



September 23, 2019

VIA EMAIL

Dionne Hardy
U.S. Office of Management and Budget
725 17th Street NW
Suite 9204
Washington, DC 20503
OMBFOIA@omb.eop.gov

Re: Freedom of Information Act Request

Dear Ms. Hardy:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, 5 C.F.R. Part 1303, American Oversight makes the following request for records.

Gun violence continues to ravage individuals and communities across the United States, with an average of one mass shooting (defined as shootings with four or more victims, including the shooter) every day, as well as far more smaller scale acts, including homicides, suicides, and accidents.¹ As the public calls for federal action on gun control,² news outlets have reported that Michael Williams—a former general counsel for the American Suppressor Association, a lobby group for gun silencer manufacturers and distributors, and law clerk for the National Rifle Association’s Institute for Legislative Action—has taken on a leading role on gun policy at the White House.³ American

¹ German Lopez, *America’s Unique Gun Violence Problem, Explained in 16 Maps and Charts*, VOX (Aug. 31, 2019, 8:10 PM), <https://www.vox.com/policy-and-politics/2017/10/2/16399418/us-gun-violence-statistics-maps-charts>.

² Laura Santhanam, *Most Americans Support These 4 Types of Gun Legislation, Poll Says*, PBS (Sept. 10, 2019, 2:02 PM), <https://www.pbs.org/newshour/politics/most-americans-support-strict-gun-laws-new-poll-says>; Leigh Paterson, *Poll: Americans, Including Republicans and Gun Owners, Broadly Support Red Flag Laws*, NPR (Aug. 20, 2019, 5:01 AM), <https://www.npr.org/2019/08/20/752427922/poll-americans-including-republicans-and-gun-owners-broadly-support-red-flag-law>; Domenico Montanaro, *Americans Largely Support Gun Restrictions to ‘Do Something’ About Gun Violence*, NPR, Aug. 10, 2019, <https://www.npr.org/2019/08/10/749792493/americans-largely-support-gun-restrictions-to-do-something-about-gun-violence>.

³ Elizabeth Landers, *He Used to Work at the NRA. Now He’s Shaping Gun Policy at the White House*, VICE (Sept. 11, 2019, 2:18 PM), https://www.vice.com/en_us/article/d3a3bj/he-used-to-work-at-the-nra-now-hes-shaping-gun-policy-at-the-white-house.



Oversight seeks records that will shed light on whether and to what extent Mr. Williams communicated with gun rights advocates, including his former employers, while serving as an Advisor at the U.S. Office of Management and Budget (OMB).

Requested Records

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

1. All emails (including emails, email attachments, calendar invitations, and calendar invitation attachments) sent by former OMB Advisor Michael Williams to any of the external individuals listed below.

In an effort to accommodate OMB and reduce the number of potentially responsive records, American Oversight agrees that the search for responsive email communications may be limited to emails sent by Mr. Williams. Despite this search accommodation, American Oversight still requests that complete email chains be produced, displaying both sent and received messages.

2. To the extent not captured by item 1 of this request, any calendar entries reflecting meetings involving Mr. Williams and any of the external individuals listed below.

External Individuals:

- i. Employees or representatives of the National Rifle Association (NRA) and its affiliates, such as the NRA's Institute for Legislative Action, including Chris Cox, Wayne LaPierre, Oliver North, Carolyn Meadows, John Commerford, Shannon Alford, and anyone with an email address ending in @nra.org, @nrahq.org, @nraila.org, or @am.com;
- ii. Employees or representatives of Gun Owners of America (GOA) and its affiliates, including H.L. "Bill" Richardson, Tim Macy, Erich Pratt, Larry Pratt, Michael Hammond, John Velleco, and anyone with an email address ending in @gunowners.org;
- iii. Employees or representatives of National Association for Gun Rights and its affiliates, including Dudley Brown, Zach Lautenschlager, Ryan Flugaur, Chris Stone, and anyone with an email address ending in @nationalgunrights.org;
- iv. Employees or representatives of the Second Amendment Foundation and its affiliates, including Joseph Tartaro, and anyone with an email address ending in @saf.org;

- v. Employees or representatives of the Citizens Committee for the Right to Keep and Bear Arms and its affiliates, including Dave Workman, and anyone with an email address ending in @ccrkba.org;
- vi. Employees or representatives of the American Suppressor Association and its affiliates, including Know Williams, Owen Miller, and anyone with an email address ending in @AmericanSuppressorAssociation.com;
- vii. Employees or representatives of the Silencer Shop and its affiliates, including Dave Matheny, and anyone with an email address ending in @silencership.com;
- viii. Employees or representatives of Daniel Defense and its affiliates, including Marty Daniel, and anyone with an email address ending in @danieldefense.com;
- ix. Employees or representatives of AMMO Inc. and its affiliates, including Fred Wagenhals, Steven Hilko, Mark Hanish, and anyone with an email address ending in @ammo-inc.com.
- x. Employees or representatives of On Message Inc., including Curt Anderson, Wes Anderson, Brad Todd, Orrin “Guy” Harrison, Graham Shafer, Timothy Teepell, and anyone with an email ending in @onmessageinc.com;
- xi. Employees or representatives of Starboard Strategic, Inc., including Curt Anderson, Wes Anderson, Brad Todd, Orrin “Guy” Harrison, Graham Shafer, Timothy Teepell, and anyone with an email ending in @starboardstrategicinc.com;
- xii. Marion Hammer, Executive Director, Unified Sportsmen of Florida (including but not limited to any emails sent to, sent from, or including as a recipient MPHammer1@aol.com);
- xiii. Randy Luth, Founder and Owner, Luth-AR, LLC;
- xiv. Bobby Cox, Director of Government Strategy, Sig Sauer;
- xv. Julianne Versnel; or
- xvi. Alan M. Gottlieb.

Please provide all responsive records from January 20, 2017, through April 12, 2019.

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 primarily and fundamentally 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 federal action to reduce gun violence, including mass shootings.⁵ Records with the potential to shed light on whether key officials with ties to the gun industry and gun rights advocates have maintained communication with those groups since taking office would contribute significantly to public understanding of operations of the federal government, including the extent to which the such groups are influencing federal policy.⁶ 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 primarily and fundamentally for non-commercial purposes.⁷ 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 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

⁴ 5 U.S.C. § 552(a)(4)(A)(iii).

⁵ See *supra* note 2.

⁶ See, e.g., Aaron Rupar, *Trump Echoes NRA Talking Points, Showing That "Background Checks" Talk Was All a Charade*, VOX (Aug. 21, 2019, 6:30 PM), <https://www.vox.com/2019/8/21/20826511/trump-background-checks-nra-el-paso-dayton-shootings>; Elaina Plott, *Trump's Phone Calls with Wayne LaPierre Reveal NRA's Influence*, THE ATLANTIC, Aug. 20, 2019, <https://www.theatlantic.com/politics/archive/2019/08/trump-background-checks-nra/596413/>; Nate Cohn & Margot Sanger-Katz, *On Guns, Public Opinion and Public Policy Often Diverge*, N.Y. TIMES, Aug. 10, 2019, <https://www.nytimes.com/2019/08/10/upshot/gun-control-polling-policies.html>.

⁷ See 5 U.S.C. § 552(a)(4)(A)(iii).

materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.⁸

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.⁹ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include 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;¹⁰ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹¹ posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;¹² posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;¹³ and posting records and analysis regarding the Department of Justice's decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President's political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.¹⁴

⁸ American Oversight currently has approximately 12,260 page likes on Facebook and 54,500 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Sept. 17, 2019); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Sept. 17, 2019).

⁹ News, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

¹⁰ *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>.

¹¹ *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>.

¹² *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>.

¹³ *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>.

¹⁴ *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/sessions-letter>.

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, because 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 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 term “record” in its 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, letters, emails, facsimiles, telephone messages, and voice mail messages, as well as 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.¹⁵ 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

¹⁵ 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).

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.¹⁶

- 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,¹⁷ 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 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 to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or

¹⁶ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

¹⁷ 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>.

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 Christine H. Monahan at foia@americanoversight.org or (202) 788-0606. 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,

A handwritten signature in blue ink, appearing to read "Austin R. Evers", with a long horizontal flourish extending to the left.

Austin R. Evers
Executive Director
American Oversight