



December 8, 2020

VIA EMAIL

Meagan Wolfe, Administrator
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 Ms. Wolfe:

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

On November 18, 2020, the Wisconsin Elections Commission convened in advance of a partial recount of votes requested by the Trump campaign but failed to agree on several provisions of the recount, divided along partisan lines.¹

American Oversight seeks records with the potential to shed light on whether or to what extent Wisconsin officials are acting at the behest of external political actors.

Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:²

All text message chains/conversations, or message chains/conversations on messaging applications similar in form to text messages (such as Signal, WhatsApp, Facebook Messenger, Twitter DMs, etc.), between (a) Commissioner Spindell and (b) any of the external parties listed below.

External Parties:

1. Rep. Robin Vos, Speaker of the Wisconsin State Assembly
2. Jenny Toftness, Chief of Staff to Speaker Vos

¹ Patrick Marley, *Wisconsin Recount Gets Off to a Rough Start As Elections Commission Repeatedly Clashes*, Milwaukee J.-Sentinel (updated Nov. 20, 2020, 9:00 AM), <https://www.jsonline.com/story/news/politics/2020/11/18/wisconsin-recount-gets-off-rough-start-elections-commission-clashes/3773591001/>.

² Wis. Stat. § 19.35(4)(a).



3. Rep. Ron Tusler
4. William Penterman, Aide to Rep. Tusler
5. James Troupis, Principal, Troupis Law Firm, LLC
6. R. George Burnett, Attorney, Conway, Olejniczak & Jerry S.C.
7. Erick Kaardal, Partner, Mohrman Kaardal & Erickson PA
8. Stewart Karge, Attorney, Chief Legal Officer, Advanced Medical Pricing Solutions
9. Karen Mueller, Attorney, Amos Center for Justice and Liberty
10. Joseph Voiland, Director, Veterans Liberty Law
11. Matthew Morgan, General Counsel, Donald J. Trump for President Campaign
12. John Gore, Partner, Jones Day
13. Alex Potapov, Associate, Jones Day
14. Justin Clark, Partner, Michael Best
15. Nathan Groth, Associate, Michael Best,
16. Stefan Passantino, Partner, Michael Best
17. Kory Langhofer, Managing Partner, Statecraft Law
18. Thomas Basile, Partner, Statecraft Law
19. Brett Johnson, Partner, Snell & Wilmer Law
20. Eric Spencer, Partner, Snell & Wilmer Law
21. Jay Sekulow, Chief Counsel, American Center for Law & Justice
22. Matt Schlapp, Chairman, American Conservative Union
23. Rudolph Giuliani, Personal Attorney to President Trump, or anyone communicating on his behalf (such as Jo Ann Zafonte, Christianne Allen, Beau Wagner)
24. Senator Lindsey Graham
25. Richard Straus Perry, Chief of Staff to Senator Lindsey Graham
26. Joseph diGenova, Partner, DiGenova & Toensing
27. Victoria Toensing, Partner, DiGenova & Toensing
28. Sidney Powell, President, Sidney Powell P.C.
29. Jenna Ellis, Special Counsel, Thomas More Society
30. David Bossie, President, Citizens United
31. Ronna McDaniel, Chairwoman, Republican National Committee
32. Laura Cox, Chair, Michigan Republican Party
33. Terry Bowman, Co-chairman, Michigan Republican Party
34. John Solomon, Editor in Chief, Just the News

Please provide all responsive records from November 3, 2020, through 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.³ American Oversight also makes materials it gathers available on its public website⁴ and promotes their availability on social media platforms, such as Facebook and Twitter.⁵

The public has a significant interest in the conduct of elections in the state of Wisconsin. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether or to what extent entities external to the state government may be attempting to exert influence over election administration.⁶ 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. Our request also includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

³ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; *State Accountability Project*, American Oversight, https://www.americanoversight.org/areas_of_investigation/state-local-investigations; see, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *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>.

⁴ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

⁵ American Oversight currently has approximately 15,600 page likes on Facebook and 106,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Nov. 30, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Nov. 30, 2020).

⁶ See, e.g., Beck, *supra* note 1.

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 and mobile devices.** Correspondence 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.⁷

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.⁸ If it is your position that a document contains non-exempt segments, but that those non-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 please contact Emma Lewis at

⁷ 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>.

⁸ Wis. Stat. § 19.36(6).

records@americanoversight.org or (202) 919-6303. 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,

A handwritten signature in blue ink that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Austin R. Evers
Executive Director
American Oversight