



October 13, 2020

**VIA ONLINE PORTAL**

Public Records Custodian  
Oregon Secretary of State  
900 Court Street NE  
Capitol Room 136  
Salem OR 97310-0722

<https://sos.oregon.gov/Pages/public-records-request.aspx>

**Re: Oregon Public Records Law Request**

Dear Public Records Custodian:

Pursuant to the Oregon Public Records Law, Or. Rev. Stat. Ann., Tit. 19, Ch. 192, American Oversight makes the following request for records.

On September 12, 2020, Colorado Secretary of State Jena Griswold filed a federal lawsuit against top United States Post Office (USPS) officials regarding a mailer issued to residents of all 50 states and the District of Columbia.<sup>1</sup> Secretary Griswold's complaint states that this mailer "will confuse Colorado voters, likely causing otherwise-eligible voters to wrongly believe that they may not participate in the upcoming election,"<sup>2</sup> as Colorado – like Oregon – already conducts all elections by mail.

American Oversight seeks records with the potential to shed light on Oregon's preparedness for the November 2020 election, including communications with USPS in light of its distribution of mailers which may be misleading to Oregon voters.

**Requested Records**

American Oversight requests that your office produce the following records within five business days:<sup>3</sup>

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<sup>1</sup> Luke Broadwater & Kenneth P. Vogel, *Colorado Official Sues Postal Service Over Election Mailer She Says Misleads Voters*, N.Y. Times, Sep. 12, 2020, <https://www.nytimes.com/2020/09/12/us/politics/colorado-postal-service-lawsuit-election-mailer.html>.

<sup>2</sup> See *State of Colorado v Louis DeJoy et al.*, No.1:20-cv-2768, 2 (D.CO, 2020), <https://int.nyt.com/data/documenttools/colorado-lawsuit-filed-against-postal-service-leadership/dafa90180e7063aa/full.pdf>.

<sup>3</sup> Pursuant to O.R.S. § 192.324(2), if your office is unable to complete its response within five business days, please acknowledge receipt of this request within five business days.



All email communications (including emails, complete email chains, email attachments, calendar invitations, and attachments thereto) sent by (a) Secretary of State Bev Clarno, or anyone communicating on her behalf, such as a scheduler or assistant, or Director of the Division of Elections Stephen Trout, or anyone communicating on his behalf, such as a scheduler or assistant, to (b) anyone with an email address ending in @usps.com or @usps.gov.

Please provide all responsive records from June 1, 2020, to the date the search is conducted.

American Oversight has limited its request to sent messages to reduce the volume of potentially responsive records. American Oversight still requests complete email chains. So, for example, if a government official sent a response to an incoming message from one of the email domains listed above, the email chain containing the initially received message and the response is responsive to this request.

### **Fee Waiver Request**

In accordance with O.R.S. § 192.324(5), 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. In addition, 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 making the record available primarily benefits the general public.”<sup>4</sup> The public has a significant interest in understanding how officials in the Secretary of State’s office are communicating with USPS in advance of the November election. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether guidance from a federal agency is obstructing or otherwise interfering with the ability of Oregon public officials to administer elections, which the state already conducts by mail.<sup>5</sup> American Oversight is committed to transparency and makes the responses agencies provide to public records 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.

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Thereafter, pursuant to O.R.S. § 192.329(5), please complete your response to this request no later than ten business days after acknowledgement of receipt. If compliance with these time provisions would be impracticable as defined in O.R.S. § 192.329(6), the response must be completed as soon as practicable and without unreasonable delay.

O.R.S. § 192.329(8).

<sup>4</sup> O.R.S. § 192.324(5).

<sup>5</sup> See *supra*, notes 1 & 2

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. 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>6</sup>

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>7</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>8</sup> 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;<sup>9</sup> 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;<sup>10</sup> posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;<sup>11</sup> posting records

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<sup>6</sup> American Oversight currently has approximately 15,600 page likes on Facebook and 104,600 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Sep. 14, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Sep. 14, 2020).

<sup>7</sup> News, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

<sup>8</sup> State Accountability Project, AMERICAN OVERSIGHT, <https://www.americanoversight.org/state-accountability-project>.

<sup>9</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>10</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>11</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>.

and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;<sup>12</sup> 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.<sup>13</sup>

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.
- 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.
- 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.<sup>14</sup> 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.

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<sup>12</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>13</sup> *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/sessions-letter>.

<sup>14</sup> O.R.S. § 192.338.

## 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 Dan McGrath at [records@americanoversight.org](mailto:records@americanoversight.org) (202) 897-4213. 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, reading "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