



January 19, 2021

**VIA EMAIL**

Office of the Attorney General  
Rembert Dennis Building  
1000 Assembly Street, Room 519  
Columbia, SC 29201  
[FOIA@scag.gov](mailto:FOIA@scag.gov)

**Re: Freedom of Information Act Request**

Dear Freedom of Information Officer:

Pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 et seq., American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that your office promptly produce the following records:<sup>1</sup>

1. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) and text message threads/conversations between (a) any of the state officials listed in Column A below, and (b) any of the external individuals identified in Column B below:

<b>Column A: South Carolina State Officials</b>	<b>Column B: External Individuals &amp; Entities</b>
<ol style="list-style-type: none"> <li>1. Alan Wilson, Attorney General, or anyone communicating on his behalf (such as a scheduler or assistant)</li> <li>2. Barry Bernstein, Chief of Staff</li> <li>3. Josh McIntosh, Chief Deputy Attorney General</li> </ol>	<ol style="list-style-type: none"> <li>1. Adam Piper, Executive Director (including, but not limited to, at <a href="mailto:apiper@republicanags.com">apiper@republicanags.com</a> or <a href="mailto:adampiper1@gmail.com">adampiper1@gmail.com</a>)</li> <li>2. Chris Carr, Georgia Attorney General (including, but not limited to, at <a href="mailto:agcarr@law.ga.gov">agcarr@law.ga.gov</a> or <a href="mailto:ccarr@law.ga.gov">ccarr@law.ga.gov</a>)</li> <li>3. Eric Schmitt, Missouri Attorney General (including, but not limited to, at <a href="mailto:ag@ago.mo.gov">ag@ago.mo.gov</a>)</li> </ol>

<sup>1</sup> Pursuant to S.C. Code Ann. § 30-4-30(C), please notify American Oversight of your final determination as to the public availability of the requested records within ten business days and produce the records within thirty calendar days after issuing your final determination.



<p>4. Robert Kittle, Communications Director</p>	<p>4. Steve Marshall, Alabama Attorney General (including, but not limited to, at <a href="mailto:steve.marshall@alabamaag.gov">steve.marshall@alabamaag.gov</a>)</p> <p>5. Any employee or representative of the Republican Attorneys General Association (including, but not limited to, anyone communicating from an email address ending in <a href="mailto:@republicanags.com">@republicanags.com</a>)</p> <p>6. Any employee or representative of the Rule of Law Defense Fund (including, but not limited to, anyone communicating from an email address ending in <a href="mailto:@rldf.org">@rldf.org</a> or <a href="mailto:@ruleoflawdefensefund.org">@ruleoflawdefensefund.org</a>)</p>
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2. All (a) email communications (including emails, complete email chains, calendar invitations, and attachments thereto) sent by and (b) text message threads/conversations sent or received by any of the individuals specified in Column A, above, that contain any of the key terms listed below:

Key Terms:

- i. "Rule of Law"
- ii. RLDF
- iii. "Republican Attorneys General Association"
- iv. RAGA
- v. "Save America"
- vi. "stop the steal"
- vii. Patriot
- viii. "election fraud"
- ix. "integrity of our election"
- x. "election integrity"
- xi. Rally
- xii. MAGA
- xiii. "great again"
- xiv. Piper

For item 2(a) of this request, in an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by the specified officials in the Office of the Attorney General. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both Attorney General Wilson's response to an email containing one of the key terms listed above and the initial received message are responsive to this request and should be produced.

For item 2(b) of this request, American Oversight requests that complete text message threads/conversations be produced. This means, for example, that if Attorney General Wilson sent or received a text message containing any of the key terms listed above, American Oversight requests that the complete text conversation for the timeframe listed below should be produced, and not just the message containing the key term.

For both items of this request, please provide all responsive records from November 3, 2020, to the date the search is conducted.

### **Fee Waiver Request**

In accordance with S.C. Code Ann. § 30-4-30(B), 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, this request is primarily and fundamentally for non-commercial purposes.

A waiver of fees is “in the public interest because furnishing the information can be considered as primarily benefiting the general public.”<sup>2</sup> The general public has a significant interest in understanding whether and to what extent officials in the Office of the Attorney General were aware of robocalls reportedly made by the Rule of Law Defense Fund urging supporters to travel to Washington, D.C., to “fight” Congress over President Trump’s election fraud claims. This matter is a subject of substantial public interest in South Carolina and nationwide.<sup>3</sup> Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the government. 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.

Furthermore, American Oversight’s work is aimed solely at serving the public interest. 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

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<sup>2</sup> S.C. Code Ann. § 30-4-30(B).

<sup>3</sup> Andrea Salcedo, *Republican AGs Group Sent Robocalls Urging Protestors to the Capitol. GOP Officials Now Insist They Didn’t Know About It.*, Wash. Post (Jan. 11, 2021, 7:30AM), <https://www.washingtonpost.com/nation/2021/01/11/gop-robocalls-trump-rally-capitol/>; Avery G. Wilks, *Attorney General Wilson Disavows Robocall that Invited ‘Patriots’ to DC Rally-Turned-Riot*, Post and Courier, Jan. 11, 2021, [https://www.postandcourier.com/politics/sc-attorney-general-wilson-disavows-robocall-that-invited-patriots-to-dc-rally-turned-riot/article\\_df16fdd0-542c-11eb-ae8-ff7553b33b9f.html](https://www.postandcourier.com/politics/sc-attorney-general-wilson-disavows-robocall-that-invited-patriots-to-dc-rally-turned-riot/article_df16fdd0-542c-11eb-ae8-ff7553b33b9f.html).

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>4</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>5</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>6</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>7</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>8</sup> posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;<sup>9</sup> posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;<sup>10</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

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<sup>4</sup> American Oversight currently has approximately 15,600 page likes on Facebook and 105,900 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Jan. 8, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Jan. 8, 2021).

<sup>5</sup> *News*, American Oversight, <https://www.americanoversight.org/blog>.

<sup>6</sup> *State Accountability Project*, American Oversight, <https://www.americanoversight.org/state-accountability-project>.

<sup>7</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>8</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>9</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>10</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>.

opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.<sup>11</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. For instance, if 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.
- 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.
- 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>12</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>11</sup> *Sessions’ Letter Shows DOJ Acted on Trump’s Authoritarian Demand to Investigate Clinton*, American Oversight, <https://www.americanoversight.org/sessions-letter>.

<sup>12</sup> S.C. Code Ann. § 30-4-40.

## **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, have any questions, or foresee any problems in fully releasing the requested records, please contact Khahilia Shaw at [records@americanoversight.org](mailto:records@americanoversight.org) or 202.539.6507.

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