



May 26, 2021

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 Administrator 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 December 8, 2020, Wisconsin Elections Commissioner Robert Spindell spoke at a “March for Trump” rally, stating “There’s no evidence vote fraud did not occur” in the state.¹ On December 14, Commissioner Spindell joined nine other electors for former President Trump to create an illegitimate Certificate of Ascertainment “to preserve our role in the electoral process while the final outcome is still pending in the courts,” according to Wisconsin Republican Party Chair Andrew Hitt.² Nonetheless, Commissioner Spindell declined to recuse himself from adjudicating a complaint alleging that Governor Evers and Commission Chair Ann Jacobs had improperly certified the election results for President Biden.³

American Oversight seeks records with the potential to shed light on the role of Wisconsin public officials in challenging the results of the November 2020 presidential election.

¹ Henry Redman, *Elections Official Stands by at Rally As Speakers Spread Conspiracies, Promote Political Violence*, WI Examiner, Dec. 8, 2020, <https://wisconsinexaminer.com/2020/12/08/spindell-conspiracies-political-violence/>.

² Patrick Marley & Molly Beck, *Wisconsin’s 10 Electoral College Votes Cast for Biden as GOP Pushes an Alternate Slate*, Milwaukee J.-Sentinel (updated Dec. 15, 2020, 11:59 AM), <https://www.jsonline.com/story/news/politics/elections/2020/12/14/wisconsins-electoral-college-votes-cast-biden/6539058002/>.

³ Patrick Marley, *Elections Commission Rules Wisconsin’s Presidential Results Were Properly Certified for Biden*, Milwaukee J.-Sentinel (updated Apr. 30, 2021, 6:08 PM), <https://www.jsonline.com/story/news/politics/2021/04/30/elections-commission-rules-wisconsin-results-were-properly-certified/4890788001/>.



Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:⁴

All electronic communications (including emails, email attachments, text messages, or messages on messaging platforms, such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp) between Commissioner Robert Spindell and any of the following entities listed below. In the case of emails and texts, the search should include those sent or received from Commissioner Spindell’s individual accounts (including, but not limited to, cd4.chairman@wisgop.info) if they were used to conduct official business, as well those sent from his official email address or official phone.

External Parties:

1. Speaker Robin Vos, his Chief of Staff, Jenny Toftness, or his Political Outreach Director, Joe Handrick (including, but not limited to, email addresses ending in @legis.wisconsin.gov and other known email addresses)
2. Rep. Ron Tusler or his aide, William Penterman (including, but not limited to, rtusler@tuslerlaw.com, email addresses ending in @legis.wisconsin.gov,)
3. James Troupis (including, but not limited to, troupisjames@gmail.com and other known email addresses), Christ Troupis, or anyone communicating on behalf of Troupis Law Office (including, but not limited to, anyone communicating from an email address ending in @troupislawoffice.com)
4. Erick Kaardal, or anyone communicating on behalf of Mohrman, Kaardal & Erickson, P.A. (including, but not limited to, anyone communicating from an email address ending in @mklaw.com)
5. Karen Mueller, or anyone communicating on behalf of the Amos Center for Justice and Liberty (including, but not limited to, anyone communicating from an email address ending in @amoscenterforjustice.org)
6. Stewart Karge, Chief Legal Officer of Advanced Medical Pricing Solutions
7. Joseph Voiland (including, but not limited to, jwvoiland@yahoo.com)
8. Anyone communicating from an email address ending in @donaldtrump.com, @donaldjtrump.com, @trumpvictory.com, or @trumporg.com
9. President Donald J. Trump, Chief of Staff Mark Meadows, Cassidy Hutchinson, or anyone communicating on behalf of the White House, including anyone communicating from an email address ending in @who.eop.gov
10. Ronna McDaniel, Laura Cox, Terry Bowman, or anyone communicating from an email address ending in @gop.com, @rnchq.com, @wisgop.org, or @wisgop.info
11. John Gore, Alex Potapov, or anyone communicating on behalf of Jones Day (including anyone communicating from an email address ending in @jonesday.com)

⁴ Wis. Stat. § 19.35(4)(a).

12. Justin Clark, Nathan Groth, Stefan Passantino, Andrew Hitt, or anyone communicating on behalf of Michael Best & Friedrich LLP (including anyone communicating from an email address ending in @michaelbest.com)
13. Kory Langhofer, Thomas Basile, or anyone communicating on behalf of Statecraft Law (including anyone communicating from an email address ending in @statecraftlaw.com)
14. Brett Johnson, Eric Spencer, or anyone communicating on behalf of Snell & Wilmer (including anyone communicating from an email address ending in @swlaw.com)
15. Jay Sekulow or anyone communicating on behalf of the American Center for Law & Justice (including anyone communicating from an email address ending in @aclj.org)
16. Matt Schlapp or anyone communicating on behalf of the American Conservative Union (including anyone communicating from an email address ending in @conservative.org)
17. Rudolph Giuliani, or anyone communicating on his behalf (such as Jo Ann Zafonte, Christianne Allen, Beau Wagner, or anyone communicating from an email address ending in @giulianisecurity.com, giulianipartners.com, gdcillc.com)
18. Anyone communicating from an email address ending in mail.house.gov or senate.gov
19. Joseph diGenova, Victoria Toensing, or anyone communicating on behalf of diGenova & Toensing, LLP (including anyone communicating from an email address ending in @digenovatoensing.com)
20. Sidney Powell, or anyone communicating on behalf of Sidney Powell, P.C. (including anyone communicating from an email address ending in @federalappeals.com)
21. Jenna Ellis, or anyone communicating on behalf of Liberty University's Falkirk Center (including anyone communicating from an email address ending in @falkirkcenter.com) or the Thomas More Society (including anyone communicating from @thomasmoresociety.org)
22. John Solomon (including, but not limited to john@solomonmediallc.com, or any of his email addresses ending in @fox.com, @thehill.com, @justthenews.com, @washingtonguardian.net, or @washingtontimes.com)
23. David Bossie, or anyone communicating from an email address ending in @citizensunited.org

Please provide all responsive records from December 8, 2020, through the date the search is conducted.

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 Commissioner Spindell received a mass-distribution news clip email from Fox News, that initial email would not be responsive to this request. However, if Commissioner Spindell forwarded that email to another individual with his own

commentary, that subsequent message would be responsive to this request and should be produced.

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.⁵ American Oversight also makes materials it gathers available on its public website⁶ and promotes their availability on social media platforms, such as Facebook and Twitter.⁷

The public has a significant interest in the actions of public officials with regards to election administration.⁸ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including the role of these officials in casting doubt on the results of the November 2020 presidential election. American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available, and the

⁵ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; *State Investigations*, American Oversight, <https://www.americanoversight.org/states>; 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>.

⁶ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

⁷ American Oversight currently has approximately 15,670 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 24, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited May 24, 2021).

⁸ See *supra*, notes 1-3. il

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.⁹

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.¹⁰ 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

⁹ 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>.

¹⁰ Wis. Stat. § 19.36(6).

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 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,

/s/ Emma Lewis

Emma Lewis
on behalf of
American Oversight