



March 25, 2025

VIA EMAIL

New Mexico Department of Military Affairs
47 Bataan Blvd.
Santa Fe, NM 87508
TheresaV.Martinez@state.nm.us

Re: Public Records Act Request

Dear Custodian of Public Records:

Pursuant to the New Mexico Inspection of Public Records Act (IPRA), NMSA 1978, Chapter 14, Article 2, American Oversight makes the following request for copies of public records.

Requested Records

American Oversight requests that the New Mexico Department of Military Affairs produce the following records within three business days:¹

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by any of the New Mexico Department of Military Affairs officials listed below, and/or anyone communicating on their behalf, such as an assistant, secretary, and/or chief of staff, and containing any of the key terms listed below.

New Mexico Department of Military Affairs Officials:

- i. Miguel Aguilar, Adjutant General
- ii. Jamison Herrera, Deputy Adjutant General
- iii. Daniel Hughes, Chief of Staff, Army
- iv. Richard Smith, State Command Sergeant Major, Army National Guard

Key Terms:

- a. immigrant
- b. migrant
- c. immigration
- d. illegals
- e. alien

¹ If the inspection is not permitted within three business days, please explain in writing when the records will be available or when you will respond to the request and make the records available no later than fifteen days after receipt of this request. NMSA § 14-2-8.



- f. border
- g. sanctuary
- h. invade
- i. invasion
- j. “national emergency”

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 1 of this request to emails sent by the specified individuals. 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) between any of the New Mexico Department of Military Affairs officials listed above in part 1, and (b) any of the external entities listed below (including the listed domains).

External Entities:

- a. U.S. Customs and Border Protection (cbp.dhs.gov)
- b. U.S. Department of Homeland Security (hq.dhs.gov)
- c. U.S. Immigration and Customs Enforcement (ice.dhs.gov)
- d. White House Office (who.eop.gov)

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 responding to or forwarding such emails are responsive to this request. In other words, for example, if an official received a mass-distribution news clip email from U.S. Customs and Border Protection, that initial email would not be responsive to this request. However, if the official forwarded that email to another listed individual with their own commentary, that subsequent message would be responsive to this request and should be produced.

For both parts of this request, please provide all responsive records from January 20, 2025, 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.
- 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 IPRA.²
- 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.³ 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.

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.

² See Office of the New Mexico Attorney General, *Inspection of Public Records Act Compliance Guide* at 26 (8th ed. 2015) (“if email is used to conduct public business, the email is a public record even though a personal account is used”).

³ NMSA § 14-2-9(A).

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 X (formerly Twitter).⁴

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 Emma Lewis at records@americanoversight.org or (202) 919-6303.

Sincerely,

/s/ Emma Lewis

Emma Lewis

on behalf of

American Oversight

⁴ American Oversight currently has approximately 16,000 followers on Facebook and 95,400 followers on X (formerly Twitter). American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 6, 2025); American Oversight (@weareoversight), X (formerly Twitter), <https://x.com/weareoversight> (last visited Mar. 6, 2025).