



July 23, 2021

VIA EMAIL

Chris Klemminich
Arizona State Senate
Rules Attorney
1700 West Washington Street
Room 202 C
Phoenix, AZ 85007
cklemminich@azleg.gov

Re: Public Records Request

Dear Representative or Senator:

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

Requested Records

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

1. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) or text message threads/conversations or message threads/conversations on messaging applications similar in form to text messages (such as Signal, WhatsApp, Facebook Messenger, Twitter DMs, etc.) between (a) the Representative or Senator, their Administrative Assistant, or anyone serving as Chief of Staff to the Representative or Senator, and (b) any of the following external parties from November 16, 2020, through January 20, 2021.

External Parties:

- a. "Jenna Ellis"
- b. @falkirkcenter.org
- c. @thomasmoresociety.org
- d. Ward
- e. @azgop.com
- f. @azgop.org
- g. McDaniel
- h. @gop.com
- i. @rnchq.com
- j. Giuliani
- k. Powell
- l. @federalappeals.com

- m. who.eop.gov
- n. mail.house.gov
- o. senate.gov
- p. Gosar
- q. Biggs
- r. Waldron
- s. Orth
- t. Burns

For Item 1 of this request, please note that American Oversight does not seek, and that this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications forwarding such emails are responsive to this request. In other words, for example, if the Representative or Senator received a mass-distribution news clip email from one of the listed external parties, that initial email would not be responsive to this request. However, if said custodian forwarded that email to another individual with their own commentary, that subsequent message would be responsive to this request and should be produced.

- 2. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) sent by the Representative or Senator, their Administrative Assistant, or anyone serving as Chief of Staff to the Representative or Senator containing any of the following key terms from November 16, 2020, through January 20, 2021.

Key Terms:

- a. Audit
- b. Fraud
- c. "Fact-Finding"
- d. "Fact Finding"
- e. "Trump campaign"
- f. Sharpie
- g. "Damaged Ballots"
- h. "Ballot Damage"
- i. "Duplicate Ballots"
- j. Irregular (Newly added, replaced Irregularity and Irregularities)
- k. Integrity
- l. Harvesting
- m. Elector
- n. Delegate
- o. Dump
- p. Dominion
- q. 16-2-212
- r. Anomaly
- s. "Special session"

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited Item 2 of its request to emails sent by the officials listed above. 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 an official's response to an email containing one of the listed key terms and the initial received message are responsive to this request and should be produced.

3. All text message threads/conversations or message threads/conversations on messaging applications similar in form to text messages (such as Signal, WhatsApp, Facebook Messenger, Twitter DMs, etc.) sent or received by the Representative or Senator, or their Administrative Assistant, containing any of the following key terms:

Key Terms:

- a. Trump
- b. Ellis
- c. Giuliani
- d. Ward
- e. Audit
- f. Fraud
- g. Electoral
- h. Elector
- i. Electors
- j. Delegate
- k. Delegates

Please provide all responsive records from November 16, 2020, through January 20, 2021.

To be clear, for Item 3 of this request, American Oversight requests that full text message threads/conversations be produced. For example, if the Representative or Senator sent or received a text message containing any of the key terms listed above, the complete thread/conversation for the timeframe listed above should be produced, and not just the message containing the key term.

Statement of Noncommercial Purpose

This request is made for noncommercial purposes. American Oversight seeks records regarding an alleged, unofficial “fact-finding hearing” between Republican members of Arizona’s legislature and members of then-President Donald Trump’s campaign legal team regarding the 2020 election.¹ According to news coverage of the event, “[t]he

¹ *Trump’s Legal Team to Hold Public Hearing with Arizona Republicans on Election Integrity*, Fox 10 Phoenix, Nov. 29, 2020,

goal of the Trump team’s effort seem[ed] to be to persuade Arizona’s Legislature to intercede with the state’s election results,” an action which may not be allowed under state law.² Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the government, including the extent to which Republican state legislators communicated with external entities with vested interests in the outcome of challenges to the state’s election administration policies and practices.

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 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. For instance, if the request seeks “communications,” please search all locations likely to contain

<https://www.fox10phoenix.com/news/trumps-legal-team-to-hold-public-hearing-with-arizona-lawmakers-on-election-integrity>.

² Ryan Randazzo & Maria Polletta, *Arizona GOP Lawmakers Hold Meeting on Election Outcome with Trump Lawyer Rudy Giuliani*, Ariz. Republic (updated Nov. 30, 2020 7:02 PM),

<https://www.azcentral.com/story/news/politics/elections/2020/11/30/republican-lawmakers-arizona-hold-meeting-rudy-giuliani/6468171002/>.

³ American Oversight currently has approximately 15,700 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited June 17, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited June 17, 2021).

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.

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.
- 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.

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 Zachery Morris at records@americanoversight.org or (202) 897-4213.

Sincerely,

/s/ Zachery Morris
Zachery Morris
on behalf of
American Oversight