



February 7, 2023

VIA ONLINE FORM

Matthew A. McDermott
Director of Administration
48 West Third St
Williamsport PA 17701

Re: Right-to-Know Law Request

Dear Open Records Officer:

Pursuant to the Right-to-Know Law (RTKL), as codified at 65 P.S. §§ 67.101 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office produce the following records within five business days:

All electronic communications (including emails, email attachments, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms, such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp) between (a) Lycoming County Board of Elections members Scott Metzger and/or Tony Mussare (or anyone communicating on their behalf), and/or Director of Elections Forrest Lehman, and (b) any of the individuals or entities listed below, including, but not limited to, at the suggested email addresses or domains.

In the case of emails and texts, the search should include those sent or received from nongovernmental accounts and/or devices if they were used to conduct official business, as well those sent from official email addresses or government-issued devices.

Please provide all responsive records from June 1, 2022, through the date the search is conducted.

External Individuals and Entities:

1. Pennsylvania Senator Doug Mastriano (dmastriano@pasen.gov), his aides Joshua Herman and Felicia Wallace, and anyone communicating from an email address ending in fight4pa.com or doug4gov.com
2. Anyone communicating on behalf of Audit the Vote PA
3. Richard Houser, Catherine Burns, or anyone communicating from the email address lycomingpatriots@gmail.com, or from an email address ending in lycomingpatriots.org



4. Andre McCoy (andremccoy@msn.com)
5. Bill Bachenberg (billb@lvsclays.com)
6. Bill Hillman (director@pa.foramericafirst.com)
7. Douglas Frank (drdouglasfrank@protonmail.com,
drdouglasfrank@outlook.com)
8. Lisa "Draza" Smith (drazasmith@protonmail.com, ladydraza@gmail.com,
ladydraza@yahoo.com, drazasmith@gmail.com)
9. Erich Speckin, and anyone communicating from an email address ending in 4n6.com
10. Heather Honey (h2osint@protonmail.com), and anyone communicating from an email address ending in haystackinvestigations.com
11. Ivan Raiklin (ivan@raiklin.com)
12. Jason Thompson, Steven Lahr, Mike Maull, and anyone communicating on behalf of Envoy Sage (envoysage.com)
13. Jeff O'Donnell (loneraccoon@protonmail.com), and anyone communicating from an email address ending in ordros.com
14. Jeffrey Stroehmann
15. Karen DiSalvo (kedisalvo@gmail.com)
16. Karen Taylor (karenataylor84@protonmail.com)
17. Luis Cornelio (luis.cornelio@protonmail.com,
lcornel001@citymail.cuny.edu)
18. Marc Scaringi, or anyone communicating from an email address ending in scarinigilaw.com
19. Mark Still (mark@pearlconsolidated.com)
20. Michael Flynn, Joe Flynn, Charles Flynn, Jackson Lane, and anyone communicating from an email address ending in americasfuture.net or generalflynn.com
21. Michele Replogle (micrep@protonmail.com, micrep@pm.me), and anyone communicating from an email address ending in causeofamerica.org
22. Phill Kline (phillklineva@gmail.com)
23. Rachel Zupanc (rzupanc@protonmail.com)
24. Seth Keshel (skeshel@protonmail.com, skeshel@gmail.com)
25. Tabitha Valleau (freepa2020@outlook.com, yorkfreepa@protonmail.com)
26. Thomas Carroll and anyone communicating from an email ending in thomasjcarrolllaw.com
27. Thomas Brechja, Andrew Bath, Tim Griffin, and anyone communicating from an email address ending in thomasmoresociety.org
28. Thomas Breth, and anyone communicating from an email address ending in dmkg.com
29. Toni Shuppe (tshuppe@protonmail.com)

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 board member Metzger received a mass-distribution news clip from an email address ending in doug4gov.com, that initial email would not be responsive to this request. However, if board member Metzger forwarded that email to another

individual with her own commentary, that subsequent message would be responsive to this request and should be produced.

Fee Waiver Request

In accordance with 65 P.S. § 67.1307(f)(2), American Oversight requests a waiver of fees associated with processing this request for records, because disclosure of the requested information is “in the public interest.”

The public has a significant interest in the administration of elections in Pennsylvania and the Lycoming County Board of Elections’ decision to hand recount ballots from the November 2020 election.¹ 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 Board members communicated with external individuals or entities regarding the recount.

American Oversight is committed to transparency and makes the responses agencies provide to open 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’s mission is 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.²

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.³ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records and analysis related to the organization’s investigations into misconduct and corruption in

¹ Trip Gabriel, *Driven by Election Deniers, This County Recounted 2020 Votes Last Week*, N.Y. Times, Jan. 15, 2023, <https://www.nytimes.com/2023/01/15/us/politics/2020-recount-lycoming-county.html>; Jeremy Stout, *Concerned Citizens Ask Lycoming Commissioners to Approve a Full Audit of the 2020 Elections*, NorthcentralPA.com, updated Dec. 5, 2022, https://www.northcentralpa.com/news/concerned-citizens-ask-lycoming-commissioners-to-approve-a-full-audit-of-the-2020-elections/article_07759660-e685-11ec-afd1-af14c87f4187.html.

² American Oversight currently has approximately 16,000 followers on Facebook and 113,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Jan. 25, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Jan. 25, 2023).

³ *See generally News*, American Oversight, <https://www.americanoversight.org/blog>.

state governments;⁴ posting records and analysis of federal and state governments' responses to the Coronavirus pandemic;⁵ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the Trump administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁶ and the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers.⁷

Finally, this request is primarily and fundamentally for non-commercial purposes. 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.

Accordingly, American Oversight qualifies for a fee waiver.

⁴ See generally *State Investigations*, American Oversight, ; see, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *Georgia's Voting Machines and Election Security*, American Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

⁵ See, e.g., *The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *Tulsa Health Officials Initially Estimated Trump Rally Would Directly Lead to 2 to 9 Deaths*, American Oversight, <https://www.americanoversight.org/tulsa-health-officials-initially-estimated-trump-rally-would-directly-lead-to-2-to-9-deaths>; *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>; *In the Documents: Florida Health Department Efforts to Suppress Release of Coronavirus Records*, American Oversight, <https://www.americanoversight.org/in-the-documents-florida-health-department-efforts-to-suppress-release-of-coronavirus-records>.

⁶ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

⁷ *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, American Oversight, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

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:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- 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 the Right-to-Know Law.⁸
- 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 under 65 P.S. § 67.706. 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.

⁸ See, e.g., *Barkeyville Borough v. Stearns*, 35 A.3d 91, 95–97 (Pa. Commw. Ct. 2012).

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 Mehreen Rasheed at records@americanoversight.org or (202) 848-1320.

Sincerely,

/s/ Mehreen Rasheed
Mehreen Rasheed
on behalf of
American Oversight