



October 6, 2020

VIA EMAIL

Missouri Attorney General's Office
Supreme Court Building
207 W. High St.
Jefferson City, MO 65102
sunshinerequest@ago.mo.gov

Re: Sunshine Law Request

Dear Custodian of Records:

Pursuant to the Missouri Sunshine Law, Mo. Rev. Stat. §§ 610.010 et seq., American Oversight makes the following request for records.

Press reported that Attorney General Eric Schmitt planned to attend a September 23, 2020 meeting at the White House to discuss using existing state laws to potentially punish acts of anti-conservative bias on social media.¹

American Oversight seeks records with the potential to shed light on the content shared in this meeting.

Requested Records

American Oversight, requests that your office produce copies of the following records within three business days:

- 1) Any records reflecting the substance and participants of a White House meeting attended by Attorney General Schmitt on or about September 23, 2020, regarding social media bias investigations and prosecutions, including agendas, meeting minutes or summaries (including handwritten notes and informal email summaries), participant lists, and any materials exchanged by parties attending the meeting.

For item 1 of this request, please provide all responsive records from September 1, 2020, through the date the search is conducted.

¹ Tony Romm, *Trump Administration Expected to Urge State Attorneys General to Probe Social Media Bias*, Wash. Post (Sept. 22, 2020, 6:22 PM), <https://www.washingtonpost.com/technology/2020/09/22/trump-attorneys-general-social-media-bias/>.



- 2) All email communications (including email messages, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) Attorney General Eric Schmitt or anyone serving as his Chief of Staff, and (b) anyone in the Executive Office of the President (including anyone communicating from an email address ending in eop.gov) or anyone from the U.S. Department of Justice (including anyone communicating from an email address ending in usdoj.gov), and containing any of the following key terms:

Specified terms

- a) “social media”
- b) Facebook
- c) Google
- d) Twitter
- e) YouTube
- f) Instagram
- g) Bias*
- h) Censor*
- i) “Section 230”
- j) “Silicon Valley”
- k) “White House”
- l) “the WH”
- m) POTUS

Please note that American Oversight is using the asterisk (*) to designate the standard use of “wildcards” in the search for responsive records. For example, a search for “censor*” would return all of the following: censors, censoring, censored, censorship, etc. If your agency is unable to search for wildcards, please advise so that we may specifically include the variations that we would like searched.

For item 2 of this request, please provide all responsive records from September 16, 2020, through the date the search is conducted.

Fee Waiver Request

In accordance with Mo. Rev. Stat. § 610.026.1(1), American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it 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 likely to contribute significantly to public understanding of the operations or activities of [a] public governmental body.”² The public has a significant interest in the potential use of state government resources to investigate and prosecute

² Mo. Rev. Stat. § 610.026.1(1).

perceived political bias on social media.³ Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the government, including if the Missouri Attorney General agreed to pursue investigations and prosecutions of perceived political bias on social media at the urging of the White House. American Oversight is committed to transparency and makes the responses agencies provide to Sunshine Law 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.⁴ 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 materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.⁵

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.⁶ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records and analysis related to the organization's State Accountability Project covering voting rights issues in various states;⁷ posting records and analysis of federal and state governments' responses to the Coronavirus pandemic;⁸ posting records received as part of American

³ See Romm, *supra* note 1.

⁴ Mo. Rev. Stat. § 610.026.1(1).

⁵ American Oversight currently has approximately 15,600 page likes on Facebook and 105,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Sept. 30, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Sept. 30, 2020).

⁶ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁷ See generally *State Accountability Project*, American Oversight, https://www.americanoversight.org/areas_of_investigation/state-local-investigations; see, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *Georgia's Voting Machines and Election Security*, American Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

⁸ See, e.g., *The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *Tulsa Health Officials Initially Estimated Trump Rally Would Directly Lead to 2 to 9 Deaths*, American Oversight, <https://www.americanoversight.org/tulsa-health-officials-initially-estimated-trump-rally-would-directly-lead-to-2-to-9-deaths>; *Wisconsin Documents Offer Window into Early*

Oversight’s “Audit the Wall” project to gather and analyze information related to the Trump administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁹ and 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

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.
- 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

Uncertainty over COVID-19, American Oversight, <https://www.americanoversight.org/wisconsin-documents-offer-window-into-early-uncertainty-over-covid-19>; *In the Documents: Florida Health Department Efforts to Suppress Release of Coronavirus Records*, American Oversight, <https://www.americanoversight.org/in-the-documents-florida-health-department-efforts-to-suppress-release-of-coronavirus-records>.

⁹ 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>.

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>.

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.
- 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.¹¹ 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 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 Emma Lewis at records@americanoversight.org or (202) 919-6303. Also, if American Oversight's

¹¹ Mo. Rev. Stat. § 610.024.1.

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 of the first letter.

Austin R. Evers
Executive Director
American Oversight