VIA ONLINE PORTAL

OSD/JS FOIA Requester Service Center
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155
Via Online Portal

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, American Oversight makes the following request for records.

Public reporting has indicated extensive engagement between the Trump administration—including the Department of Justice—the Trump campaign, and state officials took place in the months following the November 2020 election with the goal of delaying or halting certification, or even overturning its results. Furthermore, lawyers representing the Trump campaign supported conspiracy theories that campaign officials knew to be false.

American Oversight seeks records with the potential to shed light on efforts by the Trump administration to challenge the results of the November 2020 election.


Requested Records

American Oversight requests that your agency produce the following records within twenty business days:

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) and text messages or messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, Twitter direct messages, Facebook messages, WhatsApp, Signal, Telegram, or Parler) between (a) the former agency officials specified in Column A and (b) the external individuals and entities listed in Column B, including, but not limited to, at the provided email addresses or domains.

<table>
<thead>
<tr>
<th>Column A: Agency Officials</th>
<th>Column B: External Individuals &amp; Entities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Chris Miller, Acting Secretary of Defense</td>
<td>1. Sidney Powell, and anyone communicating on behalf of Sidney Powell, P.C.</td>
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<tr>
<td>2. Kash Patel, Chief of Staff to the Acting Secretary of</td>
<td>([@federalappeals.com]</td>
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<td>Defense</td>
<td>2. Mike Lindell or anyone communicating from an email address ending in @mypillow.com</td>
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<td>3. Douglas Macgregor, Senior Advisor to the Acting Secretary</td>
<td>3. Patrick Byrne or anyone communicating on behalf of the America Project</td>
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<td>of Defense</td>
<td>([@americaproject.com])</td>
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<td></td>
<td>Joseph Flynn, or anyone communicating on behalf of America’s Future (@americasfuture.net)</td>
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<td>5. Gen. Mark A. Milley, Chairman of the Joint Chiefs of</td>
<td>5. Doug Logan, and anyone communicating on behalf of Cyber Ninjas (@cyberninjas.com)</td>
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<tr>
<td>Staff</td>
<td>6. Colonel Phil Waldron (<a href="mailto:phil@onewarrior.com">phil@onewarrior.com</a>, <a href="mailto:JWRLLC@gmail.com">JWRLLC@gmail.com</a>, or <a href="mailto:p@bonfiresearch.org">p@bonfiresearch.org</a>), Russell Ramsland (<a href="mailto:ryuks9sq@alliedspecialops.us">ryuks9sq@alliedspecialops.us</a>), James Keet Lewis III (<a href="mailto:keet@jkeetlewis.com">keet@jkeetlewis.com</a>), or anyone communicating on behalf of Allied Security Operations Group (@alliedspecialops.us)</td>
</tr>
<tr>
<td>Staff</td>
<td>8. Paul Ney Jr., General Counsel</td>
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<td>7. Anthony Tata, Acting Under Secretary of Defense for Policy</td>
<td>9. Anyone serving as White House Liaison, including but not limited to Joshua Whitehouse</td>
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<td>limited to Joshua Whitehouse</td>
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</table>
7. Charles Herring, Robert Herring, Christina Bobb, Chanel Rion, Natalie Harp, Stephanie Myers, Patrick Hussion, Stephanie Hammill, or anyone communicating on behalf of the One America News Network (@oann.com)

8. Matthew DePerno or anyone communicating on behalf of the DePerno Law Office (@depernolaw.com)

9. Jim Hoft, or anyone communicating from any email address ending in @thegatewaypundit.com

10. Boris Epshteyn

11. Any person communicating from an email address ending in @sbgi.net

12. Steve Bannon

13. Alex Jones, or anyone communicating from an email address ending in @infowars.com

14. Sean Hannity, Tucker Carlson, Jeanine Pirro, Laura Ingram, Maria Bartiromo, Lou Dobbs, Steve Doocy, or anyone communicating from an email address ending in @foxnews.com, foxbusiness.com, newscorp.com, foxinc.com, fox.com, Murdoch.com, newsamerica.com, newscorporation.com.

15. Dick Morris (@dickmorris.com)

16. Christopher Ruddy, Grant Stinchfield, Emerald Robinson, Emma Rechenberg, Greg Kelly, or anyone communicating from an email address ending in @newmax.com

17. Joe Oltmann

18. Benny Johnson

19. Rupert Murdoch, Lachlan Murdoch, or any person communicating from an email address ending in @newscorp.com
20. Shiva Ayyadurai  
   (vashiva@vashiva.com)  
21. Jovan Hutton Pulitzer  
   (jovanhuttonpulitzer@gmail.com)  
22. Ivan Raiklin  
   (ivan.raiklin@gmail.com or  
    socialmediaraiklin@gmail.com)  
23. Seth Keshel  
24. Jacqueline Timmerman, Phill  
    Kline, or anyone communicating  
    on behalf of the American Voter’s  
    Alliance (@got-freedom.org)  
25. Erick Kaardal, or anyone  
    communicating on behalf of  
    Mohrman, Kaardal & Erickson,  
    P.A. (including anyone  
    communicating from an email  
    address ending in @mklaw.com)  
26. Nate Cain, or anyone  
    communicating on behalf of Cain  
    & Associates  
27. Catherine Engelbrecht, Logan  
    Churchwell, Maureen Riordan,  
    Courtney Kramer, Dan Gelernter,  
    or anyone communicating on  
    behalf of True the Vote (including  
    anyone communicating from an  
    email address ending in  
    @trueethevote.org or  
    @trueethevote.com)  
28. Anyone communicating on behalf  
    of Public Interest Legal  
    Foundation  
    (@publicinterestlegal.org)  
29. Anyone communicating on behalf  
    of Breitbart News  
    (@breitbart.com)  
30. Anyone communicating on behalf  
    of the Daily Caller  
    (@dailycaller.com)  
31. Mike Farris, or anyone  
    communicating from an email  
    address ending in @adflegal.org

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 a specified individual
received a mass-distribution news clip email from one of the listed external entities, that initial email would not be responsive to this request. However, if a specified individual forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

Please provide all responsive records from November 1, 2020, through January 20, 2021.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency’s regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, 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 it is likely to contribute significantly to public understanding of operations or activities of the government.” The public has a significant interest in communications and documents related to the “Big Lie” conspiracy that the 2020 election was stolen by fraud from former President Trump. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including what communications top officials at your agency may have had about the Big Lie. American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the public’s understanding of the government’s activities would be enhanced through American Oversight’s analysis and publication of these records.

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.

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4 See supra, notes 1 & 2.
6 American Oversight currently has approximately 15,600 page likes on Facebook and 109,200 followers on Twitter. American Oversight, Facebook, https://www.facebook.com/weareoversight/ (last visited Dec. 7, 2021); American
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. Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the Trump Administration’s contacts with Ukraine and analyses of those contacts; posting records and editorial content about the federal government’s response to the Coronavirus pandemic; 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; 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; and posting records and analysis of federal officials’ use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.

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. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.

▪ Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically, and many

agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

- 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 Emma Lewis at foia@americanoversight.org or (202) 919-6303. Also, if American Oversight’s request

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for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Emma Lewis
Emma Lewis
on behalf of
American Oversight