



March 4, 2022

**VIA EMAIL**

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

In a news conference hosted by state lawmakers, Arizona Representative Jake Hoffman called on Governor Doug Ducey to use war powers – including deploying the National Guard and state law enforcement – to address concerns about migrants at the southern border “without regard to immigration laws.”<sup>1</sup> Subsequently, Attorney General Mark Brnovich released a formal legal opinion recognizing the governor’s authority to implement this policy.<sup>2</sup>

American Oversight seeks records with the potential to shed light on the proposed plan to use war powers to address immigration in Arizona.

**Requested Records**

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

1. All records reflecting any formal or informal directive, order, advisory, memorandum, guidance, final assessments, reports, or analyses regarding the proposed plan to use war powers to address immigration in Arizona.<sup>3</sup>

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<sup>1</sup> Jonathan J. Cooper, *Arizona Lawmakers Urge Ducey to Use War Power at Border*, AP News, Jan. 12, 2022, <https://apnews.com/article/immigration-joe-biden-phoenix-doug-ducey-constitutions-a8e57c51e7bc2bc1dabca98fe8dcb309>.

<sup>2</sup> Bob Christie, *Arizona AG Says Governor Can Send Armed Troops to Border*, S.F. Chron. (Feb. 7, 2022, 5:13 PM), <https://www.sfchronicle.com/news/article/Arizona-AG-says-governor-can-send-armed-troops-to-16839920.php>.

<sup>3</sup> If further identifying information is needed, please see Cooper, *supra* note 1.



2. All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp), telephone call logs, calendar invitations, calendar entries, meeting notices, meeting agendas, informational material, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) of Attorney General Mark Brnovich, or anyone communicating on their behalf such as an assistant or scheduler, Chief of Staff Joseph Kanefield, or Assistant Chief Deputy Josh Kredit regarding the proposed war powers plan.

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 Attorney General Brnovich received a mass-distribution news clip email referencing the war powers plan, that initial email would not be responsive to this request. However, if Attorney General Brnovich forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

3. All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp), telephone call logs, calendar invitations, calendar entries, meeting notices, meeting agendas, informational material, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) between (a) Attorney General Mark Brnovich, or anyone communicating on their behalf such as an assistant or scheduler, Chief of Staff Joseph Kanefield, or Assistant Chief Deputy Josh Kredit and (b) Representative Jake Hoffman ([jake.hoffman@azleg.gov](mailto:jake.hoffman@azleg.gov)), or anyone communicating on their behalf such as a Chief of Staff, scheduler, or assistant.

Please provide all responsive records from October 1, 2021, through the date the search is conducted.

### **Statement of Noncommercial Purpose**

This request is made for noncommercial purposes. American Oversight seeks records regarding the proposed immigration policy to utilize war powers at the southern border in Arizona.<sup>4</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including

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<sup>4</sup> Christie, *supra* note 2.

whether and to what extent Arizona officials plan to implement the plan described above.

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.<sup>5</sup>

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.<sup>6</sup> 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 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.
- In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and

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<sup>5</sup> American Oversight currently has approximately 15,700 page likes on Facebook and 117,700 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Feb. 23, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Feb. 23, 2022).

<sup>6</sup> 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.

transcripts, notes, or minutes of any meetings, telephone conversations or discussions.

- 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](mailto:records@americanoversight.org) or (202) 897-4213.

Sincerely,

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