



June 15, 2021

VIA EMAIL

Representative Janel Brandtjen
Wisconsin State Capitol
Room 12 West
Madison, WI 53708
rep.brandtjen@legis.wi.gov

Re: Public Records Law Request

Dear Representative Brandtjen:

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

On May 26, 2021, Wisconsin State Assembly Speaker Robin Vos indicated that the legislature would hire three former law enforcement officers and a supervising attorney to investigate the November 2020 election.¹ Speaker Vos indicated that these investigators would possess subpoena power and might potentially refer their findings to prosecutors.² This announcement follows an April announcement that the Assembly Campaigns and Elections Committee would undertake a “formal investigation” of the election³ as well as a similar announcement immediately following the November 2020 election.⁴

American Oversight seeks records with the potential to shed light on the legislature's decision to investigate the results of the November 2020 election.

¹ Patrick Marley, *Top Wisconsin Republican Robin Vos Hires Former Cops to Investigate November Election*, Milwaukee J. Sentinel (updated May 26, 2021, 5:41 PM CST), <https://www.jsonline.com/story/news/politics/elections/2021/05/26/wisconsin-republican-robin-vos-hires-ex-cops-investigate-election/7455034002/>.

² *Id.*

³ Briana Reilly, *Wisconsin Assembly Election Panel Aims to Begin ‘Formal Investigation’ into 2020*, Capital Times, Apr. 6, 2021, https://madison.com/ct/news/local/govt-and-politics/wisconsin-assembly-elections-panel-aims-to-begin-formal-investigation-into-2020/article_1ad90e31-db74-5a14-aceb-ac51435e4a50.html.

⁴ Patrick Marley, *Top Republican Says an Investigation of Wisconsin's Election Is Unlikely to Take Away Biden's Win in the State*, Milwaukee J. Sentinel (updated Nov. 12, 2020, 8:42 AM), <https://www.jsonline.com/story/news/politics/elections/2020/11/11/wisconsin-republicans-say-election-probe-likely-wont-change-results/6248225002/>.



Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:⁵

All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) sent from January 10, 2021, through the date of the search by Representative Janel Brandtjen anyone communicating on their behalf, such as a scheduler or assistant, or anyone serving as their chief of staff, regarding investigations, inquiries, audits, or other reviews of the November 2020 election’s administration and results, including, but not limited to, regarding the investigation announced by Speaker Vos on May 26, the resolution passed by the Assembly authorizing an investigation,⁶ the audit conducted by the Legislative Audit Bureau,⁷ the role of external funding to local elections administrators,⁸ or investigations of election results in other jurisdictions.⁹ In addition to the legislator’s official email accounts, the search should include those sent or received from the specified officials’ personal accounts if they were used to conduct official business.

For 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 the following search terms to identify responsive records:

Suggested Search Terms:

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|----------------------|--------------|
| 1. Audit | 9. Dominion |
| 2. Amistad | 10. Erick |
| 3. Antrim | 11. Fann |
| 4. Bobb | 12. Finchem |
| 5. Borelli | 13. FGA |
| 6. Bragdon | 14. Forensic |
| 7. “Center for Tech” | 15. Fulton |
| 8. CTCL | 16. Heritage |

⁵ Wis. Stat. § 19.35(4)(a).

⁶ Scott Bauer, *Wisconsin Assembly OKs Election Investigation*, Associated Press, Mar. 23, 2021, <https://apnews.com/article/joe-biden-donald-trump-wisconsin-elections-subpoenas-bb7a79e35b86a34d02e8a4b1330e21c2>.

⁷ Shawn Johnson, *Republican Lawmakers Order Audit of Wisconsin’s Election System*, WPR (Feb. 11, 2021, 4:55 PM), <https://www.wpr.org/republican-lawmakers-order-audit-wisconsins-election-system>.

⁸ Patrick Marley, *Wisconsin Republicans Seek to Limit the Use of Private Donations to Help Run Elections*, Milwaukee J.-Sentinel (updated May 11, 2021, 6:36 PM), <https://www.jsonline.com/story/news/politics/2021/05/11/wisconsin-gop-seeks-limit-private-donations-help-run-elections/5036724001/>.

⁹ See, e.g., Jeremy Duda & Jim Small, *Arizona Senate Hires a ‘Stop the Steal’ Advocate to Lead 2020 Election Audit*, AZ Mirror (updated Apr. 1, 2021, 10:18 AM), <https://www.azmirror.com/2021/03/31/arizona-senate-hires-a-stop-the-steal-advocate-to-lead-2020-election-audit/>.

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|--|------------------------------------|
| 17. Heuer | 26. Smartmatic |
| 18. Juno | 27. Subpoena |
| 19. LAB | 28. Tarren |
| 20. “Legislative Audit
Bureau” | 29. Trump |
| 21. Maricopa | 30. Windham |
| 22. Mastriano | 31. “Wisconsin Voters
Alliance” |
| 23. “National Vote at Home
Institute” | 32. WVA |
| 24. NVAHI | 33. Zuckerberg |
| 25. Sandvick | 34. Zuckerbucks |
| | 35. “Zuck bucks” |

In an effort to accommodate your agency and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request 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 Rep. Brandtjen’s response to an email containing one of the key terms listed above and the initial received message are responsive to this request and should be produced.

Please provide all responsive records from January 10, 2021, 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.¹⁰ American Oversight also makes materials it gathers available on its public

¹⁰ 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*

website¹¹ and promotes their availability on social media platforms, such as Facebook and Twitter.¹²

The public has a significant interest in the Wisconsin state legislature's investigation of the November 2020 election results.¹³ 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 partisan motivations or external actors guided the decision to open an investigation. 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

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.¹⁴

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.¹⁵ 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

COVID-19, American Oversight, <https://www.americanoversight.org/wisconsin-documents-offer-window-into-early-uncertainty-over-covid-19>.

¹¹ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

¹² American Oversight currently has approximately 15,660 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited June 9, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited June 9, 2021).

¹³ *See supra*, notes 1, 3, 4, 6-8.

¹⁴ 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>.

¹⁵ Wis. Stat. § 19.36(6).

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 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