



March 26, 2018

**VIA ONLINE PORTAL & ELECTRONIC MAIL**

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Via FOIAOnline

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**Re: Expedited Freedom of Information Act Request**

Dear FOIA Officers:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of the Department of Justice (DOJ), 28 C.F.R. Part 16, American Oversight makes the following request for records.

Immigration-related issues have taken center stage since the beginning of the Trump administration. On September 5, 2017, Attorney General Jeff Sessions formally announced that the administration had decided to rescind the Deferred Action for Childhood Arrivals (DACA) program, which afforded legal protections to approximately 800,000 undocumented immigrants who entered the United States as children.<sup>1</sup> Mr. Sessions described DACA as “an unconstitutional exercise of authority by the Executive Branch,” citing this purported legal infirmity as a basis for scrapping the program.<sup>2</sup>

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<sup>1</sup> Vanessa Romo et al., *Trump Ends DACA, Calls on Congress to Act*, NPR (Sept. 5, 2017, 12:25 PM) <http://www.npr.org/2017/09/05/546423550/trump-signals-end-to-daca-calls-on-congress-to-act>.

<sup>2</sup> Text of Attorney General Sessions’ Statement on Rescinding DACA, MARKETWATCH (Sept. 5, 2017, 11:50 AM), <http://www.marketwatch.com/story/text-of-attorney-general-sessions-statement-on-rescinding-daca-2017-09-05>.



Mr. Sessions has also taken a hardline position against sanctuary cities. On November 15, 2017, DOJ sent letters to 29 jurisdictions threatening to rescind the agency's Byrne Justice Assistance Grants unless the jurisdictions complied with federal immigration law.<sup>3</sup> On January 24, 2018, DOJ sent follow up letters to 23 of the jurisdictions that received the November 15 warning letters demanding that the jurisdictions produce any documents including guidance or directives from local officials to law enforcement officers on how to respond to immigration-related inquiries from DOJ or the Department of Homeland Security.<sup>4</sup>

The examples above show how DOJ's positions on immigration directly impact state immigration policy. In turn, state policy affects how local communities respond to federal immigration enforcement in their jurisdictions. Local communities also elect representatives to Congress to represent their community's views including on immigration policy. Members of Congress are routinely involved in congressional oversight activities including the review, monitoring, and supervision of DOJ and other federal agencies. In the past, members of Congress have sent letters to Mr. Sessions on immigration-related issues.<sup>5</sup> Because members of Congress ultimately represent the interests of their constituents, the public is entitled to any communications between DOJ officials and their elected representatives concerning immigration, a contentious area that has been at the forefront of public debate and scrutiny since the new administration took office. These communications have the potential to reveal whether elected representatives are adequately representing their constituents in the oversight of DOJ, an executive branch agency, on immigration-related decisions. The communications are especially important in the current climate because many Congressional seats and state governorships are up for reelection in November.<sup>6</sup> Notably, many of these seats are also in states that received warning letters from DOJ for "flouting" federal immigration law.

American Oversight seeks records that have the potential to shed light on conversations between DOJ officials and members of Congress in districts that are up for reelection in November.

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<sup>3</sup> Press Release, Dep't of Justice Office of Pub. Affairs, Justice Department Sends Letters to 29 Jurisdictions Regarding Their Compliance with 8 U.S.C. 1373 (Nov. 15, 2017), <https://www.justice.gov/opa/pr/justice-department-sends-letters-29-jurisdictions-regarding-their-compliance-8-usc-1373>.

<sup>4</sup> *Id.*

<sup>5</sup> Letter from Dianne Feinstein & Kamala D. Harris, U.S. Senators, to Jeff Sessions, Attorney Gen., U.S. Dep't of Justice, and Kirstjen M. Nielsen, Sec'y, U.S. Dep't of Homeland Sec., (Jan. 17, 2018), <https://assets.documentcloud.org/documents/4355037/Feinstein-Harris-Justice-Department-Letter.pdf>.

<sup>6</sup> Keith Collins, *2018 Election Calendar and Results*, N.Y. TIMES, Mar. 14, 2018, <https://www.nytimes.com/interactive/2018/us/elections/calendar-primary-results.html>; Jordan Larson & Matt Stieb, *What's at Play in the 2018 House of Representatives Races*, N.Y. MAGAZINE, Nov. 16, 2017, <http://nymag.com/daily/intelligencer/article/2018-midterm-election-tracker-house.html>.

## **Requested Records**

American Oversight requests that DOJ produce the following within twenty business days and seeks expedited review of this request for the reasons identified below:

All records reflecting communications (including email attachments, notes, telephone call logs, calendar invitations/entries, meeting notices, meeting agendas, informational material, talking points, any handwritten or electronic notes taken during any responsive communications, summaries of any responsive communications, legislation, guidance documents, white papers, policy statements, statements of principles, decision memoranda, and final or draft form directives) between a. Attorney General Jeff Sessions, Deputy Attorney General Rod Rosenstein, former Associate Attorney General Rachel Brand and Acting Associate Attorney General Jesse Panuccio, Assistant Attorney General for the Civil Division Joseph Hunt, Assistant Attorney General for the Civil Rights Division Eric Dreiband, or Assistant Attorney General for the Office of Legislative Affairs Stephen E. Boyd (or any political appointee acting on their behalf) and b. any of the following members of Congress (or any staffers acting on their behalf), concerning immigration raids, detention, and deportation; border protection; sanctuary city policies; or Deferred Action for Childhood Arrivals (DACA), from September 5, 2017, to the date of the search:

1. Senator Joe Donnelly (IN)
2. Senator Tina Smith (MN)
3. Senator Claire McCaskill (MO)
4. Senator Dean Heller (NV)
5. Senator Heidi Heitkamp (ND)
6. Senator Bob Corker (TN)
7. Senator Ted Cruz (TX)
8. Senator Joe Manchin (WV)
9. Representative Jeff Denham (CA-10)
10. Representative Steve Knight (CA-25)
11. Representative Dana Rohrabacher (CA-48)
12. Representative Carlos Curbelo (FL-26)
13. Representative Peter Roskam (IL-6)
14. Representative Mike Bost (IL-12)
15. Representative Jason Lewis (MN-2)
16. Representative Erik Paulsen (MN-3)
17. Representative John Faso (NY-19)
18. Representative Claudia Tenney (NY-22)
19. Representative Ryan Costello (PA-6)
20. Representative John Culberson (TX-7)

In addition to the records requested above, American Oversight also requests records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched and any tracking sheets used to track the processing of this

request. If DOJ uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

American Oversight seeks all 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 includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

Please search all records regarding agency business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Records of official business conducted using unofficial systems or stored outside of official files is subject to the Federal Records Act and FOIA.<sup>7</sup> **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, through negligence or willfulness, failed to meet their obligations.**<sup>8</sup>

In addition, please note that in conducting a “reasonable search” as required by law, you must employ the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology may have rendered DOJ’s prior FOIA practices unreasonable. **In light of the government-wide requirements to manage information electronically by the end of 2016, it is no longer reasonable to rely exclusively on custodian-driven searches.**<sup>9</sup> Furthermore, agencies that have adopted the National Archives and

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<sup>7</sup> 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).

<sup>8</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016) (“The Government argues that because the agency had a policy requiring [the official] to forward all of his emails from his [personal] account to his business email, the [personal] account only contains duplicate agency records at best. Therefore, the Government claims that any hypothetical deletion of the [personal account] emails would still leave a copy of those records intact in [the official’s] work email. However, policies are rarely followed to perfection by anyone. At this stage of the case, the Court cannot assume that each and every work related email in the [personal] account was duplicated in [the official’s] work email account.” (citations omitted)).

<sup>9</sup> 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

**Records Agency (NARA) Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians' files.** For example, a custodian may have deleted a responsive email from his or her email program, but DOJ's archiving tools would capture that email under Capstone. Accordingly, American Oversight insists that DOJ use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. American Oversight is available to work with you to craft appropriate search terms. **However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information "only if . . . disclosure would harm an interest protected by an exemption" or "disclosure is prohibited by law."<sup>10</sup> If it is your position that any portion of the requested records is exempt from disclosure, American Oversight requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity "to permit a reasoned judgment as to whether the material is actually exempt under FOIA."<sup>11</sup> Moreover, the *Vaughn* index "must describe *each* document or portion thereof withheld, and for *each* withholding it must discuss the consequences of disclosing the sought-after information."<sup>12</sup> Further, "the withholding agency must supply 'a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.'"<sup>13</sup>

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 it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document.<sup>14</sup> Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

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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>.

<sup>10</sup> FOIA Improvement Act of 2016 § 2 (Pub. L. No. 114-185).

<sup>11</sup> *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).

<sup>12</sup> *King v. U.S. Dep't of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis in original).

<sup>13</sup> *Id.* at 224 (citing *Mead Data Central, Inc. v. U.S. Dep't of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977)).

<sup>14</sup> *Mead Data Central*, 566 F.2d at 261.

**You should institute a preservation hold on information responsive to this request.** American Oversight intends to pursue all legal avenues to enforce its right of access under FOIA, including litigation if necessary. Accordingly, DOJ is on notice that litigation is reasonably foreseeable.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, 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 DOJ can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF 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.

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.10(k), 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.<sup>15</sup> Moreover, the request is primarily and fundamentally for non-commercial purposes.<sup>16</sup>

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 government operations and activities.<sup>17</sup> There is significant public interest in the communications between DOJ officials and members of Congress in districts that are up for reelection in November or in states with contested governorships in November. The public deserves to know what positions their current elected representatives have taken with respect to immigration-related issues such that they can make informed choices in the upcoming elections. As discussed below, American Oversight has the capacity and intention to inform a broad audience about government activities that are the subject of these records.

This request is primarily and fundamentally for non-commercial purposes.<sup>18</sup> 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

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<sup>15</sup> 28 C.F.R. § 16.10(k)(1).

<sup>16</sup> *Id.*

<sup>17</sup> 28 C.F.R. § 16.10(k)(1), (2)(i)-(ii).

<sup>18</sup> 28 C.F.R. § 16.10(k)(1), (2)(iii).

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.<sup>19</sup> American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content. For example, after receiving records regarding an ethics waiver received by a senior DOJ attorney,<sup>20</sup> American Oversight promptly posted the records to its website and published an analysis of what the records reflected about DOJ's process for ethics waivers.<sup>21</sup> As another example, American Oversight has a project called "Audit the Wall," where the organization is gathering and analyzing information and commenting on public releases of information related to the administration's proposed construction of a barrier along the U.S.-Mexico border.<sup>22</sup>

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), (iv), American Oversight requests that DOJ 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. Any communications concerning immigration raids, detention, deportation, border protection, sanctuary city policies, or Deferred Action for Childhood Arrivals (DACA) between DOJ officials and members of Congress (or their staff) in states with seats up for reelection or gubernatorial elections are the subject of widespread exceptional media interest.<sup>23</sup>

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<sup>19</sup> American Oversight currently has approximately 11,900 page likes on Facebook and 41,700 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Mar. 26, 2018); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Mar. 26, 2018).

<sup>20</sup> *DOJ Civil Division Response Noel Francisco Compliance*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>.

<sup>21</sup> *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>.

<sup>22</sup> *Audit the Wall*, AMERICAN OVERSIGHT, [www.auditthewall.org](http://www.auditthewall.org).

<sup>23</sup> Maggie Fox, *Trump Immigration Policies Stress Out Parents and Kids Alike*, NBC NEWS (Mar. 2, 2018, 8:41 AM), <https://www.nbcnews.com/health/health-news/trump-immigration-policies-stress-out-parents-kids-alike-n852306>; Matt Welch, *Trump and Sessions Are Weaving Immigration Policy from Propagandistic Fantasy*, L.A. TIMES, Mar. 14, 2018, <http://www.latimes.com/opinion/op-ed/la-oe-welch-immigration-rhetoric-policy-20180314-story.html>; Ina Jaffe, *U.S. Immigration Policy Threatens Shake-Up in Home Health Business*,

This is because DOJ's actions directly impact states and local communities. Local communities, in turn, elect congressional representatives who are responsible for the oversight of DOJ. Local community members have an interest in knowing whether their elected representatives are adequately representing their community's views on immigration.

DOJ has taken a series of immigration-related positions that have had direct consequences on states and local jurisdictions. On September 5, 2017, Mr. Sessions announced that DACA was an unconstitutional exercise of executive power. Since the announcement, Congress has debated extensively whether to legalize DACA recipients. Several pieces of legislation have been floated in Congress including the DREAM Act and the SUCCEED Act which lay out different alternatives for a path to legalization for DACA recipients. DACA has also been the subject of Congressional deal making. On another immigration-related front, DOJ has targeted states and localities deemed "sanctuary jurisdictions" by threatening to pull grants unless states comply with the law. Earlier this month, Mr. Sessions filed a lawsuit against California for its sanctuary policies which, according to Mr. Sessions, favor "criminal aliens" over "law-abiding citizens."

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 communications between DOJ officials and certain members of Congress on contentious immigration policies well in advance of the midterm elections. The American people need access to this information with sufficient time to push elected representatives to either take a particular position on immigration-related issues or make an informed decision on who to elect in the upcoming midterm elections.<sup>24</sup>

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NPR (Mar. 5, 2018, 5:00 AM), <https://www.npr.org/sections/health-shots/2018/03/05/587691189/immigrants-who-staff-home-health-care-in-the-u-s-worry-about-deportation>.

<sup>24</sup> Tony Cook & Arika Herron, *New Practice in Indiana: No Professional Licenses for DACA Recipients*, INDIANAPOLIS STAR (Feb. 27, 2018, 6:55 PM), <https://www.indystar.com/story/news/politics/2018/02/27/new-practice-indiana-no-professional-licenses-daca-recipients/373717002/>; Laura Litvan & Sahil Kapur, *Immigration Plans Stuck in Congressional Limbo as Deadlines Loom*, DENVER POST (Feb. 20, 2018, 8:04 AM), <https://www.denverpost.com/2018/02/20/congress-immigration-solution-limbo/>; Maureen Groppe, *Indiana Senate Race Generates Most Advertising in the Nation*, USA TODAY (Mar. 15, 2018, 4:34 PM), <https://www.usatoday.com/story/news/politics/onpolitics/2018/03/15/indiana-senate-race-generates-most-advertising-nation/429596002/>; Jessie Van Berkel, *Sen. Tina Smith Emphasizes Workforce Shortage at First Minnesota Appearance Since Swearing-in*, STAR TRIBUNE (Jan. 5, 2018, 9:07 PM), <http://www.startribune.com/sen-tina-smith-emphasizes-workforce-shortage-at-first-minnesota-appearance-since-swearing-in/468182733/>; Shahla Farzan, *Missouri Dreamers and Allies for Long-Term Immigration Solution*, ST. LOUIS PUB. RADIO (Mar. 5, 2018), <http://news.stlpublicradio.org/post/missouri-dreamers-and-allies-press-long-term-immigration-solution#stream/0>; Burgess Everett, *Heller, Facing Primary Challenge in Nevada, Leans Toward Backing Trump on Immigration*, POLITICO, Feb. 12, 2018, <https://www.politico.com/story/2018/02/12/heller-trump-immigration-nevada-406467>; Sam Easter, *Sen. Heidi Heitkamp Wins Dem-NPL Endorsement*, BISMARCK TRIBUNE, Mar. 17, 2018,

I further certify that American Oversight is primarily engaged in disseminating information to the public.<sup>25</sup> 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,<sup>26</sup> 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.”<sup>27</sup> 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.<sup>28</sup> As discussed previously, American Oversight has

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[http://bismarcktribune.com/news/state-and-regional/sen-heidi-heitkamp-wins-dem-npl-endorsement/article\\_b5b49a58-98a4-50bf-bba3-02048659fdbd.html](http://bismarcktribune.com/news/state-and-regional/sen-heidi-heitkamp-wins-dem-npl-endorsement/article_b5b49a58-98a4-50bf-bba3-02048659fdbd.html); Meghan Mangrum, *Local DACA Recipients Are Fundraising for a Dream*, CHATTANOOGA TIMES FREE PRESS (Feb. 24, 2018), <http://www.timesfreepress.com/news/local/story/2018/feb/24/local-dacreipients-are-fundraising-dollars-d/464499/>; Maya Rhodan, *What the Texas Primary Results Could Reveal About Immigration in 2018 Elections*, TIME, Mar. 6, 2018, <http://time.com/5188008/texas-primary-results-immigration/>; Patrick Svitek, *TX-21 Primary Showcases Intra-Party Conundrum for Texas Democrats in Trump Era*, TEX. TRIBUNE, Feb. 28, 2018, <https://www.texastribune.org/2018/02/28/left-or-center-tx-21-primary-shows-conundrum-texas-democrats-trump-era/>; Kendall Karson, *West Virginia’s Manchin Confirms He’ll Seek Re-Election, Renewing Democratic Hopes*, ABC NEWS (Jan. 24, 2018, 2:35 PM), <http://abcnews.go.com/Politics/west-virginias-manchin-confirms-hell-seek-election-renewing/story?id=52582240>; Garth Stapley, *Denham Among Eight Running for Congressional Seat. How Do They All Stack Up?*, MODESTO BEE (Mar. 17, 2018, 5:08 PM), <http://www.modbee.com/news/politics-government/election/article205419754.html>; Joe Garofoli, *Democrats Have 2 Problems: No Coherent Message and Too Many Candidates*, S.F. CHRONICLE, Mar. 12, 2018, <https://www.sfchronicle.com/politics/article/Democrats-have-2-problems-no-coherent-message-12747921.php>; Louis Jacobson, *Handicapping the 2018 Congressional Races in Florida*, TAMPA BAY TIMES, Dec. 5, 2017, <http://www.tampabay.com/florida-politics/buzz/2017/12/05/handicapping-the-2018-congressional-races-in-florida/>; Jacob Pramuk, *Another Possible Shutdown Looms and Illinois Heads to the Polls: What to Watch in the Fight for Congress This Week*, CNBC (Mar. 19, 2018, 1:05 PM), <https://www.cnbc.com/2018/03/19/government-shutdown-looms-and-illinois-holds-primary-election.html>; Brian Bakst, *How Minnesota’s Representatives Reacted to Trump’s DACA Deadline*, MPR NEWS (Sep. 6, 2017), <https://www.mprnews.org/story/2017/09/06/minnesota-reacts-to-daca-decision>.

<sup>25</sup> 6 C.F.R. § 5.5(e)(1)(ii).

<sup>26</sup> 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).

<sup>27</sup> *ACLU*, 321 F. Supp. 2d at 29 n.5 (quoting *EPIC*, 241 F. Supp. 2d at 11).

<sup>28</sup> American Oversight currently has approximately 11,800 page likes on Facebook and 41,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight>

demonstrated its commitment to the public disclosure of documents and creation of editorial content.<sup>29</sup>

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

### **Conclusion**

We share a common mission to promote transparency in government. American Oversight looks forward to working with DOJ on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Pooja Chaudhuri at [foia@americanoversight.org](mailto:foia@americanoversight.org) or 202.897.3918. 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,



Austin R. Evers  
Executive Director  
American Oversight

cc: Sarah Isgur Flores, Director, Office of Public Affairs

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(last visited Mar. 13, 2018); American Oversight (@weareoversight), TWITTER (last visited Mar. 13, 2018).

<sup>29</sup> See *DOJ Civil Division Response Noel Francisco Compliance*, 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>; *Audit the Wall*, AMERICAN OVERSIGHT, [www.auditthewall.org](http://www.auditthewall.org).