



October 28, 2021

VIA EMAIL

Office of the Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
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 the Office of the Attorney General promptly produce the following records:¹

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:

Column A: South Carolina State Officials	Column B: External Individuals
<ol style="list-style-type: none"> i. Alan Wilson, Attorney General, or anyone communicating on his behalf (such as a scheduler or assistant) ii. Barry Bernstein, Chief of Staff 	<ol style="list-style-type: none"> i. Pete Bisbee, RAGA Executive Director (including, but not limited to, at pbisbee@republicanags.com or pbisbee@rldf.org) ii. Jeff Landry, Louisiana Attorney General (including, but not limited to, at landryj@ag.louisiana.gov)

¹ 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>iii. Josh McIntosh, Chief Deputy Attorney General</p>	<p>iii. Chris Carr, Georgia Attorney General (including, but not limited to, at agcarr@law.ga.gov or ccarr@law.ga.gov)</p> <p>iv. Eric Schmitt, Missouri Attorney General (including, but not limited to, at ag@ago.mo.gov)</p> <p>v. Steve Marshall, Alabama Attorney General (including, but not limited to, at steve.marshall@alabamaag.gov)</p> <p>vi. Any employee or representative of the Republican Attorneys General Association (including, but not limited to, anyone communicating from an email address ending in @republicanags.com)</p> <p>vii. Any employee or representative of the Rule of Law Defense Fund (including, but not limited to, anyone communicating from an email address ending in @rldf.org or @ruleoflawdefensefund.org)</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. Piper
- vi. Bisbee

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 all parts of this request, please provide all responsive records from March 9, 2021, 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.”² The general public has a significant interest in understanding whether and to what extent officials in the Office of the Attorney are continuing to work with the Rule of Law Defense Fund (RLDF), following revelations that robocalls reportedly made by RLDF prior to January 6, 2021, urged supporters to travel to Washington, D.C., to “fight” Congress over President Trump’s election fraud claims.³ This matter is a subject of substantial public interest in South Carolina and nationwide.⁴ 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

² S.C. Code Ann. § 30-4-30(B).

³ 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/>.

⁴ *Id.*; 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.

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 investigations into misconduct and corruption in state governments;⁷ posting records and analysis of federal and state governments’ responses to the Coronavirus pandemic;⁸ posting records received as part of American 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

⁵ American Oversight currently has approximately 15,630 page likes on Facebook and 108,900 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Oct. 26, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Oct. 26, 2021).

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

⁷ See generally *State Investigations*, American Oversight, <https://www.americanoversight.org/states>; 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 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,

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.
- 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.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.

<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>.

¹¹ S.C. Code Ann. § 30-4-40(b).

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 or (202) 539-6507.

Sincerely,

/s/ Khahilia Shaw
Khahilia Shaw
on behalf of
American Oversight