



April 28, 2020

**VIA ONLINE PORTAL**

Inspector Vendette Parker  
Metropolitan Police Department  
300 Indiana Avenue, NW  
Room 4153  
Washington, DC 20001  
Via Online Portal

**Re: D.C. Freedom of Information Act Request**

Dear Ms. Parker:

Pursuant to the District of Columbia Freedom of Information Act (FOIA), D.C. Code §§ 2-531 et seq., and implementing regulations at D.C. Mun. Regs. tit. 1, § 400 et seq., American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that Metropolitan Police Department of the District of Columbia (MPDC) produce the following records within fifteen business days:

1. Records sufficient to identify the number of arrests during which MPDC personnel used any software or hardware contracted, purchased, trialed, or otherwise received from Clearview AI, Inc.
2. Records sufficient to identify number of accounts, owners of accounts, and number of searches for each account for any Clearview AI, Inc. product, including free trial accounts, for all MPDC accounts.
3. Any security, privacy, or performance audit, impact assessment, bias assessment, or other evaluation of any software or hardware contracted, purchased, trialed, or otherwise received from Clearview AI, Inc.
4. Any guidance documents, training materials, policies, procedures, or instructions detailing data privacy policies for any software or hardware contracted, purchased, trialed, or otherwise received from Clearview AI, Inc.



5. Any guidance documents, training materials, policies, procedures, or instructions on how MPDC personnel should operate any software or hardware contracted, purchased, trialed, or otherwise received from Clearview AI, Inc.
6. Any guidance documents, training materials, policies, procedures, or instructions regarding the review and oversight from any software or hardware contracted, purchased, trialed or otherwise received from Clearview AI, Inc.
7. Any contracts, requests for proposals, or solicitations between MPDC and Clearview AI, Inc.

For all parts of this request, please provide all responsive records from January 1, 2018 through the date the search is conducted.

### **Fee Waiver Request**

In accordance with D.C. Code § 2-532(b), American Oversight requests a waiver of fees associated with processing this request for records. A waiver of fees for this request “is in the public interest because furnishing the information can be considered as primarily benefiting the general public.”<sup>1</sup>

The public has a significant interest in the government’s surveillance powers, especially applied to AI facial recognition, a new and underregulated technology with potentially far-reaching privacy implications.<sup>2</sup> Records with the potential to shed light on this issue will help American Oversight and the general public understand operations of MPDC, including whether and to what extent the Department uses AI facial recognition software.

American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the general public’s understanding of the government’s activities would be enhanced through American Oversight’s analysis and publication of these records. 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 Twitter.<sup>3</sup>

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<sup>1</sup> D.C. Code § 2-532(b); *see also* D.C. Mun. Regs. tit. 1, § 408.10.

<sup>2</sup> *See* Kashmir Hill, *The Secretive Company That Might End Privacy as We Know It*, N.Y. TIMES, Jan. 18, 2020 (Updated Feb. 10, 2020), <https://www.nytimes.com/2020/01/18/technology/clearview-privacy-facial-recognition.html>.

<sup>3</sup> American Oversight currently has approximately 15,400 page likes on Facebook and 102,400 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Mar. 17, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Mar. 17, 2020).

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.<sup>4</sup> Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the organization’s State Accountability Project covering voting rights issues in various states;<sup>5</sup> an ethics waiver received by a senior U.S. Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers;<sup>6</sup> posting records received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the federal administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;<sup>7</sup> posting records regarding potential self-dealing at the U.S. Department of Housing & Urban Development and related analysis;<sup>8</sup> posting records and analysis relating to the federal government’s efforts to sell nuclear technology to Saudi Arabia;<sup>9</sup> and posting records and analysis regarding the U.S. 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.<sup>10</sup>

Finally, this request is primarily and fundamentally for non-commercial purposes. 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.

Accordingly, American Oversight qualifies for a fee waiver.

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<sup>4</sup> *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

<sup>5</sup> *State Accountability Project*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/state-accountability-project>.

<sup>6</sup> *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>.

<sup>7</sup> *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>.

<sup>8</sup> *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>.

<sup>9</sup> *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>.

<sup>10</sup> *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

American Oversight seeks all responsive records regardless of format, medium, or physical characteristics. 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, 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.**

In addition, American Oversight insists that your agency 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.**

In the event some portions of the requested records are properly exempt from disclosure pursuant to D.C. Code §§ 2-531 et seq., 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. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

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 D.C. Code §§ 2-531 et seq., including litigation if necessary. Accordingly, your agency 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 you 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. Please consult with American Oversight on any fees the agency expects it may assess.

## Conclusion

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, have any questions, or foresee any problems in fully releasing the requested records, please Mehreen Rasheed at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 848-1320. 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 that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal line extending to the left.

Austin R. Evers  
Executive Director  
American Oversight