



July 27, 2020

VIA EMAIL

Reid Magney
Public Information Officer
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984
elections@wi.gov

Re: Public Records Law Request

Dear Mr. Magney:

Pursuant to Wisconsin’s public records law, Wis. Stat. §§ 19.31–19.39, American Oversight makes the following request for copies of records.

Requested Records

American Oversight requests that the Wisconsin Elections Commission produce the following records “as soon as practicable and without delay”:¹

1. All email communications (including emails, email attachments, calendar invitations, and attachments thereto) sent by (a) any of the Wisconsin Elections Commission officials listed in Column A below to (b) any of the external individuals or groups listed in Column B below:

Column A: Wisconsin Elections Commission Officials	Column B: External Parties
<ol style="list-style-type: none"> i. Dean Knudson, Commissioner ii. Marge Bostelmann, Commissioner iii. Robert Spindell, Commissioner iv. Meagan Wolfe, Administrator v. Richard Rydecki, Assistant Administrator 	<p>True the Vote:</p> <ol style="list-style-type: none"> i. Catherine Engelbrecht (including, but not limited to, at the email address catherine@truethevote.org) ii. Anyone communicating from an email address ending in @truethevote.org <p>FreedomWorks:</p>

¹ Wis. Stat. § 19.35(4)(a).



	<ul style="list-style-type: none"> i. Adam Brandon (including, but not limited to, at the email address abrandon@freedomworks.org) ii. Anyone communication from an email address ending in @freedomworks.org <p>Elections, LLC:</p> <ul style="list-style-type: none"> i. Justin Clark (including, but not limited to, at the email address jrclark@michaelbest.com) ii. Nathan Groth (including, but not limited to, at the email address ndgroth@michaelbest.com) iii. Stefan Passantino (including, but not limited to, at the email addresses spassantino@michaelbest.com or stefanpassantino@onebox.com) <p>Republican National Lawyers Association:</p> <ul style="list-style-type: none"> i. Anyone communicating from an email address ending in @republicanlawyer.net <p>Other Individuals:</p> <ul style="list-style-type: none"> i. Hans von Spakovsky (including, but not limited to, at the email address hans.vonspakovsky@heritage.org) ii. Ralph Reed (including, but not limited to, at the email addresses ralph@censtrat.com, ralph.reed@censtrat.com, or rreed@censtrat.com) iii. Marc Lotter (including, but not limited to, at the email address marc@lottercommunications.com) iv. Ken Blackwell (including, but not limited to, at the email addresses john.blackwell@aol.com or kennethblackwell01@yahoo.com) v. Brad Smith (including, but not limited to, at the email addresses bsmith4901@aol.com or bsmith@law.capital.edu)
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	<ul style="list-style-type: none"> vi. Morton Blackwell (including, but not limited to, at any email address ending in @limail.us, lii.net, lead-inst.org, or leadershipinstitute.org) vii. Michael Roman (including, but not limited to, at the email addresses mroman@rnchq.com or mroman@gop.com) viii. Ed Hiner (including, but not limited to, at the email address ed.hiner@edhiner.com)
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2. All email communications (including emails, calendar invitations, and attachments thereto) sent by any of the Wisconsin Elections Commission officials listed below concerning poll watching activities or the recruitment of poll watchers.

Wisconsin Elections Commission Officials:

- Dean Knudson, Commissioner
- Marge Bostelmann, Commissioner
- Robert Spindell, Commissioner
- Meagan Wolfe, Administrator
- Richard Rydecki, Assistant Administrator

For item 2 of this request, American Oversight believes that records containing the terms below are likely to be responsive records, and requests that your office, at a minimum, employ these search terms to identify responsive records.

Search Terms:

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|------------------------|------------------------|
| • “True the Vote” | • “Watching the polls” |
| • TTV | • “Voting observer” |
| • “Continue to Serve” | • “Voting observers” |
| • Engelbrecht | • “Vote observer” |
| • “Matt Morgan” | • “Vote observers” |
| • “Matthew Morgan” | • “Vote observing” |
| • “Mike Roman” | • “Voter observer” |
| • “Michael Roman” | • “Voter observers” |
| • “VoteStand” | • “Voter observing” |
| • “Election integrity” | • “Observe voters” |
| • “Poll watcher” | • “Observe voting” |
| • “Poll watchers” | • “Observing voting” |
| • “Poll watching” | • “Election observer” |
| • “Watch the polls” | • “Election observers” |

- “Election observing”
- “Elections observer”
- “Elections observing”
- “Placement rule”
- “Consent decree”
- “Voter intimidation”
- “Intimidate voters”
- “Intimidating voters”
- “Ballot integrity”
- “Ballot security”
- “Election day operation”
- “Election day operations”
- EDO

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited both items 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 Chairman Knudson’s response to an email about poll watching and the initial received message are responsive to this request and should be produced.

For both items of this request, please provide all responsive records from April 1, 2020, to the date the search is conducted.

Fee Waiver Request

In accordance with Wis. Stat. § 19.35(3)(e), American Oversight respectfully requests that the records be produced without charge. Providing American Oversight with a waiver of fees is in the “public interest” because American Oversight will, in accordance with its organizational mission, make the records available to the public without charge. These disclosures will likely contribute to a better understanding of relevant government procedures by the general public.

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 financial interest. Rather, American Oversight’s mission is to serve the public by promoting transparency in government, educating the public about government activities, and ensuring 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 website² and promotes their availability on social media platforms, such as Facebook and Twitter.³ American Oversight has demonstrated its commitment to the public disclosure of documents and

² *Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents>.

³ American Oversight currently has approximately 15,500 page likes on Facebook and 104,200 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited July 9, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited July 9, 2020).

creation of editorial content through numerous substantive analyses posted to its website.⁴

The public has a significant interest in claims of election fraud and Wisconsin's response to such claims.⁵ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether and to what extent the Wisconsin Elections Commission is engaged in poll watcher recruitment. American Oversight is committed to transparency and makes the responses agencies provide to public records 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.

American Oversight asks that if its request for a fee waiver is denied in whole or in part, that you contact us prior to incurring any costs.

Guidance Regarding the Search & Processing of Requested Records

American Oversight seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the term "record" in its 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 includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

Please search all locations and systems likely to have responsive records regarding official business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Emails conducting government business sent or received on the personal account of the authority's officer or employee constitutes a record for purposes of Wisconsin's public records laws.⁶

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.⁷ If it is your position that a document contains non-exempt segments, but that those non-

⁴ News, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

⁵ Patrick Marley, *Conservatives Seek Ban on Ballot Harvesting Ahead of Wisconsin Elections*, Milwaukee Journal Sentinel (June 8, 2020, 9:09 AM), <https://www.jsonline.com/story/news/politics/2020/06/08/conservatives-seek-ban-ballot-harvesting-wisconsin-elections/5317756002/>.

⁶ Wisc. Dep't of J., *Wisconsin Public Records Law Compliance Guide*, Oct. 2019, at 3, <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/PRL-GUIDE.pdf>.

⁷ Wis. Stat. § 19.36(6).

exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. If a request is denied in whole, please state specifically that 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 Khahilia Shaw at records@americanoversight.org or (202) 539-6507. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,



Austin R. Evers
Executive Director
American Oversight