light on the establishment and operations of this working group.

Requested Records

American Oversight requests that DOJ produce the following records within twenty business days:

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by any of the DOJ officials listed below — and/or anyone communicating on their behalf, including a chief of staff, assistant, and/or secretary — and containing any of the key terms listed below.

[1] *See, e.g.*, Maria Sacchetti & Jeremy Roebuck, *DOJ Threatens to Prosecute Local Officials Over Immigration Enforcement*, Wash. Post, Jan. 22, 2025, https://www.washingtonpost.com/national-security/2025/01/22/justice-immigrantion-memo-sanctuary-cities/.
[2] *See* Mem. from Emil Bove to All Dep't Employees, *Interim Policy Changes Regarding Charging, Sentencing, and Immigration Enforcement*, Jan. 21, 2025, https://www.washingtonpost.com/documents/2f9af176-72c5-458a-adc4-91327aa80d11.pdf.

DOJ Officials:

i. Attorney General Pam Bondi
ii. Former Acting Attorney General James McHenry
iii. Anyone serving in the role of Associate Attorney General, including in an acting, interim, and/or temporary capacity
iv. Anyone serving in the role of White House Liaison, including in an acting, interim, and/or temporary capacity
v. The highest-ranking official partially or fully assigned to the Sanctuary Cities Enforcement Working Group that is not already identified in this list of DOJ officials

Key Terms:

i. Sanctuary
ii. Invasion
iii. "Stephen Miller"
iv. AFL
v. "America First Legal"
vi. "ICE"[3]
vii. "Immigration and Customs Enforcement"
viii. Progressive
ix. Woke
x. Wokism
xi. Wokeism
xii. Leftist
xiii. 287g
xiv. 287(g)
xv. "triple path"
xvi. "immigration enforcement"
xvii. "supremacy clause"
xviii. "federal supremacy"

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 one of this request to emails sent by any of the listed officials — and/or anyone communicating on their behalf, such as a chief of staff, assistant, and/or secretary. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means that both an individual's response to an email 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)

[3] American Oversight does not object to excluding results where "ICE" is the only key term to appear in the record and the term is not in reference to Immigration and Customs Enforcement.

between (a) any of the DOJ officials listed above in part one of this request — and/or anyone communicating on their behalf, including a chief of staff, assistant, and/or secretary — and (b) anyone communicating on behalf of any of the external jurisdictions listed below.

External Jurisdictions:

i. The city of New York, New York (including email addresses ending in nyc.gov)
ii. The city of Denver, Colorado (including email addresses ending in denvergov.org)
iii. The city of Philadelphia, Pennsylvania (including email addresses ending in phila.gov)

For part two of this request, American Oversight requests that complete email chains be produced, displaying both sent and received messages. This means that both a listed official's response to a responsive email and the initial received message are responsive to this request and should be produced.

3. All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms—such as X (formerly Twitter), Slack, GChat or Google Hangouts, Lync, Skype, WhatsApp, Signal, Parler, Microsoft Teams, or Facebook Messenger—telephone call logs, calendar invitations/entries, meeting notices, meeting agendas, informational material, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) between (a) any of the DOJ officials listed above in part one of this request — and/or anyone communicating on their behalf, including a chief of staff, assistant, and/or secretary — and (b) White House Deputy Chief of Staff Stephen Miller, anyone communicating on his behalf, and/or anyone communicating on behalf of America First Legal (including email communications from email addresses ending in aflegal.org).[4]

For all parts of this request, please provide all responsive records from January 20, 2025, through the date the search is conducted.

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

[4] For further identifying information, see, e.g., Steve Thompson, et al., *DOJ Focus on 'Sanctuaries' Follows Prison Threats by Miller's Group*, Wash. Post, Jan. 23, 2025, https://www.washingtonpost.com/immigration/2025/01/23/doj-sanctuary-immigration-stephen-miller/.

procedures by the general public in a significant way. Moreover, the request is 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."[8] The public has a significant interest in the establishment and operations of the Sanctuary Cities Enforcement Working Group at DOJ.[9] Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including the extent to which DOJ is dedicating personnel and resources to the investigation of sanctuary cities. 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 not primarily in the commercial interest of the requester."[10] In fact, 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 commercial 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 X (formerly Twitter).[11]

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.[12] Examples reflecting this commitment include the posting of records related to the first Trump Administration's contacts with Ukraine and analyses of those contacts;[13] posting records and editorial content about the federal government's response to the COVID-19 pandemic;[14] posting records received as part of American

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[8] 5 U.S.C. § 552(a)(4)(A)(iii).
[9] *See supra* note 1.
[10] 5 U.S.C. § 552(a)(4)(A)(iii).
[11] American Oversight currently has approximately 16,000 followers on Facebook and 95,700 followers on X (formerly Twitter). American Oversight, Facebook, https://www.facebook.com/weareoversight/ (last visited Feb. 17, 2025); American Oversight (@weareoversight), X (formerly Twitter), https://x.com/weareoversight (last visited Feb. 17, 2025).
[12] *See generally News*, American Oversight, https://www.americanoversight.org/blog.
[13] *Trump Administration's Contacts with Ukraine*, American Oversight, https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine.
[14] *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*

Oversight's "Audit the Wall" project to gather and analyze information related to the first Trump administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;[15] 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;[16] and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.[17]

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:

- 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 X (formerly Twitter) direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.

- 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

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Briefings and Meetings, American Oversight, https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings.

[15] *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.

[16] *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.

[17] *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.

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 the Federal Records Act and FOIA.[18] 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.[19]

- 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,[20] 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

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[18] *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).
[19] *See Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).
[20] 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.

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. 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 Loree Stark at foia@americanoversight.org or (304) 913-6114. 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/ Loree Stark
Loree Stark
on behalf of
American Oversight