



May 30, 2023

**VIA U.S. MAIL**

Office of the Attorney General  
Attn: Emily Kleinworth  
700 W. Jefferson St., Suite 210  
P.O. Box 83720  
Boise, Idaho 83720

**Re: Public Records Act Request**

Dear Public Records Custodian:

Pursuant to Idaho's Public Records Act, as codified at Chapter 1 of Title 74 of the Idaho Code, I.C. T. 74, Ch. 1, American Oversight makes the following request for records.

**Requested Records**

Pursuant to Section 74-103(1) of the Idaho Code, American Oversight requests that your office produce the following records within three working days, or, if a longer period of time is needed and American Oversight is so notified, within ten working days:

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by the Idaho Attorney General's Office officials listed below and containing any of the key terms listed below.

Attorney General's Office Officials:

- i. Attorney General Raúl Labrador, or anyone communicating on his behalf, such as a Chief of Staff, assistant, or scheduler
- ii. Solicitor General Theo Wold
- iii. Chief Deputy David Dewhirst
- iv. Associate Attorney General Mitch Toryanski

Key Terms:

- a. "House Bill 242"
- b. HB242
- c. H242
- d. "HB 242"
- e. abortion
- f. "recruiting, harboring, or transporting"



g. “parental consent”

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited request item 1 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 an officials’ response to an email and the initial received message are responsive to this request and should be produced.

2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) the Idaho Attorney General’s Office officials listed above in part 1, and (b) any of the external entities or individuals listed below or anyone communicating on behalf of any of the entities listed below (including, but not limited to, at the listed email addresses and/or domains).

External Entities or Individuals:

- a. America First Legal (aflegal.org)
- b. Americans United for Life (aul.org)
- c. Charlotte Lozier Institute (lozierinstitute.org)
- d. David Daleiden
- e. FreedomWorks (freedomworks.org)
- f. Heritage Foundation and Heritage Action for America (heritage.org, heritageaction.com)
- g. Home School Legal Defense Association (hsllda.org)
- h. Human Coalition and Human Coalition Action (hucoaction.org, humancoalition.org)
- i. Janet Porter and Faith to Action (f2a.org)
- j. Life Legal Defense Foundation (lldf.org)
- k. Live Action (liveaction.org)
- l. March for Life and March for Life Action (marchforlife.org, marchforlifeaction.org)
- m. Mark Crutcher and Life Dynamics (lifedynamics.com)
- n. National Association of Christian Lawmakers (christianlawmakers.com)
- o. National Pro-Life Alliance (prolifealliance.com)
- p. National Right to Life Committee (nrlc.org)
- q. Personhood Alliance (personhood.org)
- r. Pro-Life Action League (prolifeaction.org)
- s. Students for Life (studentsforlife.org)
- t. Susan B. Anthony List (sba-list.org or sbalist.org)
- u. Thomas More Society (thomasmoresociety.org)
- v. Right to Life Idaho (rtli.org)
- w. Idaho Chooses Life (idahochooseslife.org)

- x. Brandi Swindell, or anyone communicating on behalf of Stanton Healthcare (stantonhealthcare.org)
- y. Stanton Public Policy Center (stantoninternational.org)

Please note that American Oversight does not seek, and that request item 2 specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications responding to or forwarding such emails are responsive to this request. In other words, for example, if an official received a mass-distribution news clip email from America First Legal, that initial email would not be responsive to this request. However, if the official forwarded that email to another individual with their own commentary, that subsequent message would be responsive to this request and the complete email chain should be produced.

- 3. All impact assessments, reports, analyses, recommendations, scientific research, or guidance prepared or received by your office regarding House Bill 242 (2023), or any matters related to the law restricting minors from traveling out of state for abortion access.<sup>1</sup>
- 4. Records reflecting any formal or informal directives (including informal email communications), guidance received by or created by your office, assessments, reports, analyses, or recommendations concerning Attorney General Raúl Labrador's March 27, 2023 letter to Representative Brent Crane about Idaho abortion prohibitions, including, but not limited to, Attorney General Labrador's decision to withdraw the letter.<sup>2</sup>

For all parts of this request, please provide all responsive records from January 3, 2023, through the date the search is conducted.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee.

### **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:

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<sup>1</sup> Oriana González, *Idaho to Restrict Minors from Traveling for Abortion in 1<sup>st</sup> Such U.S. Law*, Axios, March 31, 2023, <https://www.axios.com/2023/03/31/idaho-first-abortion-travel>.

<sup>2</sup> If further identifying information is needed, please see Devan Cole, *Idaho AG Rescinds Legal Opinion that Said Health Care Providers Can't Make Out-of-State Abortion Referrals*, CNN (April 7, 2023, 5:43 PM), <https://www.cnn.com/2023/04/07/politics/idaho-abortion-referrals-guidance-rescinded/index.html>.

- 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 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. Records of official business conducted using unofficial systems or stored outside of official files are subject to Idaho’s Public Records Act if they were “prepared” by your agency, including by an employee of your agency.<sup>3</sup>
- 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.<sup>4</sup> 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.

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<sup>3</sup> See I.C. § 74-101(13); cf. *Cowles Pub. Co. v. Kootenai Cty. Bd. of Cty. Comm’rs*, 144 Idaho 259, 263 (2007).

<sup>4</sup> I.C. § 74-112.

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.

### **Conclusion**

American Oversight is a 501(c)(3) nonprofit with the mission 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>

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 [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 919-6303.

Sincerely,

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

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<sup>5</sup> American Oversight currently has approximately 16,000 followers on Facebook and 112,600 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 17, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited May 17, 2023).