AMERICAN OVERSIGHT

July 15, 2025

VIA ONLINE PORTAL

Department of Justice
Andrew Fiorillo
Acting Chief, Initial Request Staff
Office of Information Policy
6th Floor
441 G St. NW
Washington, DC 20530
Via Online Portal

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer:

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

On March 15, 2025, the Trump Administration announced the Proclamation "Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren De Aragua," which invoked the Alien Enemies Act to remove purported members of Tren De Aragua from the United States.[1] That same day, Trump Administration officials began removing more than 200 people they accused of being Tren de Aragua members to El Salvador to be detained in the CECOT prison.[2] In June 2025, former Department of Justice (DOJ) lawyer Erez Reuveni filed a whistleblower claim stating that Principal Associate Deputy Attorney General Emil Bove directed DOJ staffers to ignore court orders directing planes to return people actively being removed to El Salvador.[3] American Oversight seeks records with the potential to shed light on these matters, including whether and how the Trump Administration complied with court orders regarding the removal of people to El Salvador under the Alien Enemies Act.

[1] Proclamation No. 10903 (Mar. 15, 2025).
[2] *See, e.g.*, Cecilia Vega, *U.S. Sent 238 Migrants to Salvadoran Mega-Prison; Documents Indicate Most Have No Apparent Criminal Records*, CBS (Apr. 6, 2025, 7:00 PM), https://www.cbsnews.com/news/what-records-show-about-migrants-sent-to-salvadoran-prison-60-minutes-transcript/.
[3] *See, e.g.*, Devlin Barrett, *Justice Dept. Leader Suggested Violating Court Orders, Whistle-Blower Says*, N.Y. Times, June 24, 2025, https://www.nytimes.com/2025/06/24/us/politics/justice-department-emil-bove-trump-deportations-reuveni.html.

Requested Records

American Oversight seeks expedited review of this request for the reasons identified below and requests that the Department of Justice produce the following records as soon as practicable, and at least within twenty business days:

> All photographs, video recordings, and/or audio recordings of the removal of people to El Salvador taken or captured on March 15, 2025, and March 16, 2025. This includes, but is not limited to, video recordings of plane boardings in the United States or plane debarkations in El Salvador.
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> To the extent that these records contain timestamps or other metadata, American Oversight requests that your agency produce these as well as responsive to this request.

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 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."[4] The public has a significant interest in the Department of Justice's actions surrounding the invocation of the Alien Enemies Act, including officials' compliance with court orders issued in the case *J.G.G. v. Trump*.[5] Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including whether, and to what extent, Trump Administration officials knowingly defied court orders at the direction of Principal Associate Deputy Attorney General Emil Bove in support of President Trump's immigration agenda. 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.

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[4] 5 U.S.C. § 552(a)(4)(A)(iii).

[5] *See, e.g.*, Marc Caputo, *Exclusive: How the White House Ignored a Judge's Order to Turn Back Deportation Flights*, Axios, Mar. 16, 2025, https://www.axios.com/2025/03/16/trump-white-house-defy-judge-deport-venezuelans; Sarah N. Lynch, *Trump Judicial Nominee Pressured DOJ to Defy Court on Deportations, Whistleblower Says*, Reuters (June 24, 2025, 12:23 PM), https://www.reuters.com/legal/government/trump-judicial-nominee-pressured-doj-defy-court-deportations-whistleblower-says-2025-06-24/.

This request "is not primarily in the commercial interest of the requester."[6] 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).[7]

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.[8] Examples reflecting this commitment include the posting of records related to the first Trump Administration's contacts with Ukraine and analyses of those contacts;[9] posting records and editorial content about the federal government's response to the COVID-19 pandemic;[10] posting records received as part of American 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;[11] 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

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[6] 5 U.S.C. § 552(a)(4)(A)(iii).

[7] American Oversight currently has approximately 16,000 followers on Facebook and 94,500 followers on X (formerly Twitter). American Oversight, Facebook, https://www.facebook.com/weareoversight/ (last visited July 10, 2025); American Oversight (@weareoversight), X (formerly Twitter), https://x.com/weareoversight (last visited July 10, 2025).

[8] *See generally News*, American Oversight, https://www.americanoversight.org/blog.

[9] *Trump Administration's Contacts with Ukraine*, American Oversight, https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine.

[10] *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.

[11] *See generally Audit the Wall*, American Oversight, https://www.americanoversight.org/investigation/audit-the-wall; *see, e.g.*, *Audit the Wall: No Plans, No Funding, No Timeline, No Wall*, American Oversight, https://americanoversight.org/audit-the-wall-no-plans-funding-or-timeline-and-no-wall/.

waivers;[12] and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.[13]

Accordingly, American Oversight qualifies for a fee waiver.

Application for Expedited Processing

Pursuant to 5 U.S.C. § 552(a)(6)(E)(1) and 28 C.F.R. § 16.5(e)(1)(ii), American Oversight requests that your agency expedite the processing of this request.

I certify to be true and correct to the best of my knowledge and belief that the information requested is urgently needed in order to inform the public concerning actual or alleged government activity.[14] On March 14, 2025, President Trump signed the Proclamation "Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren De Aragua," invoking the Alien Enemies Act to deport purported members of the Tren De Aragua gang.[15] The Trump Administration did not publicize that the proclamation had been signed until the next day, March 15, after groups sued the Trump Administration over the action to prevent the immediate removal of people under the Alien Enemies Act without due process.[16] On March 15, Judge James Boasberg issued two temporary restraining orders in the case *J.G.G. v. Trump*

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[12] *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, American Oversight, https://www.documentcloud.org/documents/25544090-doj-records-relating-to-solicitor-general-noel-franciscos-recusal-american-oversight; *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.

[13] *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.

[14] 28 C.F.R. § 16.5(e)(1)(ii)

[15] *See, e.g.*, Zolan Kanno-Youngs et. al, *Trump Invoked the Alien Enemies Act to Speed Up Deportations: What to Know*, N.Y. Times, Mar. 17, 2025, https://www.nytimes.com/article/alien-enemies-act-trump.html; Rachel Treisman, *4 Things to Know About the Alien Enemies Act and Trump's Efforts to Use It*, NPR (Mar. 18, 2025, 10:58 AM), https://www.npr.org/2025/03/18/nx-s1-5331857/alien-enemies-act-trump-deportations.

[16] *See, e.g.*, Tim Balk, *A Timeline of the Trump Administration's Use of the Alien Enemies Act*, N.Y. Times, Apr. 19, 2025, https://www.nytimes.com/2025/04/19/us/politics/alien-enemies-act-timeline.html; Maria Sacchetti et al., *After Judge Blocks Alien Enemies Act, White House Claims Nearly 300 Already Deported*, Wash. Post, Mar. 16, 2025, https://www.washingtonpost.com/immigration/2025/03/15/trump-alien-enemies-venezuela-migrants-deportations/; Alan Feuer, *Appeals Court Weighs Trump's Use of Alien Enemies Act for Deportations*, N.Y. Times, June 30, 2025, https://www.nytimes.com/2025/06/30/us/politics/appeals-court-trump-alien-enemies-act-deportations.html.

preventing the government from removing people from the United States under the Alien Enemies Act.[17] However, the Trump Administration continued to deport people after Judge Boasberg's orders were issued, refusing to return planes and retain custody of the removed individuals as the court ordered, raising questions of whether the Trump Administration defied court orders.[18] In June 2025, former DOJ lawyer Erez Reuveni filed a whistleblower claim stating that Principal Associate Deputy Attorney General Emil Bove explicitly directed DOJ staffers to ignore Judge Boasberg's temporary restraining orders, claiming that Bove stated that the government "would need to consider telling the courts 'fuck you' and ignore any such court order."[19] There is an urgent need to obtain records regarding the actions of Trump Administration officials surrounding the court orders in *J.G.G. v. Trump* and the subsequent removal of people to El Salvador to inform the public about actual or alleged government activity regarding defying the temporary restraining orders issued by Judge Boasberg.

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[17] *See, e.g.*, Scott MacFarlane, *Judge Blocks Trump from Using Wartime Alien Enemies Act of 1798 to Deport Immigrants*, CBS (Mar. 17, 2025, 10:04 AM), https://www.cbsnews.com/news/venezuelan-immigrants-sue-trump-over-order-invoking-wartime-alien-enemies-act-of-1798/; Nicholas Riccardi & Will Weissert, *Trump Invokes 18th Century Law to Speed Deportations, Judge Stalls it Hours Later*, Associated Press (Mar. 16, 2025, 10:39 AM), https://apnews.com/article/trump-aclu-deportations-venezuelans-b2566f05b10bf1cde1caf467a3b001cc; Ximena Bustillo, *Federal Judge Blocks Trump's Plan to Target 'Alien Enemies' for Deportation*, NPR (Mar. 15, 2025, 7:56 PM), https://www.npr.org/2025/03/15/nx-s1-5246028/trump-alien-enemies-act-tren-de-aragua-deportation; Rebecca Beitsch, *Documents Detail DOJ Whistleblower's Account of Trump Court Order Defiance*, The Hill (July 10, 2025, 1:27 PM), https://thehill.com/regulation/court-battles/5394786-trump-administration-migrant-flights-contempt/.

[18] *See, e.g.*, Marc Caputo, *Exclusive: How the White House Ignored a Judge's Order to Turn Back Deportation Flights*, Axios, Mar. 16, 2025, https://www.axios.com/2025/03/16/trump-white-house-defy-judge-deport-venezuelans; Perry Stein & Jeremy Roebuck, *Texts, Emails Bolster Whistleblower Account of DOJ Defying Court Order*, Wash. Post (July 10, 2025, 2:39 PM), https://www.washingtonpost.com/national-security/2025/07/10/emil-bove-reuveni-justice-email-texts-whistleblower/;

[19] *See, e.g.*, Ben Penn, *DOJ Whistleblower Reinforces Claim Bove Defied Court Order*, Bloomberg (July 10, 2025, 12:02 PM), https://news.bloomberglaw.com/us-law-week/doj-whistleblower-reinforces-claim-emil-bove-defied-court-order; Carrie Johnson, *Fired Justice Department Lawyer Accuses Agency of Planning to Defy Court Orders*, NPR (June 24, 2025, 11:27 AM), https://www.npr.org/2025/06/24/g-s1-74316/justice-department-immigration-whistleblower; Ken Dilanian & Dareh Gregorian, *Whistleblower Says Top DOJ Official Suggested Ignoring Court Orders on Deportations*, NBC (June 25, 2025, 11:54 AM), https://www.nbcnews.com/politics/justice-department/whistleblower-says-top-doj-official-suggested-ignoring-court-orders-de-rcna214763; Devlin Barrett, *Justice Dept. Whistle-Blower Warns of Trump Administration's Assault on the Law*, N.Y. Times (July 10, 2025, 12:15 PM), https://www.nytimes.com/2025/07/10/us/politics/trump-bove-reuveni-whistleblower-doj-deportations.html.

Moreover, I certify to be true and correct to the best of my knowledge and belief that there is an urgent need to inform the public about whether and to what extent the Trump Administration and Principal Associate Deputy Attorney General Emil Bove knowingly defied court orders regarding the invocation of the Alien Enemies Act. The recent whistleblower disclosures indicate that Emil Bove is actively obstructing justice and the authority of the courts from his high-ranking position within the DOJ, and preemptively planned to defy court orders.[20] Additionally, Bove is currently nominated for a judicial appointment to the Third Circuit U.S. Court of Appeals; the Senate Judiciary Committee is set to vote on Bove's nomination on July 17, 2025.[21] Bove's confirmation to the Third Circuit U.S. Court of Appeals would task him with responsibilities of reviewing and upholding the law; the public requires the requested information to understand whether Emil Bove engaged in willfully defying a court order, with significant implications for his fitness to serve as a judge on the Third Circuit U.S. Court of Appeals. I also certify to be true and correct to the best of my knowledge and belief that there is widespread and exceptional media interest and there exist possible questions concerning the government's integrity, which affect public confidence.[22] There is widespread and exceptional media interest in the claims of the DOJ whistleblower that Emil Bove explicitly directed officials to plan to defy court orders and remove people to El Salvador after temporary restraining orders were

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[20] *See, e.g.*, Sam Levine, *DOJ Whistleblower Provides Emails Backing Claim Emil Bove Defied Courts Over Deportations*, Guardian (July 10, 2025, 1:50 PM), https://www.theguardian.com/us-news/2025/jul/10/doj-whistleblower-deportations-emil-bove; Nikki McCann Ramirez, *Texts Reveal Trump DOJ's Strategy for Handling Courts: 'F-ck You'*, Rolling Stone, July 10, 2025, https://www.rollingstone.com/politics/politics-news/emil-bove-doj-ignore-court-orders-whistleblower-1235370918/; Alexander Mallin, *Whistleblower Complaint Alleges Top DOJ Official Emil Bove Said He Was Willing to Violate Court Orders*, ABC (June 24, 2025, 6:24 PM), https://abcnews.go.com/US/whistleblower-complaint-alleges-top-doj-official-emil-bove/story?id=123167302.

[21] *See, e.g.*, Scott MacFarlane, *Whistleblower's Texts Suggest Trump Judicial Nominee Emil Bove Urged Lawyer to Defy Court Order*, CBS (July 10, 2025, 11:45 AM), https://www.cbsnews.com/news/whistleblowers-texts-allude-to-alleged-bove-directive-to-defy-court-order/; Hailey Fuchs, *Senate Judiciary Eyes Next Week for Votes on Two Contentious Nominees*, Politico (July 8, 2025, 5:42 PM), https://www.politico.com/live-updates/2025/07/08/congress/panel-sets-vote-for-two-contentious-judicial-noms-00443022; Carrie Johnson, *Trump's Appeals Judge Nominee Says He's No One's 'Henchman'*, NPR (June 25, 2025, 3:20 PM), https://www.npr.org/2025/06/25/g-s1-74064/trump-emil-bove-judge-nomination; Devlin Barrett, *Bove Denies Suggesting Justice Dept. Ignore Court Orders*, N.Y. Times, June 25, 2025, https://www.nytimes.com/2025/06/25/us/politics/emil-bove-confirmation.html; Alanna Durkin Richer, *Trump Judicial Nominee Bove Denies Advising Justice Department Lawyers to Ignore Court Orders*, AP (June 25, 2025, 9:38 PM), https://apnews.com/article/bove-justice-department-judge-nomination-trump-efea8c93ad892f1eb000321939a7283c.

[22] 28 C.F.R. § 16.5(e)(1)(iv)

issued.[23] The allegations that Trump Administration leadership intentionally and knowingly violated the temporary restraining orders raises serious and heightened questions about the government's integrity that affect public confidence.[24] According to 28 C.F.R. § 16.5(e)(2), "[r]equests for expedited processing that are based on [28 C.F.R. § 16.5(e)(1)(iv)] must be submitted to the Director of Public Affairs at the Office of Public Affairs, Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530-0001." However, based on my prior efforts to comply with that provision on other requests, my understanding is that by submitting our request to OIP, we are in

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[23] *See, e.g.*, Suzanne Monyak, *Bove Told DOJ Lawyers to Ignore Court Orders, Whistleblower Says*, Bloomberg (June 24, 2025, 10:50 AM), https://news.bloomberglaw.com/us-law-week/whistleblower-alleges-bove-said-to-ignore-court-orders-at-doj; Katelyn Polantz & Annie Grayer, *Documents Back Up DOJ Whistleblower's Claim That Top Official Intended to Ignore Court Orders, Top Judiciary Democrat Says*, CNN (July 10, 2025, 12:36 PM), https://www.cnn.com/2025/07/10/politics/justice-department-ignore-court-orders-emil-bove-erez-reuveni; Jacob Knutson, *Senior DOJ Official Suggested Department Tell Courts 'F*** You' And Ignore Orders, Whistleblower Says*, Democracy Docket, June 24, 2025, https://www.democracydocket.com/news-alerts/emil-bove-justice-department-ignore-court-orders-whistleblower-complaint/; Luke Broadwater et al., *A Judge Ordered Deportation Planes to Turn Around. The White House Didn't Listen.*, N.Y. Times, Apr. 8, 2025, https://www.nytimes.com/2025/03/17/us/politics/timeline-trump-deportation-flights-el-salvador.html; Nicholas Riccardi & Regina Garcia Cano, *A Timeline of the Legal Wrangling and Deportation Flights After Trump Invoked the Alien Enemies Act*, Associated Press (Mar. 18, 2025, 10:47 AM), https://apnews.com/article/trump-deportation-courts-aclu-venezuelan-gang-timeline-43e1deafd66fc1ed4e934ad108ead529.

[24] *See, e.g.*, Ashleigh Field, *Whistleblower Says Senior DOJ Official Expressed Willingness to Ignore Court Orders*, The Hill (June 24, 2025, 4:12 PM), https://thehill.com/homenews/administration/5367104-whistleblower-doj-emil-bove/; Alanna Durkin Richer, *Trump Judicial Nominee Suggested Ignoring Court Orders on Deportations, Whistleblower Claims*, AP (June 24, 2025, 4:01 PM), https://apnews.com/article/justice-department-emil-bove-judge-deportations-trump-3800859fc5035bfa7f091ebc97711fb8; Laura Barrón-López et al., *White House Ignores Court and Invokes Alien Enemies Act to Deport Hundreds of Venezuelans*, PBS (Mar. 17, 2025, 6:55 PM), https://www.pbs.org/newshour/show/white-house-ignores-court-and-invokes-alien-enemies-act-to-deport-hundreds-of-venezuelans; Jacob Knutson, *Has the Trump Admin Officially Defied Court Orders?*, Democracy Docket, Mar. 17, 2025, https://www.democracydocket.com/news-alerts/trump-deportation-defy-court-orders/; Justin Jouvenal et al., *Trump Escalates Fight With Federal Courts Over Deportation Authority*, Wash. Post (Mar. 17, 2025, 10:01 PM), https://www.washingtonpost.com/politics/2025/03/17/trump-court-orders-defy-deportations/; Katherine Faulders, *Trump Administration Ignores Judge's Order to Turn Deportation Planes Around*, ABC (Mar. 16, 2025, 6:54 PM), https://abcnews.go.com/US/trump-admin-ignores-judges-order-bring-deportation-planes/story?id=119857181.

compliance with that requirement. **If that understanding is incorrect, please let me know as soon as possible via the below contact information.**

I further certify that American Oversight is primarily engaged in disseminating information to the public. 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. Similar to other organizations that have been found to satisfy the criteria necessary to qualify for expedition,[25] American Oversight "'gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.'"[26] American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, and 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.[27] As discussed previously, American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content.[28]

Accordingly, American Oversight's request satisfies the criteria for expedition.

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[25] *See ACLU v. U.S. Dep't of Justice*, 321 F. Supp. 2d 24, 30–31 (D.D.C. 2004); *EPIC v. Dep't of Defense*, 241 F. Supp. 2d 5, 15 (D.D.C. 2003).
[26] *ACLU*, 321 F. Supp. 2d at 29 n.5 (quoting *EPIC*, 241 F. Supp. 2d at 11).
[27] American Oversight currently has approximately 16,000 followers on Facebook and 94,500 followers on X (formerly Twitter). American Oversight, Facebook, https://www.facebook.com/weareoversight/ (last visited July 14, 2025); American Oversight (@weareoversight), X (formerly Twitter), https://x.com/weareoversight (last visited July 14, 2025).
[28] *See generally News*, American Oversight, https://www.americanoversight.org/blog; *see, e.g.*, *Emails and Resume of Trump's Pick to Head Government Personnel Office*, American Oversight, https://www.americanoversight.org/emails-and-resume-of-trumps-pick-to-head-government-personnel-office; *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; *State Department Releases Ukraine Documents to American Oversight*, American Oversight, https://www.americanoversight.org/state-department-releases-ukraine-documents-to-american-oversight; *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, American Oversight, https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business; *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, American Oversight, https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia; *Sessions' Letter Shows DOJ Acted On Trump's Authoritarian Demand to Investigate Clinton*, American Oversight, https://www.americanoversight.org/sessions-letter.

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 the Federal Records Act and FOIA.[29] 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.[30]

- 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,[31] and many

[29] *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).
[30] *See Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).
[31] 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

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.

- 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 Elizabeth Haddix at foia@americanoversight.org or (252) 359-7424. Also, if American Oversight's request

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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.

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

Sincerely,

/s/ Elizabeth Haddix
Elizabeth Haddix
on behalf of
American Oversight