



March 8, 2021

VIA EMAIL

Deputy Public Information Officer
Attorney General's Office
2005 North Central Avenue
Phoenix, AZ 85004
publicrecords@azag.gov

Re: Public Records Request

Dear Public Records Officer:

Pursuant to the Arizona Public Records Law, A.R.S. §§ 39-121 et seq., American Oversight makes the following request for records.

Press reported that a software bug in an Arizona Department of Corrections system called ACIS has led to inmates who are eligible for release to be held in prison beyond the release date for which they are eligible.¹ American Oversight seeks records with the potential to shed light on the communications of statewide leadership concerning this issue.

Requested Records

American Oversight requests that your agency promptly produce the following records:

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by Attorney General Mark Brnovich or his chief of staff containing any of the key terms specified below.

Key Terms:

- a. ACIS
- b. "software bug"
- c. "SB 1310"
- d. SB1310
- e. "nonviolent offenses"
- f. "non-violent offenses"
- g. "non violent offenses"
- h. "Business and Decision"

¹ Jimmy Jenkins, *Whistleblowers: Software Bug Keeping Hundreds of Inmates in Arizona Prison Beyond Release Dates*, KJZZ Phoenix (Feb. 23, 2021, 12:33 PM), <https://kjzz.org/content/1660988/whistleblowers-software-bug-keeping-hundreds-inmates-arizona-prisons-beyond-release>.



i. “Business & Decision”

In an effort to accommodate the Arizona Attorney General’s 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. 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 a specified official’s response to containing a key term and the initial received message are responsive to this request and should be produced.

Please provide all responsive records from November 1, 2019, through the date of the search.

Statement of Noncommercial Purpose

This request is made for noncommercial purposes. American Oversight seeks records regarding communications of senior state officials in Arizona regarding a software bug that had led to inmates beyond the release date for which they are eligible.² Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the government, including when senior state officials knew about the issue and what steps they took to address it.

Because American Oversight is a 501(c)(3) nonprofit, this request is not in American Oversight’s financial interest and is not made for a commercial purpose. 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.³

Because this request is made for noncommercial purposes, American Oversight requests that any fees charged in connection with processing this request be limited to copying

² Jenkins, *supra* note 1.

³ American Oversight currently has approximately 15,700 page likes on Facebook and 105,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 3, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 3, 2021).

and postage charges, if applicable.⁴ Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

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.
- 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.
- If any records are withheld in full or in part, pursuant to A.R.S. § 39-121.01(D)(2), please provide an index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld.
- 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.

⁴ A.R.S. § 39-121.01(D)(1); *see also Hanania v. City of Tucson*, 128 Ariz. 135, 624 P.2d 332 (Ct. App. 1980). Furthermore, because this request is for noncommercial purposes, additional fees provided for under A.R.S. § 39-121.03(A) are not applicable and should not be assessed.

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 Khahilia Shaw at records@americanoversight.org or (202) 539-6507.

Sincerely,

/s/ Khahilia Shaw

Khahilia Shaw

on behalf of

American Oversight